

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 December 2016

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE TOMMY CHEUNG YU-YAN, G.B.S., J.P.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

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

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

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

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

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

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

THE HONOURABLE WONG KWOK-KIN, S.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 LEUNG KWOK-HUNG<sup>#</sup>

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.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 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.

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

---

<sup>#</sup> According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.

THE HONOURABLE DENNIS KWOK WING-HANG

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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.

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 ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

THE HONOURABLE JIMMY NG WING-KA, J.P.

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

THE HONOURABLE NATHAN LAW KWUN-CHUNG<sup>#</sup>

DR THE HONOURABLE YIU CHUNG-YIM<sup>#</sup>

DR THE HONOURABLE LAU SIU-LAI<sup>#</sup>

## **MEMBER ABSENT:**

THE HONOURABLE CHAN CHUN-YING

---

<sup>#</sup> According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, G.B.M.,  
G.B.S., J.P.

CHIEF SECRETARY FOR ADMINISTRATION

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

SECRETARY FOR JUSTICE

THE HONOURABLE GREGORY SO KAM-LEUNG, G.B.S., J.P.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

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 WONG KAM-SING, G.B.S., J.P.

SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE PAUL CHAN MO-PO, G.B.S., M.H., J.P.

SECRETARY FOR DEVELOPMENT

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

MS DORA WAI, ASSISTANT SECRETARY GENERAL

MR MATTHEW LOO, ASSISTANT SECRETARY GENERAL

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

(While the summoning bell was ringing, a number of Members returned to the Chamber, but some Members had not returned to their seats)

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

(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>
Declaration of Mental Hospital (Consolidation) (Amendment of Schedule) Order 2016 .....	185/2016
Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2016 .....	186/2016
Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2016.....	187/2016
Construction Workers Registration (Exemption) Regulation .....	188/2016
Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016 .....	189/2016
Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016 (Commencement) Notice 2016 .....	190/2016

## Other Papers

- No. 44 — Equal Opportunities Commission  
Annual Report 2015/16
- No. 45 — Prisoners' Education Trust Fund  
Report by the Trustee, Financial Statements and Report of  
the Director of Audit for the period 1 April 2015 to  
31 March 2016
- No. 46 — Lotteries Fund  
The Accounts of the Fund 2015-16
- No. 47 — Communications Authority  
Annual Report 2015/16
- No. 48 — Emergency Relief Fund  
Annual Report by the Trustee for the year ending 31 March  
2016
- No. 49 — Social Work Training Fund  
Fifty-fifth Annual Report by the Trustee for the year ending  
on 31 March 2016
- No. 50 — Queen Elizabeth Foundation for the Mentally Handicapped  
Report and Accounts 2015-2016
- No. 51 — Hong Kong Tourism Board  
Annual Report 2015/16
- No. 52 — Hospital Authority  
Annual Report 2015-2016
- No. 53 — Samaritan Fund  
Report on the Fund, Financial statements and Report of the  
Director of Audit for the year ended 31 March 2016

- No. 54 — The Prince Philip Dental Hospital  
2015-16 Annual Report  
The Board of Governors
- No. 55 — Police Welfare Fund  
Annual Report 2015/2016
- No. 56 — The Police Children's Education Trust and the Police  
Education and Welfare Trust  
Annual Report 2015/2016
- No. 57 — The Government Minute in response to The Annual Report  
of The Ombudsman 2016
- No. 58 — Brewin Trust Fund  
Report of the Brewin Trust Fund Committee on the  
Administration of the Fund for the year ended 30 June 2016
- No. 59 — Grantham Scholarships Fund  
Report of the Grantham Scholarships Fund Committee on  
the Administration of the Fund for the year ended  
31 August 2016
- No. 60 — Chinese Temples Fund  
Report of the Chinese Temples Committee on the  
Administration of the Fund for the year ended 31 March  
2016
- No. 61 — General Chinese Charities Fund  
Report of the Chinese Temples Committee on the  
Administration of the Fund for the year ended 31 March  
2016

Report No. 7/16-17 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments



**ADDRESS**

**PRESIDENT** (in Cantonese): Address. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Annual Report of The Ombudsman 2016".

**The Government Minute in response to The Annual Report of The Ombudsman 2016**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I submitted the Annual Report of The Ombudsman 2016 ("the Annual Report") to the Legislative Council on 6 July 2016. In accordance with established practice, I now submit the Government Minute ("GM") responding to the recommendations made in the Annual Report to the Legislative Council.

The Ombudsman summed up eight direct investigation and 226 full investigation cases in her Annual Report and made a total of 277 recommendations. The GM responds to the eight direct investigation and 91 full investigation cases for which recommendations were made by The Ombudsman. In brief, government departments and relevant public bodies accepted most of The Ombudsman's recommendations, and have taken or are taking various follow-up actions to implement them. As for individual recommendations that were not accepted, the relevant departments have given an account to The Ombudsman, and explained their difficulties and positions in detail in the GM.

President, the Office of The Ombudsman ("the Office") handled more than 5 000 complaints last year. It is noteworthy that among the 200-odd full investigation cases concluded, over 60% of the complaints were unsubstantiated. Nevertheless, regardless of the complexity of the cases or the number of complaints received, government departments and public bodies handle every investigation of the Office in an earnest and cooperative manner. I note that the Office analyses cases from different angles during its investigation, and upon conclusion of the cases, makes concrete recommendations for improvement to the departments and bodies concerned. Having read through the recommendations made by the Office in various cases, I found that most of them are able to

appropriately address the complainants' concerns, and help the departments and bodies involved formulate clearer guidelines and improve their work procedures, thus enhancing their operational efficiency and responsiveness to public needs. The departments and bodies concerned have also been positive towards The Ombudsman's recommendations. They gave detailed responses and took comprehensive follow-up actions to improve the quality and efficiency of their services. In my view, the above process fully demonstrates the positive interaction between the Office and government departments in improving public administration.

President, this is the current-term Government's fifth GM in response to the Annual Report of The Ombudsman. Almost every year, the Office raises the issues of lack of coordination and even the compartmental mentality among government departments. Members of the public regard the Government as one single entity. It is reasonable for them to expect that the Government will help address their problems and alleviate their difficulties. As the Chief Secretary for Administration, I fully agree that government departments must take active and positive measures to enhance inter-departmental coordination and cooperation.

In fact, the everyday problems of public concerns, in particular those issues closely related to livelihood, would most probably fall under the remits of several bureaux or departments. Bureaux should proactively seek to understand the challenges encountered by their frontline departments when addressing cross-departmental issues which may concern resources, manpower and jurisdiction. For issues requiring coordination with other departments or clarification of responsibility, frontline departments should report to their respective bureaux in a timely manner in order to seek high-level intervention. Where necessary, Heads of Departments should, via their respective bureaux, escalate the matter to the responsible Secretary of Department (including myself) for coordination and direction on the issue in question. Over the years as the Chief Secretary for Administration, I have acted as supervisor and adjudicator from time to time to help resolve some of such cross-departmental issues.

I am aware that in The Annual Report, The Ombudsman levelled considerably harsh criticisms at some government departments for inadequate regulation, lax compliance with and enforcement of the law. The Ombudsman understood that different departments have their own law enforcement policies.

For instance, the problem of unauthorized building works would be addressed in a "risk-based" approach, whereby cases posing immediate danger to the public are accorded priority for enforcement; and when it comes to tackling the problem of street obstruction, appropriate law enforcement actions will be taken against serious cases in light of the actual circumstances. Having said that, no false impression should be given to the public that the Government is not rigorous in law enforcement and connives at the offenders. I will remind departments to exercise, in a more resolute manner and in accordance with priorities, the powers conferred to them by the relevant legislation. They should also make good use of the resources available, reinforce their will in law enforcement and avoid unnecessary delays, so that irregularities and issues of public concern can be properly addressed as early as possible.

With growing public interest in the subject of access to government information, the number of requests for information to government departments has been on a continuous rise in recent years. In 2015, government departments handled around 5 200 requests for information by members of the public invoking the Code on Access to Information ("the Code"), compared with about 3 100 requests in 2012, representing an accumulated increase of near 70% over those three years. That does not include numerous more requests made without invoking the Code. Government departments have striven to process each request in accordance with the Code, meeting a great majority of the requests (96%) in full and another 2% in part. In 2015-2016, the Office concluded 53 complaint cases relating to access to information, which include those invoking the Code and not. Among them, the Office found 11 cases where the government departments concerned misused the reasons for refusal, indicating insufficient understanding of the provisions of the Code. The Government will continue to actively follow up The Ombudsman's recommendations, which include strengthening training, enhancing public officers' understanding of the Code, and promoting public awareness of the Code through special television programmes and the updated themed website. Since 2014, over 600 training programmes and talks have been organized for the participation of more than 13 000 public officers. We will continue with our training and promotion efforts to ensure that government departments will handle the requests for information made by members of the public in strict compliance with the provisions of the Code.

President, one of the full investigation cases in the Annual Report gave me a lasting impression. According to the records, the complainant made more than 260 telephone calls to the concerned offices of the Housing Department ("HD") and frequently used abusive language in his conversations with HD officers. Nonetheless, HD followed its procedural guidelines and appointed an officer to coordinate and closely follow up the complaint case. The officer maintained telephone contact and had meetings with the complainant, and issued to him a dozen written replies. It might not sound like a significant matter recounting the case here, but we should never overlook the pressure borne by HD and the colleagues concerned at the time. Having examined the case, the Office considered the complaint unsubstantiated. The Ombudsman mentioned in her conclusion that the unreasonable behaviours of the complainant had not only strained resources of HD, but also caused unnecessary stress and anxiety to its staff members and ultimately affected the operations of the Department. This conclusion has done justice to HD. As a matter of fact, the Office faces similar challenges. Some complainants labour on a moot point and the resulting heavy workload brought to the Office deprives other complainants of a fair chance of getting the service they deserve in a timely manner. Even when the frontline staff members of the Office and government departments encounter unreasonable behaviours of some complainants, they maintain utmost restraint, professionalism and courtesy in handling public complaints. I would like to take today's opportunity to express my gratitude to all of them.

The well-being of the community at large should be the foremost consideration in good public administration. We notice that the complainants in many cases were discontented just because the authorities concerned failed to clearly explain to them the reasons for certain administrative decisions. We will remind our frontline colleagues to appreciate the concerns of members of the public with empathy. As I said last year, some members of the public consider that the departments and bodies concerned should apologize for mishandling their cases, while the Office also encourages government departments and public bodies to adopt a more open attitude towards making apologies. The Steering Committee on Mediation ("the Steering Committee") established by the Department of Justice conducted two rounds of public consultation on the need to introduce apology legislation in Hong Kong in mid-2015 and early

2016 respectively, and the responses were positive. The main objective of the proposed apology legislation is to clarify the legal consequences of making an apology, and to promote and encourage the making of timely apologies by the parties in dispute in order to facilitate an amicable settlement. The Final Report published by the Steering Committee on 28 November this year recommended that the proposed apology legislation should apply to all civil proceedings, save for some exempted proceedings. The Department of Justice agreed to the Steering Committee's recommendations and briefed the LegCo Panel on Administration of Justice and Legal Services on the same day. Its target is to introduce an apology bill to the Legislative Council in the current legislative year.

President, the Office held the 20<sup>th</sup> Presentation Ceremony of The Ombudsman's Awards in October to present awards to three winning organizations and 37 public officers in recognition of their active approach and positive attitude in handling complaints lodged by members of the public. It also recognized their sense of responsibility in a challenging environment as well as their efforts in maintaining high level of professionalism and service quality. May I take this opportunity to thank The Ombudsman for recognizing the efforts made by colleagues in various government departments.

Hong Kong's public administration is known for being clean, efficient and professional. The Government of the Hong Kong Special Administrative Region ("HKSAR") is firmly committed to maintaining good governance. The community's expectations for public administration rise as our social environment evolves. This gives the Government a huge driving force to continuously improve public services. The Ombudsman provides members of the public with an effective complaint channel, and government departments and public bodies with appropriate recommendations for improvement. It plays an indispensable role in enhancing the quality of public services in Hong Kong. The HKSAR Government will, as in the past, continue to fully support the work of The Ombudsman.

Thank you, President.

**ORAL ANSWERS TO QUESTIONS**

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

**The expansion and development plan for the Hong Kong Disneyland Resort**

1. **MR WU CHI-WAI** (in Cantonese): *President, the Government announced last month that it had reached an in-principle agreement with The Walt Disney Company ("TWDC") in respect of an expansion and development plan ("the expansion project") for the Hong Kong Disneyland Resort ("the Resort"). The expansion project will cost \$10.9 billion, to be shared between the two shareholders according to the current shareholding ratio, i.e. \$5.8 billion and \$5.1 billion to be injected by the Government and TWDC respectively. The Government has indicated that as both sides are of the view that they should limit the near and medium-term debt repayment burdens of the Resort, they have not opted for the option of raising debt to finance the project. In this connection, will the Government inform this Council:*

- (1) *whether it has conducted detailed financial analyses in respect of various options for financing the expansion project (including equity injection, the Resort taking out loans in the market under the condition of the Government providing a guarantee for subordinated loans or commercial loans, and a hybrid option with equity injection and debt financing in various ratios); if so, how such financing options compare with one another in terms of aspects such as total cost, rate of return, risks and risk sensitivity; if not, of the reasons for that;*
- (2) *whether it has conducted analyses on the estimated cash flows of the Resort under various financing options in the coming decade; if so, of the details; if not, the reasons for that; and*
- (3) *as the Government indicated in reply to a question raised by a Member of this Council in November 2005 that "the Government may consider in the light of the 'Big Market, Small Government' principle to divest its shareholdings in [the Resort] at an appropriate time when it is in the overall economic interests of Hong*

*Kong to do so", whether such principle and considerations are still applicable at present; if so, whether the Government will conduct studies on the reduction of its shareholdings in the Resort, including setting out what constitutes an appropriate time for divesting its shareholdings (e.g. when the attendance and revenue of the Resort have reached certain specified targets); if so, of the details; if not, the reasons for that; of the arrangements and restrictions, under the current agreement between the Government and TWDC, for the Government's divestment of its shareholdings to a third party, and whether it will negotiate with TWDC on a set of criteria in this respect?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the Hong Kong Disneyland Resort ("HKDL") has been in operation for over 10 years since its opening in 2005. It is a major component of the tourism infrastructure in Hong Kong and one of the most popular tourist attractions for both local and overseas visitors. It also helps consolidate our position as an international premier tourist destination. Our on-going analysis of the Hong Kong Tourism Board's survey with inbound visitors revealed that around 50% of HKDL's visitors cited visiting HKDL as their main purpose of coming to Hong Kong. This demonstrates the attractiveness and strength of HKDL. In its first 10 years of operation, HKDL has received over 58 million guests. Their additional spending in Hong Kong was around \$136 billion, which generated \$74.9 billion of total value-added for Hong Kong's economy, equivalent to 0.38% of Hong Kong's Gross Domestic Product. HKDL has also created a total of 195 700 jobs for Hong Kong's economy over the same period, providing considerable job opportunities to the general public.

The Government is committed to pursuing a balanced, healthy and long-term development of our tourism industry. We have also stated that Hong Kong should not merely focus on the growth in tourist number but should also move towards diversified and high value-added services. With the solid foundation of HKDL, we consider that it is the right opportunity to roll out a series of new attractions in the next few years so as to enable HKDL to continue to play to its strength in attracting high value-added visitors from all over the world to Hong Kong and fostering tourism development amidst intensifying competition in the region.

Under the expansion and development plan of HKDL announced last month, new attraction(s) will be launched almost every year from 2018 to 2023, including new themed areas featuring Disney's popular properties, namely "Frozen" and "Marvel Super Heroes". Apart from enhancing HKDL's attractiveness and competitiveness, the plan is also an integral part of our tourism development strategy which aims to attract more high spending overnight visitors from different source markets to Hong Kong, and thereby benefiting the tourism-related industries and creating job opportunities. We expect that the expansion and development plan would generate additional net economic benefits of \$38.5 billion to \$41.6 billion over a 40-year operation period. The plan is also expected to create around 3 500 jobs during the construction stage and another 600 jobs at HKDL upon completion. Moreover, the additional visitors and their spending arising from the expansion and development plan would bring about 5 000 jobs to Hong Kong's economy, which would progressively increase to around 8 000 jobs.

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

(1) and (2)

In order to enable the launch of the entertainment offerings and attractions under the expansion and development plan as soon as possible and to add impetus to Hong Kong's tourism development in a timely manner, and given the relatively large scale of the plan, both shareholders of the Hongkong International Theme Parks Limited ("HKITP") consider it appropriate to share the project cost of \$10.9 billion according to the existing shareholding ratio, i.e. 53% by the Government and 47% by The Walt Disney Company ("TWDC"), as equity injection.

We have considered the option of raising debt to fund the expansion and development plan. However, it is the common vision of both shareholders to reduce debt and interest expenses of HKITP, and we have indeed, since 2009, deleveraged HKITP considerably. Therefore, we consider that funding the expansion and development plan through equity injection will be more conducive to the long-term financial performance of HKITP. In fact, the liability of HKITP will reach up to \$2.3 billion in the current fiscal year. According to our assessment, HKITP can at most secure loan



amount of about \$4 billion without any guarantee under the current circumstances, and would not be able to borrow the entire sum of \$10.9 billion in the market. Even if HKITP could secure a loan of \$10.9 billion, the additional interest expenses arising from such loan for the expansion and development plan would be up to \$300 million per annum as calculated based on the interest rate of shareholders' loans for HKDL's third hotel development (i.e. around 2.6% per annum). Such interest expenses would become HKITP's burden over a long period of time and impose considerable pressure on its financial performance.

The progressive launch of new offerings under the expansion and development plan from 2018 onwards will help HKDL give full play to its international features and further open up the local, Southeast Asia and Mainland markets, and thereby stimulating visitation and consumption desire as well as lengthening visitors' stay in HKDL. We expect that the annual attendance of HKDL in 2025 will reach 9 million to 9.3 million. Based on the present value of the additional cash flow (i.e. discounting the inflation factor) generated from the projected attendance under the expansion and development plan, we estimate that the plan will have a financial internal rate of return of over 5% in real terms, which is a financially viable investment.

- (3) HKDL is an important and strategic tourism infrastructure investment of Hong Kong, and its development has to tie in with the Government's policy to promote tourism industry and overall economic development. We also attach great importance to the economic benefits and employment opportunities brought about by HKDL to the tourism-related industries (such as retail, restaurant, hotel, etc.). Given the current financial positions of HKDL and its strategic role in promoting our tourism industry as well as the overall economic development, the Government has no plan to sell our shares in HKITP or introduce third party investor(s) at present. In fact, the Government may, following agreement reached between both shareholders of the joint venture, negotiate the sale of our shares to third party investor(s). We will consider this option in the future as and when HKDL's financial positions are suitable and it is in the overall economic interests of Hong Kong.

HKDL is an important tourism facility of Hong Kong. As the majority shareholder of HKDL, the Government will continue to monitor the development and business performance of HKDL. We are pleased that TWDC has casted a vote of confidence in the prospects of the Hong Kong market and our tourism industry, and continues to make substantial investment in the expansion and development plan of HKDL. We hope that different sectors of the community as well as Members of this Council will support the expansion and development plan, with a view to bringing growth momentum to HKDL's business and fostering further development of our tourism industry towards diversified and high value-added services.

**MR WU CHI-WAI** (in Cantonese): *President, TWDC earns income from HKDL every year through management fee and royalty payments. It has also been reported that such income is estimated to account for about 5.8% of TWDC's turnover, representing an annual income of approximately \$200 million to \$300 million. In other words, TWDC already has a channel to recoup the capital invested, but the Government has not yet received any dividends. Taking into account the funds invested over the years, the money spent is almost \$30 billion. It is like throwing public money in the "black hole" of Disneyland.*

*Although the Government has indicated its intention to control the short- and medium-term debt burden of HKDL, the facilities of HKDL usually have a life cycle of only four to five years. In other words, HKDL will probably need expansion every five to seven years, and in order not to affect HKDL's debt burden, the Government will be forced to inject funds into Disneyland continuously.*

*I would like to ask the Government whether it will assess and consider this situation to ensure that HKDL adheres to the principle of public interest in using public resources. The Government should also grasp the opportunity of each capital injection to negotiate with TWDC the terms of operation so as to ensure proper use of public money.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, just now I have mentioned in the main reply the economic benefits HKDL has brought to Hong Kong in its first 10 years of operation. That is very clear. Of course, HKDL must keep itself up to date constantly to attract local and overseas visitors. Therefore, it is necessary to invest in HKDL.*

We are also very concerned about HKDL's operating costs and economic benefits. However, as far as this capital injection plan is concerned, as I have mentioned in my main reply just now, it is expected that the expansion and development plan will have a financial internal rate of return of over 5% in real terms, without taking into account the peripheral benefits that it will bring to the overall economy. Mr WU should understand that the tourism industry must increase its overall competitiveness through these projects and, therefore, the peripheral economic benefits cannot be ignored.

**PRESIDENT** (in Cantonese): Mr WU Chi-wai, which part of your supplementary question has not been answered?

**MR WU CHI-WAI** (in Cantonese): *President, my supplementary question is whether the Government will have to face the problem of capital injection for expansion time and again in the future? Will the Government be forced to inject funds?*

**PRESIDENT** (in Cantonese): Mr WU, please sit down. You have already pointed out the part of your supplementary question which has not been answered. Secretary, do you have anything to add?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, as I have mentioned just now, it is necessary to enrich HKDL's facilities. The expansion and development plan now under discussion will be implemented in the first phase. If the second phase of the development is to be pursued, financial arrangements must be further considered.

**MR HUI CHI-FUNG** (in Cantonese): *President, there are Disneylands all over the world, such as the ones in Tokyo and Paris. They all work well without government funding, so why is that only the one in Hong Kong is so dependent on the Government? Not only did HKDL need taxpayers to fund its construction, but now it also needs taxpayers to fund its expansion project. How much money actually do Hong Kong people have to inject into Disneyland? Has the Secretary received information that Disneyland will close down and withdraw its investment from Hong Kong if this \$5.8 billion public funding is not obtained?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, we should not consider tourism as a single item. The Disneyland project should be regarded as a very important element to the overall tourism competitiveness. Surely, HKDL is an important strategic tourism infrastructure of the Government—as I have pointed out in the main reply—and can bring significant economic benefits to tourism-related industries such as retail, restaurant and hotel industries, and it is therefore necessary to have multi-faceted development. Thus, the Government's participation is appropriate because HKDL has to, on the one hand, tie in with the direction and pace of tourism development in Hong Kong, including its development model, scale, rhythm, timetable and brand and hotel positioning, and on the other hand, dovetail with the Government's efforts in fostering development of our tourism industry towards diversified and high value-added services. Therefore, the Government's participation is necessary. We will also review more actively the positioning and role of tourism industry in the overall tourism infrastructure projects.

**MR HUI CHI-FUNG** (in Cantonese): *President, the Secretary has not answered if he has received information that Disneyland will withdraw its investment or close down.*

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, we are now talking about increasing the competitiveness of tourism infrastructure. Of course, if there is no capital injection, we will make other considerations. But will the closing down mentioned by Mr HUI happen? The answer is, of course, no. We are not considering the issue from this perspective. We are considering how to enhance the overall competitiveness of Hong Kong, and will not look at the issue of developing additional tourism infrastructure from a negative perspective.

**MR KENNETH LEUNG** (in Cantonese): *President, Disneyland is actually an asset jointly owned by all the people of Hong Kong. Many professionals in the society criticized that Disneyland is below the general standard in terms of financial disclosure. In view of this, can the Secretary urge the Board of*

*Directors of Disneyland to keep up with the standard of Hong Kong listed companies when disclosing its financial situation in the future? Although Disneyland is not a listed company, it is indeed an asset jointly owned by the people of Hong Kong. Can the Secretary make an undertaking to Members of this Council to ensure that Disneyland will meet the standard required of Hong Kong listed companies in terms of financial disclosure?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have heard Members' demand regarding information disclosure of Disneyland in the Panel on Economic Development and on other occasions. In this connection, insofar as the mutual agreement allows, we will try our best to meet Member's demand. We will also continue to listen to Members' views and disclose relevant information insofar as the agreement allows.

**MR KENNETH LEUNG** (in Cantonese): *President, the Secretary has not answered my supplementary question. The Secretary said "insofar as the agreement allows", but he should be aware that there is a term ... whether it is feasible or not feasible ...*

**PRESIDENT** (in Cantonese): Mr Kenneth LEUNG, you only have to point out the part of your supplementary question which has not been answered. Secretary, do you have anything to add?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I do not have anything to add.

**MR YIU SI-WING** (in Cantonese): *President, I agree with the Secretary that HKDL can directly help attract tourists and contribute to Hong Kong's economy and employment. However, HKDL is an enterprise after all. It cannot rely on cash injections to survive in the long run, and it can hardly even afford financial losses persistently. The Secretary should know that the operating costs of HKDL include royalty and management fee payments to its headquarters in the United States. During this negotiation, have the authorities asked the United States to waive or reduce the payment of these two fees in the event that HKDL incurs losses? In fact, the United States waived HKDL's management fee and*

*extended its payment of royalty in 2007 and 2009. If the authorities have made this request during the negotiation, what are the details? If not, what are the reasons?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, our colleagues have made their best efforts in obtaining the best terms for the overall interests of Hong Kong during the negotiations and have thereby come up with the current best solution. In the past, we also discussed with TWDC to make adjustments according to actual business performance. As I have repeatedly explained, adjustments were made in 2009 to peg the management fee to earnings before interest, tax, depreciation and amortization ("EBITDA"). I would like to point out that the \$10.9 billion required for the expansion and development project does not include management fee or royalty. They are two separate issues and should not be confused.

**PRESIDENT** (in Cantonese): Mr YIU Si-wing, which part of your supplementary question has not been answered?

**MR YIU SI-WING** (in Cantonese): *The Secretary has not explained to us whether the issue has been discussed.*

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have already pointed out in my reply just now that this is the best solution reached in the negotiations to best serve the overall interests of Hong Kong.

**MR MA FUNG-KWOK** (in Cantonese): *President, Disneyland has been in operation for 10 years. As an investor, could the Government tell this Council the internal or overall rate of return of the entire project from the time the investment was first made until losses have incurred recently? Moreover, our partner in the United States has been charging royalty and management fee. Has the Government calculated the investment return and cumulative rate of return of the other party?*

**PRESIDENT** (in Cantonese): Secretary, Mr MA Fung-kwok has raised two supplementary questions. You may choose to answer one of them.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have made public the relevant data in the main reply. When we look at this project, apart from the operation of HKDL, we have to take into account the overall economic benefits it has brought to Hong Kong. With regard to economic returns, cost was actually recovered in 2012, if we take its overall economic benefits into consideration. Regarding the operation of HKDL, we of course are very concerned about its economic benefits and cost-effectiveness. Members should have noted that the EBITDA of HKDL has improved positively from 2005 to 2015, and net profit was recorded in 2012 to 2014. Overall speaking, although it is still operating at a loss, we should consider it in the context of an infrastructure project as a whole.

**MR LUK CHUNG-HUNG** (in Cantonese): *President, just now many colleagues have raised questions about financing. However, what I am concerned is that the Government regards HKDL as a tourism infrastructure and intends to generously invest \$5.8 billion on its expansion project.*

*The Panel on Economic Development earlier passed a motion moved by me, urging the Government to set up a fund for the development of tourism with local features, so as to enhance Hong Kong's infrastructure such as other tourism facilities, green tourism, history and ecotourism. Do the Government and the Secretary agree with this direction?*

**PRESIDENT** (in Cantonese): This question is unrelated to the main question. Secretary, do you wish to give a response?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, with regard to the setting up of a fund for the development of tourism with local features, the Government will give it due consideration. But overall, there is no conflict between investing in HKDL and promoting local economy. The Government has been providing many new facilities for tourism

that features Hong Kong characteristics. In fact, we hope that there is a balanced and healthy long-term development of our tourism industry which will move towards diversified and high value-added services. As Mr LUK knows, we have promoted many cultural and creative tourism projects, and organized a number of major events and unique tourism experience activities, such as promoting Hong Kong's culinary culture and revitalizing some historic buildings in Central and Western District. We will continue to develop tourism with local features, but this does not conflict with our investment in HKDL.

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

### **Issues relating to the New Territories small house policy and small house concessionary rights**

2. **MR ANDREW WAN** (in Cantonese): *President, according to the New Territories small house ("small house") policy implemented since 1972, a New Territories male indigenous villager over 18 years old is entitled to one concessionary grant during his lifetime to build one small house ("small house concessionary right"). However, that policy has all along been highly controversial over the years and has even become a subject of criticism especially in recent years. During his election campaign in 2012 and in a meeting with the senior members of the Heung Yee Kuk ("HYK") in November of the same year after winning the election, the Chief Executive indicated that the problems associated with small houses and small house concessionary rights could be resolved by the method of "drawing a line", i.e. stipulating that New Territories male indigenous villagers born in or after a specified year would no longer be entitled to small house concessionary rights, but it ultimately ended up with nothing definite. The Chief Secretary for Administration, during her tenure as the Secretary for Development, pointed out that the small house concessionary rights could not be granted to New Territories male indigenous villagers indefinitely, and suggested setting a deadline for such rights, in line with the Basic Law's principle of guaranteeing Hong Kong's way of life to remain unchanged for 50 years, to stipulate that New Territories male indigenous villagers born after 2029 (i.e. reaching the age of 18 after 2047) would no longer be entitled to small house concessionary rights. The incumbent Secretary for Development has also written that it is necessary to review the small house policy*



*on the premise of optimal utilization of land resources. On the other hand, some members of the public have criticized that while the incumbent Government has raised so many suggestions, it seems to have taken no specific action in the end. In this connection, will the Government inform this Council:*

- (1) *whether, in the past few years, that is, in the past four years or so, the incumbent Government ...*

**PRESIDENT** (in Cantonese): Mr Andrew WAN, please raise your main question in accordance with the wording on the Agenda.

**MR ANDREW WAN** (in Cantonese): *President, I will try to do so.*

**PRESIDENT** (in Cantonese): You must raise your main question in accordance with the wording on the Agenda.

**MR ANDREW WAN** (in Cantonese): *Okay. I continue to read out the question as written.*

- (1) *whether it conducted, in the past few years, any study on adoption of the method of "drawing a line" for resolving the problems associated with small houses and small house concessionary rights; if it did, of the details; whether it has carried out any formal or informal consultations with HYK on such a method; if it has, of the details and the outcome of such consultations; whether it is due to resistance from the gentry or HYK that the incumbent Government has all along failed to resolve the problems associated with small houses and small house concessionary rights;*
- (2) *whether it has projected the number of people eligible for applying to build small houses in the coming 10 years; if it has, of the number, and whether it will use that number as a basis for setting a limit on the total area of land that can be made available for building small houses across the territory (including government land and private land); and*

- (3) *as there are views that the development of low-density luxury residential properties by developers through the acquisition of small house concessionary rights has spoiled the cultural atmosphere of the rural areas and violated the planning intention of the "Village Type Development" ("VTD") sites, and such developments have also increased the burden on traffic and ancillary community facilities in the vicinity, whether the Government has examined if the small house policy has been abused; whether it has considered including some VTD sites in new town developments or public housing developments on the premise of not affecting country parks and greening zones, so as to optimize the utilization of land resources and provide mid-to-high density residential properties that can better meet the needs of the community?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Good morning, President and Honourable Members. My reply to Mr Andrew WAN's question is as follows:

- (1) and (2)

Under the Small House Policy ("the Policy"), in general, a male indigenous villager aged 18 years old or above who is descended through the male line from a resident in 1898 of a recognized village in the New Territories may apply to the authority once during his lifetime for permission to build for himself a small house on a suitable site within his own village.

The Policy has been implemented for more than 40 years. The Government recognizes the need to review the Policy in the context of prevailing land use planning as well as optimal utilization of land resources. Such review will inevitably involve complicated issues in various aspects such as legal, environment, land use planning and demand on land, all of which require careful examination. The Government will continue to handle this review carefully and judiciously, engaging stakeholders as well as the wider community in dialogue over the relevant issues as and when necessary. As I mentioned when I responded to Legislative Council Members' oral questions on 18 November 2015 and 22 June 2016, and on various

occasions in the meantime, given the complicated issues involved and the fact that the work priorities of the Development Bureau are to increase land supply in the short to medium term and to implement and control costs of various public works projects, the review or consideration of suggestions to amend the Policy would not be a priority task in the remainder of the current term of the Government. It is neither realistic nor practicable as far as time is concerned.

The demand for small houses may change with factors such as birth and growth of indigenous villagers. Whether or not an indigenous villager would apply for a small house grant is dependent on his own circumstances and wishes, and not all eligible indigenous villagers aged 18 years or above will submit an application. It is thus impossible for the Lands Department ("LandsD") to project the number of small house applications in the next 10 years. As a matter of fact, it is not the Government's policy objective to provide adequate land to cater for applications by the estimated number of eligible indigenous villagers.

Moreover, as the Policy is currently challenged by a judicial review, it is not appropriate for the Government to respond further to detailed considerations of the Policy at this stage.

- (3) The planning intention of the "Village Type Development" zone ("V" zone) is mainly to reflect existing villages and for small house development by indigenous villagers within recognized villages. The purpose of setting up the "V" zone is also to concentrate village type developments ("VTDs") therein for a more orderly development. However, given that "V" zones are scattered across the territory and that there are various existing land uses, including existing villages, small houses, agricultural land, village access roads, etc., coupled with constraints in the existing infrastructural and other ancillary facilities, they are generally not suitable for large-scale high-density development.

To cater for Hong Kong society's ongoing development needs and optimize the utilization of land resources, the Government has been proactive in implementing a series of new development areas and

new town extension projects. Among these projects, quite a number are located in the rural New Territories in which existing villages, brownfield sites, squatter areas, agricultural land and land of other uses are scattered. Generally speaking, it is not feasible for the existing infrastructural and community facilities in these areas to cope with the demand arising from the future population growth or the further development of new towns. The Government's strategy for developing such areas is to conduct comprehensive planning with a view to examining the overall development constraints of the areas and the needs of society, and addressing the potential traffic, environmental and other impacts caused by the proposed developments. This will ensure sufficient infrastructural and community facilities for the future development, and at the same time improve land use and development patterns for the areas concerned. Such strategy for releasing suitable land for new development areas/new town extension is more effective than developing individual parcels of rural land, and can also better benefit the areas overall.

**MR ANDREW WAN** (in Cantonese): *President, just now the Secretary replied that as the relevant Policy is currently challenged by a judicial review, it is not appropriate to respond now. In my opinion, this remark has reversed cause and effect. When the Policy came into operation on 29 November 1972, the Government clearly stated that it was a measure to be implemented in the short to medium term. The Government's press release and Denis BRAY, the then District Commissioner, New Territories, also made it clear that it was a temporary, short-term measure aiming to, among other things, improve the living environment of the villagers. Forty-four years have since passed. A number of officials of the current-term Government—as I mentioned just now—including the Chief Executive and you, Secretary, had mentioned the need to conduct a review. So I wondered why such a review was never conducted. Then this year, being challenged by a judicial review, the authorities use this as the pretext for not making a response.*

*According to the available information, I know that now the Government has in its hand ...*

**PRESIDENT** (in Cantonese): Mr Andrew WAN, please raise your supplementary question.

**MR ANDREW WAN** (in Cantonese): *President, I now raise my supplementary question. Now the authorities have set aside about 932 hectares of land (the total area of which is equivalent to approximately 50 Victoria Parks) for VTD. Why has the Government allowed such a large area of land to stay idle all the way? Secretary, in the past, all such projects as the third runway of the airport, the Express Rail Link, universal retirement protection and standard working hours were highly controversial. Just now the Secretary said that since this matter was controversial, it was rather difficult to handle. Yet the Government could conduct consultation on these projects.*

*May I ask why the issue of small house concessionary rights is the only subject that cannot be touched on? Is it something that cannot be mentioned at all, like Voldemort in Harry Potter?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I thank Mr Andrew WAN for his supplementary question. However, President, his accusation that we have reversed cause and effect is wrong; what is true is that he has obscured the facts. Why did I say so?

Firstly, when I replied to Members' questions at the Legislative Council on the previous two occasions, I already stated clearly, and I have also pointed out in the main reply today, that the review on the Policy would not be a priority task of the Development Bureau in the current term, for which the reasons have been elucidated on a number of occasions. I am not going to repeat them. The main reason is that we need to focus our efforts on dealing with the land supply in the short to medium term and taking forward projects relating to the development of new development areas, reclamation and extension of new towns. The review on the Policy, as mentioned in the main reply, involves complicated considerations in respect of the law, environment, land use, planning and stakeholders of different interests. For this reason, it is not our priority task. This is the first point.

Secondly, as Secretary for Development, I believe I have made the following point much more clearly than the previous terms of Government did: first, it is not our policy objective to find adequate land to satisfy the needs of all holders of small house concessionary rights; second, we restrain this development through managing land supply. Hence, I consider the incumbent Government to be proactive and pragmatic in taking such an attitude to deal with the matter. It has also grasped the priority of problems appropriately.

Why did I say Mr Andrew WAN has obscured the facts? It is because he mentioned that the scope of VTD covered some 900 hectares of land which was equivalent to approximately 50 Victoria Parks. President, in my earlier replies to Members' questions, I repeatedly said that when the Government provided this figure, it had simply calculated the area of the remaining land that was not zoned for other purposes according to the Outline Zoning Plans, thereby arriving at the figure of 900-odd hectares of land. There are a total of some 600 recognized villages in Hong Kong. These land sites are scattered across the New Territories and are, in general, fragmentary, and their ancillary transport infrastructures are unable to support large-scale high-density development. For this reason, in my view, if we merely focus our efforts on dealing with this matter and postpone the other tasks, we are actually putting the cart before the horse.

**MR KENNETH LAU** (in Cantonese): *President, many people in society have a great misunderstanding that the small house concessionary right is a privilege. Article 40 of the Basic Law explicitly provides that "The lawful traditional rights and interests of the indigenous inhabitants of the 'New Territories' shall be protected by the [HKSAR]" ...*

(Mr LAM Cheuk-ting stood up)

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

**MR LAM CHEUK-TING** (in Cantonese): *President, as we all know, Mr Kenneth LAU is a small house developer who has huge interests and has directly or indirectly participated in small house developments. Mr LAU should first declare his interests.*

**PRESIDENT** (in Cantonese): Mr Kenneth LAU, please continue to speak.

**MR KENNETH LAU** (in Cantonese): *The lawful traditional rights and interests of the indigenous inhabitants of the New Territories are protected by the Hong Kong Special Administrative Region ("SAR"). In my view, revocation of the small house concessionary right or the approach of "drawing a line" is against the Basic Law.*

*According to the information of the LandsD in 2012, 1 200 hectares of land were zoned for VTD. I think this figure is pretty much exaggerated ...*

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

**MR KENNETH LAU** (in Cantonese): *I am going to raise my supplementary question. This figure covers roads, slopes, etc. Although the Secretary has answered questions in this respect, I would like the Secretary to elaborate more explicitly on the difference in planning between these VTD sites and the existing sites that can be used for high-density housing.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I have mentioned earlier that the remaining 900-odd hectares of land are scattered at different places. I have also indicated that these land sites are not suitable for high-density development unless there is an entire and complete change. This is our present view.

**MR LEUNG CHE-CHEUNG** (in Cantonese): *President, as we all know, the development of village-type small houses is an extension of the traditional rights and interests to which indigenous villagers have been entitled in history. This issue of rights and interests is also one of the housing problems which the Hong Kong Government must resolve. Hence, the Government should formulate a prudent and careful plan on land use.*

*Given that VTD sites are available and relevant information is published on the Internet, I would like to know whether the Government has compiled partial or complete statistics to estimate in how many years these VTD sites will fall short if all eligible male indigenous villagers aged over 18 submit an application.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, as I have mentioned in the main reply, it is actually impossible for us to project how much land is really needed for the construction of small houses by holders of small house concessionary rights because under the current Policy, a male indigenous villager descended through the male line from a resident in 1898 may apply once during his lifetime, but not every indigenous villager will submit an application, and some of them have already emigrated overseas. For this reason, it is really impossible to project the relevant demand.

It is true that now many people wish to make an application. However, as I have mentioned in my earlier reply to Members' questions, it is not our policy objective to find adequate land to satisfy all such demands. This is the first point. The second point is, at the present stage, we restrain this development through managing land supply.

In the past decade, the average number of small houses built each year was about 1 000, 85% of which were built on their own land. The majority of indigenous villagers used their own land to build small houses. President, in dealing with this issue, we must, on one hand, respect history, and on the other hand, respect the law, but at the same time, we must also strike a balance between the aspirations of indigenous villagers and the overall interests of society. Hence, we must act carefully. Furthermore, since a judicial review is now in process, President, I am sorry that I cannot speak too much.

**MR LAM CHEUK-TING** (in Cantonese): *President, actually the New Territories indigenous inhabitants will have descendants generations after generations. The demand for small houses will never end. This Policy is in fact not sustainable. To date, the Government still says it is not its priority task. President, in fact, there is never any order of priority for this matter.*



*May I ask the Secretary, does he dare not proceed to deal with the problems associated with small houses or even launch any public consultation in order to protect the privilege of villagers in rural areas?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, the query raised by Mr LAM Cheuk-ting just now is completely groundless. Just now I made it very clear. It is not our policy objective to find adequate land for all the indigenous villagers to build small houses. We restrain their development scale through managing land supply in our policy administration, and they have scolded me hard for that. Hence, it is really nonsense to say that I did not conduct any review in order to protect their interests.

Moreover, Mr LAM Cheuk-ting, the administration of the SAR Government covers a very wide spectrum. Apart from being responsible for land planning, the Development Bureau also has a Works Branch. Land supply, town planning, building safety, harbourfront development and urban renewal in Hong Kong are under the purview of the Development Bureau. Except for transport infrastructure, the implementation of all infrastructural projects is the responsibility of the Development Bureau. Greening, preservation of heritage and conservation of trees across the territory also fall under the purview of the Development Bureau. It is not accurate to say that there is no order of priority in our work. After weighing various factors carefully, we consider that under the present environment and resource conditions, such an order of priority is the most appropriate.

**MR ABRAHAM SHEK** (in Cantonese): *President, I express my support for the Secretary's reply because Hong Kong is a city under the rule of law. The small house concessionary right is a right to which the male indigenous villagers in the New Territories are entitled. We cannot suddenly deprive them of this right because of political pressure.*

*Back then, Michael SUEN told the Public Accounts Committee that he hoped he could resolve this problem within his tenure, but by the word "resolve", he did not mean an abolition of the small house concessionary right. When Carrie LAM served as Secretary for Development, she also said that she wished to deal with this problem. I hope the Secretary will consider the issue not from*

*the perspective of abolishing the small house concessionary right but from the perspective of how to execute such a right. Just like what Michael SUEN and Carrie LAM did when they were Secretary for Development, he should, instead of putting the problem aside, examine how to enable holders of small house concessionary rights to exercise their rights and live in contentment.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I thank Mr Abraham SHEK for his supplementary question. President, as I mentioned just now, in dealing with this issue, apart from considering various technical factors, we must respect history and the law. At the same time, we also need to strike a balance between the aspirations of indigenous villagers and those of society as a whole.

**DR JUNIUS HO** (in Cantonese): *President, I thank the Secretary for giving those several points just now. I also understand that a judicial review is now in process. We all understand that the small house concessionary right is protected under Article 40 of the Basic Law, but I have heard some Members say that the Government is biased towards the indigenous villagers and rural areas. This is in fact untrue.*

*Nevertheless, it seems that the Secretary is in a position which can please neither side. The indigenous villagers have raised objections because the New Territories small house policy has not been reviewed for 44 years. The Secretary has indicated in the main reply that this matter will not be accorded priority in the remainder of the current term of the Government, but as we know, most of the land is private land which belongs to indigenous villagers. If we can optimize the utilization of land and release spaces for development by, for example, changing the plot ratio, actually the overall housing supply problem in Hong Kong will be relieved.*

*Hence, may I ask if there is any timetable for the coming 5 or 10 years even though this matter will not be accorded priority in the remainder of the term? Can he shed us some light? In our view, the New Territories small house policy formulated 44 years ago is already outdated. The problem of not optimizing the utilization of land really needs to be addressed seriously. Can the Secretary provide us with a rough direction and timetable?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I thank Dr Junius HO for his supplementary question. President, please accept my apology for being unable to provide a specific timetable here. There are a few reasons. The main reason is that this Policy is currently challenged by a judicial review. The applicant has been granted legal aid. The dates of submission of documents and hearings will also be fixed. Hence, it actually depends on the final result of the judicial review. This is the first point.

The second point is, with regard to optimal utilization of land, can we increase the density of the developments or can we increase the height of the developments as proposed in the community? I remember I have answered Members' questions in this regard at the Legislative Council. We certainly need to take building safety, ancillary infrastructure and various technical factors into account, but apart from this, we also need to consider whether the building area brought about by high-rise developments should simply be used to satisfy the needs of small house concessionary rights, or be partly withheld for use by society as a whole. This is also an important consideration. So far we have not received any specific proposal in this regard.

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

### **Measures to promote the use of environment-friendly vehicles**

3. **MR FRANKIE YICK** (in Cantonese): *President, it has been reported that certain countries plan to prohibit the sale of fuel-engined vehicles progressively from 2025 onwards; Germany plans to implement in 2030 a requirement that newly-registered vehicles must meet the zero emission standard; and a Japanese vehicle manufacturer plans to cease from 2050 onwards the production of vehicles which run entirely on fuel. It is thus evident that fuel-engined vehicles are being progressively replaced by more environment-friendly vehicles such as hybrid electric vehicles and electric vehicles. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers and percentages of hybrid electric vehicles and electric vehicles among the currently registered vehicles;*

- (2) *whether the Government assessed in the past three years the effectiveness of the various measures adopted to encourage vehicle buyers to choose environment-friendly vehicles; whether it will introduce new measures to make more vehicle owners switching to use environment-friendly vehicles, and whether it will enact legislation or formulate codes to stipulate a requirement that charging facilities for vehicles must be provided at all parking spaces in newly-constructed buildings; if it will, of the details; if not, the reasons for that; and*
- (3) *given that, projected on the basis that each of the 800 000-odd vehicles currently registered across the territory has at least one battery and car batteries generally have a life expectancy of three years, more than 200 000 waste car batteries have to be recycled and processed each year, but only 50 000-odd waste car batteries are currently recycled and processed by competent recyclers each year, and there are comments that the batteries of electric vehicles are much heavier than those of fuel-engined vehicles, the number and weight of waste car batteries to be recycled and processed each year may increase substantially with the growing popularity of electric vehicles, of the Government's measures for proper recycling and disposal of waste car batteries, so as to prevent chemical waste inside the batteries from causing environmental pollution?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President,

- (1) As at 31 October 2016, there were 6 860 registered electric vehicles ("EVs") in Hong Kong, most of which were private vehicles. The percentages of EVs among the currently registered vehicles and registered private vehicles were both around 1%.

The Transport Department does not compile statistics for registered hybrid vehicles. Based on the types of fuel used by these vehicles, their figures are incorporated into those for registered petrol or diesel vehicles.

(2) To improve roadside air quality, the Government has been making efforts to encourage vehicle buyers to choose greener vehicles. Measures taken include:

- (i) First registration tax concession schemes were introduced for environment-friendly petrol private cars ("EFPPCs") and environment-friendly commercial vehicles ("EFCVs") in April 2007 and April 2008 respectively. For EFPPCs, as their emission control technology has gradually advanced to such a mature stage that their emission performance is more or less the same as that of common petrol private cars, their first registration tax concession scheme was ended on 1 April 2015, while the one for EFCVs is still in operation.

The above measures have been effective in encouraging the purchase of green vehicles. From 2013 to the end of 2015, 25 914 EFCVs and 23 525 EFPPCs were approved under the Tax Incentives Scheme for Environment-friendly Commercial Vehicles and the Tax Incentives Scheme for Environment-friendly Petrol Private Cars respectively. The percentages of EFCVs among newly registered commercial vehicles in the respective years ranged from 46% to 59% while the corresponding percentages for EFPPCs ranged from 17% to 28%. Details are set out in Annex 1;

- (ii) Enterprises having procured green vehicles (including EVs, hybrid vehicles, EFCVs and EFPPCs) are allowed to have 100% profits tax deduction for the capital expenditure on green vehicles in the first year of procurement from June 2010 onwards;
- (iii) First registration tax for EVs has been waived since April 1994. The existing waiver arrangement will be valid until 31 March 2017;
- (iv) More EV chargers have been set up in collaboration with the private sector. As at September 2016, there were over 1 466 public chargers of various types in Hong Kong covering

all 18 districts, including 957 standard chargers, 323 medium chargers and 186 quick chargers. The Government will continue to closely monitor the development of EVs and ensure the timely expansion and enhancement of public charging facilities to meet the need of EV drivers for charging their vehicles during their journey;

- (v) The Environmental Protection Department ("EPD") has established a dedicated team and a hotline (Tel: 3757 6222) to provide relevant information and technical support for those who intend to install charging facilities. It has also issued guidelines on the arrangements and technical requirements for setting up EV charging facilities; and
  - (vi) Starting from April 2011, the Government has been encouraging developers to put in place basic infrastructure for EV charging facilities (including adequate power supply, electrical wiring and cable ducts) in car parks of new buildings, with a view to facilitating installation of EV chargers in future having regard to the needs of carpark users. Such policy is implemented through granting concessions on Gross Floor Areas for car parks in new buildings. The Buildings Department implements the above measure through the issue of practice notes for building professionals and may revise the practice notes where necessary to implement new measures. From April 2011 to December 2015, nearly 80% of car parking spaces under newly approved development plans have been equipped with the infrastructure for EV charging facilities. Over the past three years, the number of EVs increased from 592 at the end of 2013 to 4 198 at the end of 2015. Relevant figures are set out at Annex 2.
- (3) There are currently two licensed facilities for disposal of waste lead-acid batteries from conventional fuel-engined vehicles. The one in Yuen Long Industrial Estate exports waste lead-acid batteries, after preliminary treatment, to overseas (e.g. Korea) recycling facilities to extract lead for recycling. On the other hand, waste lead-acid batteries are disposed of at the West New Territories

Landfill in Nim Wan, Tuen Mun by way of landfill, according to strict requirements imposed by EPD for the specific disposal of these batteries at designated areas in the Landfill. All landfills in Hong Kong adopt a closed design and have layers of containment liners to ensure no pollution to the surrounding environment.

Lithium batteries are mainly used in EVs. Currently, three licensed facilities in Hong Kong are allowed to treat this type of waste battery, including the one mentioned above in Yuen Long Industrial Estate and the other two in Sheung Shui and Fanling. The three facilities will safely pack the collected lithium batteries after preliminary treatment and put them into containers before exporting them to overseas recycling facilities for further treatment, including the ones in Korea and Japan. According to our understanding, EV suppliers are willing to assist their customers in recovering waste EV batteries for proper treatment. EPD will also continue to closely monitor how they handle waste EV batteries so as to ensure that such batteries can be disposed of properly without affecting the environment.

In addition, unlike batteries for conventional vehicles, the ones for EVs will still have about 70% to 80% residual energy storage capacity after their retirement and thus can be used for other energy storage purposes. Therefore, in late August this year, we organized the International Competition on Second Life for Retired Batteries from EVs to invite creative and practicable proposals on the reuse of retired EV batteries.

Waste batteries resulted from the repairs and maintenance of vehicles, be they waste lead-acid batteries from conventional fuel-engined vehicles or waste lithium batteries from EVs, are chemical waste and regulated under the Waste Disposal Ordinance and the subsidiary regulation. Vehicle maintenance service providers producing or in possession of waste car batteries must register with EPD, while waste battery collectors and disposal facilities must obtain licenses from EPD according to the law. Any party involved in the illegal disposal of waste car batteries is subject to prosecution.

## Annex 1

<i>Year</i>	<i>Number of newly registered EFCVs</i>	<i>Percentage among all newly registered commercial vehicles of the same type in the year</i>	<i>Number of newly registered EFPPCs</i>	<i>Percentage among all newly registered private cars in the year</i>
2013	7 981	46%	13 026	28%
2014	9 597	59%	7 979	17%
2015	8 336	46%	2 520 <sup>(1)</sup>	20% <sup>(1)</sup>
Total	25 914		23 525	

Note:

- (1) The Tax Incentives Scheme for Environment-friendly Petrol Private Cars ended on 1 April 2015

## Annex 2

<i>By</i>	<i>Number of newly registered EVs</i>
31 December 2013	592
31 December 2014	1 551
31 December 2015	4 198

**MR FRANKIE YICK** (in Cantonese): *President, first of all, I thank the Secretary for replying to parts (1) and (2) of my main question and providing information as appropriate. But I mainly wish to ask the question in part (3) and that is, while there should be over 200 000 waste car batteries that need to be handled in Hong Kong each year, the Government's records showed that only 50 000-odd are recycled, so where are the remaining 150 000 batteries? If the Government still lacks a clear way for handling the batteries, I believe the problem will become very serious with the continuous popularization of EVs in future, but I do not hear the Government giving a reply on how those 100 000-odd missing batteries are handled.*



**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr YICK for his supplementary question. We have noticed an increase in the quantities of various types of equipment, installations and vehicles that run on batteries in recent years, but there has not been a corresponding increase in the disposal rate of waste batteries. Therefore, apart from fostering communication and understanding with the major industries that generate waste batteries, we have also taken enforcement actions stringently against unauthorized collection and storage as well as illegal trading of waste batteries.

Since the end of 2015, prosecution has been instituted for 12 cases, four of which were convicted cases whereas the remaining cases are being processed. EPD will continue to carry out enforcement and regulatory actions. Surprise inspections will also be conducted on sites where waste batteries are generated to ensure that waste producers properly handle chemical waste in accordance with the law to protect the environment.

**MR JEFFREY LAM** (in Cantonese): *I would like to ask the Secretary this: The existing policy on green vehicles is very confusing because there is a great variety of green vehicles, including those that run entirely on fuel, hybrid electric vehicles and diesel vehicles, and perhaps there will be solar vehicles in future. Some vehicle types are tax free this year but it is unknown as to whether they will continue to enjoy this concession next year. At present, the import of environment-friendly diesel vehicles into Hong Kong has to meet very stringent standards. Currently we use only the California standards but apart from California, these standards are used nowhere else in the world. Will the authorities consider adjusting the entire policy on green vehicles, including the policy on environment-friendly diesel vehicles? Because public compliance would be difficult if the Government does not have a comprehensive policy.*

*Moreover, in view of the future development, there will be continuous changes in many vehicle types. I hope that the Secretary can review the situation in this respect and study, having regard to the present-day development, what policies the Government can put in place to provide the public with accurate guidance in the use of environment-friendly vehicles, so as to enable the public to achieve savings while ensuring durability of the vehicles.*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr LAM for his question. I think Hong Kong, like many major cities, has to keep pace with ever-advancing and changing technologies, and the policies of Hong Kong have to be amended or enhanced in a timely manner.

I will give a response in three aspects. First, the first registration tax waiver for EVs will be valid until the end of March next year. I think this is also an opportunity for various departments in the Government to conduct a review internally and by then, we will announce our views on the support and co-ordination for environment-friendly vehicles and EVs.

Second, we support various types of environment-friendly transport technologies. In this connection, we have introduced the Pilot Green Transport Fund and we welcome the effective utilization of new technologies in various types of vehicles, especially commercial vehicles, to improve the environment of Hong Kong.

Third, Mr LAM mentioned private diesel vehicles. In this connection, we will discuss with the relevant Panel of the Legislative Council later. We are all concerned and anxious about the problem of air pollution in Hong Kong. Private diesel vehicles, of course, have to meet certain standards and we also wish to adopt the more stringent standards in the world in order to improve the roadside air quality. Besides, we have seen that diesel vehicles can be substituted by various types of vehicles, especially by EVs which can truly achieve zero roadside emission, thereby improving the roadside air quality in Hong Kong. For the sake of the overall interest of Hong Kong, there is a reason to put great emphasis on the promotion of EVs.

**MR TOMMY CHEUNG** (in Cantonese): *President, in paragraph (vi) of part (2) of the main reply the Secretary said that about 80% of the car parking spaces in new private housing estates have been equipped with such infrastructure and this is good. But I would like to ask the Government if consideration has been given to the existing housing estates because there are many private cars in those estates too. Can the Government also encourage the existing housing estates by, for instance, relaxing the arrangements in respect of the plot ratio, to enable these housing estates to make available more spaces for the installation of*

*charging facilities, or can the Government provide subsidies for them to install charging facilities, so that vehicle owners in the existing housing estates can consider switching to use EVs?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr Tommy CHEUNG for his supplementary question. To provide support for EVs in Hong Kong, the most convenient and direct way is to have chargers installed at places where people work or live, especially as Hong Kong is a small place and it is best to have chargers provided at places frequented by vehicle owners. As Mr CHEUNG said just now, the policy that we have implemented in new buildings can be considered effective in that nearly 80% of the car parking spaces in new buildings have been equipped with the basic infrastructure.

There are challenges in the installation of these facilities in existing buildings, especially as buildings in Hong Kong are different from those in foreign countries where people mostly live in individual houses and hence it is easier for chargers to be installed. But in Hong Kong, it is predominantly large-scale housing estates and how can we do it? The current policy of the Government is to provide a hotline, and the two power companies also have a dedicated team of staff to provide support in this area of work. As far as we understand it, the biggest challenge now is that many owners, property management companies or owners' corporations need to go through a process to obtain knowledge of this issue. This is exactly why we have to foster communication, publicity and education to enable them to have a better understanding.

We have also seen over the past year the emergence of many companies providing new technologies in Hong Kong and so, when charging facilities are installed in the existing housing estates, these resources can be utilized more conveniently in the entire estate. Therefore, this is in a stage of development, and we are actively collecting information and forging communication and understanding with the industries and people in the existing housing estates.

As for the point made by the Member on the need to provide other incentives such as concessions similar to those enjoyed by new buildings, I think this is a relatively complicated issue because the existing buildings have already been built and providing concessions for them and for new buildings are two different matters. For the time being, we have seen different developments in

various aspects and so, we are keeping in view of these developments. Meanwhile, we also keep an open mind, and if there are ways to provide assistance and support, we will take them into consideration in due course.

**MR POON SIU-PING** (in Cantonese): *President, in recent years the Government has intended to promote EVs for environmental protection and this I welcome. The Secretary mentioned earlier that the number of EVs has increased from 592 in 2013 to more than 6 800 at present and that there are 1 466 public chargers in 18 districts. I mainly wish to ask the Government whether goals have been set for the growth in the numbers of charging facilities and EVs, and what standards are adopted for deciding the locations of the charging facilities.*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank the Member for his supplementary question. It has been the backbone of our policy that the switching of commercial vehicles in particular into EVs should best benefit the air quality of Hong Kong. In this connection, buses or other commercial vehicles should be the main targets but of course, we have to look at whether similar models of vehicles are available in the market for use as appropriate. Private vehicles are certainly another vehicle type for our consideration and also for consideration by the Transport and Housing Bureau. The overall growth in the number of private vehicles in Hong Kong is an area of concern to us, and we hope that environment-friendly vehicles with zero roadside emissions should be used as private vehicles by all means.

Given that Hong Kong is small in area, as I have just said, if vehicle owners can easily find fixed charging facilities at places where they live or work, that would be most suitable for the situation of Hong Kong. Of course, in some cases, say, where charging facilities are provided in public places, it will also be helpful but this is not our major consideration.

Therefore, with regard to the supplementary question asked by the Member earlier about the most desirable number of charging facilities to be installed in public places or whether goals have been set, I think this may not be most important to us. Instead, it is how we can help the public install chargers at their place of work or residence that best suits the case of Hong Kong. In the meantime, we will take a multi-pronged approach to provide various supporting

resources, in order to facilitate the installation of charging facilities at different places. For instance, in some public places, we are currently replacing the standard chargers by medium chargers, with a view to upgrading the service.

**MR KENNETH LEUNG** (in Cantonese): *President, in paragraph (iii) of part (2) of the main reply the Secretary said that the first registration tax for EVs has been waived since April 1994 and this waiver will be valid until 31 March 2017. To ensure continuity of this policy, will you, in the coming Policy Address, propose to the Financial Secretary an extension of the waiver for EVs?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): *President, I thank the Member for his supplementary question. It has been our practice to announce the relevant progress in the Budget but as this issue is still brewing internally, I may not be able to give a clear answer to the Member's question today. Having said that, our basic attitude is to effectively utilize environmental technologies and environment-friendly vehicles, including EVs, and promote their application in Hong Kong to enable these technologies to become more market-oriented and mainstream, with a view to improving the air quality of Hong Kong.*

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

### **Permitting the performance of euthanasia in Hong Kong**

4. **MR CHUNG KWOK-PAN** (in Cantonese): *It can be seen for many years patients suffering from terminal illnesses and their family members expressing the hope that euthanasia may be legally performed in Hong Kong. Although considerable controversies surround the issue of euthanasia, several countries have now enacted legislation to permit the performance of euthanasia under certain circumstances. In this connection, will the Government inform this Council:*

- (1) *whether it knows the number of patients requesting for euthanasia in each of the past three years, with a breakdown by the illness suffered by and the age of the patients;*

- (2) *of the support currently provided by the Government to patients suffering from terminal illnesses, and whether it will enhance the relevant support; and*
- (3) *of the Government's justifications for refusing to permit the performance of euthanasia on patients; whether it will study the enactment of legislation to permit euthanasia so as to relieve the constant pain and suffering of patients with special circumstances or terminal illnesses; if it will not, of the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, euthanasia is a highly complex and controversial issue involving implications in various dimensions including medical, social, moral, ethical, legal, etc. Any subject matters concerning life must be dealt with care.

Under the laws of Hong Kong, euthanasia involves a third party's acts of intentional killing, manslaughter, or aiding, abetting, counselling or procuring the suicide of another, or an attempt by another to commit suicide. These are unlawful acts, possibly liable to criminal offence(s) under the Offences Against the Person Ordinance. The Code of Professional Conduct for the Guidance of Registered Medical Practitioners ("Code") has also made it clear that euthanasia is "illegal and unethical".

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

- (1) The Hospital Authority ("HA") does not compile statistics on the number of patients wishing for euthanasia.
- (2) Upholding the principle of "providing holistic care for patients", HA offers appropriate comprehensive services to terminally ill patients and their families in an integrated service mode through palliative care teams comprising doctors, nurses, medical social workers, clinical psychologists, physiotherapists and occupational therapists. At present, all seven clusters of HA provide palliative care services for terminally ill patients, including inpatient service, outpatient service, day care service, home care service, bereavement counselling, etc. Since 2010-2011, HA has extended the targets of its palliative care services from mainly cancer patients to patients with other end-stage organ failure.

Palliative care inpatient services are mainly provided for terminally ill patients with severe symptoms and multiple needs. HA uses drugs and other supportive therapies to reduce the patients' physical pain and discomfort, so as to help them spend the final stage of life in peace and with dignity. Public hospitals of HA offer a total of over 360 palliative care beds. Terminally ill patients admitted to other specialties and in need of palliative care services can also receive palliative treatment.

HA will also arrange palliative care outpatient services for discharged patients in need to follow up on their conditions. At the same time, HA has set up various Palliative Day Care Centres to strengthen the emotional and psychosocial support for patients and their families.

We understand that some terminally ill patients may wish to stay with their families in a familiar environment until their passing away. HA will respect patients' will and provide support, including palliative care services and home visits, as appropriate for discharged patients in need in the light of individual circumstances.

We have all along been committed to enhancing palliative care services and has continued to improve its service delivery model and strengthen the provision of multi-disciplinary services over the years. Since 2015-2016, HA has, in collaboration with residential care homes for the elderly ("RCHEs"), strengthened the service of the Community Geriatric Assessment Team in phases to provide better support for terminally ill residents living in RCHEs to improve the quality of care.

Besides, HA communicates with patient self-help groups on a regular basis to understand their needs.

We will continue to review the demands for various medical services and plan its services according to factors such as population growth and changes, advancement of medical technology and health care manpower. Improvements will also be made while ensuring efficient use of resources.

On the other hand, in 2015, the Food and Health Bureau commissioned The Chinese University of Hong Kong ("CUHK") to conduct a three-year research study on the quality of health care services for the ageing. With the aim of enhancing health care services for the elderly population, the study will help the Government set its long-term development direction of health care services in response to the challenges of an ageing population, including services for elderly people with chronic diseases and end-of-life care.

- (3) Paragraph 34 of the Code provides guidelines on care for the terminally ill. Where death is imminent, it is the doctor's responsibility to take care that a patient dies with dignity and with as little suffering as possible. A terminally ill patient's right to adequate symptom control should be respected. This includes problems arising from physical, emotional, social and spiritual aspects.

According to paragraph 34.2 of the Code, euthanasia is defined as "direct intentional killing of a person as part of the medical care being offered". The Code clearly states that euthanasia is illegal and unethical.

In Hong Kong, there may be occasional cases of terminally ill patients requesting euthanasia when their physical and mental pain goes unmanaged. However, most of these patients will change their mind and give up their requests when their pain is under control after receiving suitable palliative care treatment. We should therefore look for ways to improve our palliative care services for terminally ill patients who are in both physical and mental pain, so that more of them can receive suitable treatment, instead of considering how to implement the so-called euthanasia.

According to our understanding, euthanasia is currently not allowed in the vast majority of countries and areas in the world. Only a very small number of countries (e.g. the Netherlands, Belgium and Luxembourg) allow euthanasia to be conducted under statutory regulation. Switzerland, Canada and a minority number of states in



the United States (e.g. the states of Oregon, Washington, Vermont, California, etc.) allow doctors to assist terminally ill patients in committing suicide under statutory regulation, while maintaining euthanasia as an illegal act. The Government has no plans to carry out any study or consultation on the issue of legalizing euthanasia for the time being.

Under common law, a patient may, while mentally competent to make decisions, give an advance directive to specify that apart from basic and palliative care, he chooses not to receive any life-sustaining treatment or any other specified treatment when he is terminally ill, in a state of irreversible coma or in a persistent vegetative state, or to specify the withholding or withdrawal of futile treatment which merely postpones his death under specific conditions. This is not equivalent to euthanasia.

The Advance Care Planning allows health care staff of HA to discuss with terminally ill patients and their families, in the best interest of the patients, the withholding or withdrawal of futile treatment which merely postpones death. A patient can also sign an advance directive to specify that when he is terminally ill, in a state of irreversible coma or in a persistent vegetative state, or under other specific circumstances, he chooses not to receive any futile life-sustaining treatment and wishes to pass away peacefully. HA has formulated guidelines on advance directives and the Advance Care Planning.

**MR CHUNG KWOK-PAN** (in Cantonese): *Euthanasia is a controversial issue involving moral, ethics, legal and medical concerns. However, I do not agree that a patient's request for considering euthanasia is equivalent to urging a doctor to find ways to kill the patient.*

*President, why would I raise this main question? It is because recently, the 38-year-old giant panda Jia Jia at the Ocean Park was euthanized on humanitarian grounds pursuant to the decision of the Ocean Park and the Agriculture, Fisheries and Conservative Department. Actually, panda Jia Jia might not want to end her life, but since she could not express her preference, the*

*decision was made by others on her behalf. However, when human beings express their feelings about their sufferings and pain, they are not allowed to request for euthanasia. On the grounds of humanity, patients should have the right to make their own decisions instead of binding by legal, medical, moral and ethics restrictions. If such a decision can be made on behalf of animals, may I ask the Secretary why man is not allowed to make such a decision for themselves?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding the individual rights Mr CHUNG mentioned, I believe in a broader sense, all societies will show the utmost respect for individual rights, yet it does not mean that individual rights will not be subject to any restriction or there is no bottom line for it.

As for patients, we absolutely respect the individual rights of patients, particularly the right of patient to refuse treatment, especially intrusive treatment. This point is relatively definite. In fact, the arrangement for formulating guidelines on advance directives is an approach reflecting the relatively definite rights of patients through the common law. On the other way round, if a Member asks whether a patient can receive the treatment as per the patient's request, the answer will be in the negative too. Hence, as a matter of fact, the social ethics, values and concepts about patients' rights and the best interests of patients are evolving in every society.

At the present stage or at least in Hong Kong, putting aside the medical issues, it is an offence for anyone to commit suicide in Hong Kong. Hence, I think when discussing patients' rights, sometimes it is necessary to consider the issue separately. At present, no matter whether we are talking about medical guidelines or legal requirements under the common law, we absolutely respect patients' decision of not receiving certain treatments or procedures which they do wish to receive. However, the intervention and proactive act to end patients' lives by doctors or healthcare officers are still regarded as an act of murder which is illegal.

**PROF JOSEPH LEE** (in Cantonese): *President, I have no intention to involve in this discussion of medical moral, ethics and values, yet I would like to talk about the policies concerned. In the main reply, the Secretary mentioned the*

*arrangements for palliative care, formulating guidelines on advance directives and the Advance Care Planning, which are services provided by HA to the terminally ill, and we acknowledge these arrangements. The Secretary has also mentioned expanding palliative care services. In fact, most of the work mentioned by the Secretary has already been implemented in hospitals and the public health care system. My supplementary question is about certain approaches under discussion, which will be adopted in the community to enable the terminally ill or cancer patients to age at home through arrangements like the Home End-of-life Care Programme. In other words, patients may choose to stay home in the last days of their lives, and with the support of palliative care and visiting health teams, patients may spend their last days at home instead of deciding whether or not rescue treatment should be administered when they are sent to hospitals. Secretary, since hospitals are already performing these tasks, will the authorities formulate policies or plans, invest resources and make resource allocation to support palliative care services, so that services for ending life at home like the Home End-of-life Care Programme can be implemented in the community, thereby offering a choice for patients as well as their families to spend their last moment of lives peacefully at home?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Prof LEE for his supplementary question. Actually, I have mentioned a plan, the Advance Care Planning, in the main reply earlier, which will be introduced by HA in collaboration with non-governmental organizations ("NGOs"). To a certain extent, the Advance Care Planning seeks to provide services through our multi-disciplinary teams from various aspects like hospital care and community care. Under the plan, patients receiving treatment in hospitals, day care facilities or at home, as well as their caretakers, will be supported by multi-disciplinary teams, so that they can spend their last moment of lives at home as far as practicable.

In the long term, I agree that support for this kind of services is still inadequate in Hong Kong. Hence, I have mentioned earlier that the Bureau has commissioned CUHK to conduct a research study on the scope of health care services for the elderly, which covers end-of-life care for the elderly. One of the specific subjects to be examined is the ways to give regard to the preference of patients who desire to spend their last moment of lives at home.

**MR PAUL TSE** (in Cantonese): *President, the Secretary has pointed out in his reply that euthanasia is defined as "direct intentional killing of a person as part of the medical care being offered", and such practice is not allowed. Yet, by the same justification, the withholding or withdrawal of futile treatment which merely postpones death is allowed under the Basic Law and the existing Advance Care Planning implemented by HA. At issue is whether or not we are already adopting such practices in actuality. Are we just playing ostrich man or deceiving ourselves? Should we conduct extensive consultation, discussion and debate, and then adopt a clear-cut approach by defining the conditions and criteria for surpassing or disregarding the boundary, so that euthanasia may be administered effectively, lawfully and morally? Since the existing arrangement basing on the common law is relatively ambiguous, and the Advance Care Planning now implemented has not been discussed by the legislature and undergone the relevant legislative procedures, we should not rely solely on either of these arrangements.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding Mr Paul TSE's question, I am not sure if I have understood it correctly. Some years ago, during the discussions and disputes on the concept of euthanasia, some people had raised the concept of passive euthanasia or a similar concept at a certain stage. In brief, the concept refers to the withdrawal of certain supportive treatments which are life-sustaining treatments for the patient concerned, and it would be in de facto administering euthanasia, which would be playing the ostrich as Mr TSE said.

In this connection, discussion has been held in the medical sector for many years and the boundary has been stipulated unequivocally. How can this be reflected in practice? For instance, when framework involving legal, medical and ethic aspects is fully fulfilled, doctors may give a drug injection to the patient to end the patient's life. This is genuine euthanasia. Another approach is for a doctor to prepare all the procedures, including connecting the drug to the syringe and inserting the intravenous catheter for a patient, and finally let the patient press the button. This is assisted suicide. The boundary laid down at present is crystal clear, that is, both practices mentioned above are illegal. In most regions, these two practices are not accepted by mainstream medical ethics.

As for other situations, such as the withdrawal of life-sustaining medical support, another medical concept is applied, that is, when the condition of a patient has reached a stage where further treatment can barely sustain the patient's life but only postpone death. Certainly, clinical assessment on medical ground is required to justify that the continued provision of the relevant treatment by doctors will not save the patient but only postpone death. These treatments are defined as futile treatments in the medical sector. This is the established boundary.

If patients have made the decision of not receiving treatment when they are capable and under specific conditions, then according to medical ethics and the common law, we cannot intervene or go against the will of the patient to administer treatment.

**MR PAUL TSE** (in Cantonese): *If that is the case, why is it not stipulated clearly in legislation? Regarding the rationale provided by the Secretary in his explanation earlier, the decision is made according to the common law and existing criteria, will it be better to enact legislation on such practices?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, some time ago, the Law Reform Commission of Hong Kong had thoroughly examined the issue. Regarding the guidelines on advance directives, the Food and Health Bureau had conducted a public consultation exercise after that. It was found that at the present stage, the majority in society accepted the approach under the common law framework by formulating guidelines on advance directives according to HA's instructions. As for the way forward, we will monitor closely the effect of the implementation of the guidelines on advance directives under the existing framework and examine whether it is necessary to consider enacting legislation on this as Mr TSE has suggested.

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

## **Financial burden on students pursuing self-financing post-secondary education programmes**

5. **MR LAU KWOK-FAN** (in Cantonese): *President, the places of undergraduate programmes funded by the University Grants Committee ("funded programmes") have been in short supply for a number of years. Quite a number of secondary school leavers, who have met minimum requirements for university admission but have not been admitted to funded programmes, can only pursue local self-financing post-secondary programmes ("self-financing programmes"), which charge exorbitant tuition fees, or study abroad. Some students pursuing self-financing programmes who come from poor families have relayed to me that institutions operating self-financing programmes have to pass on various related expenses to students as they operate such programmes on a self-financing basis. As a result, those institutions raise their tuition fees each and every year, which have posed a heavy financial burden on students. Such students have also pointed out that the quality of self-financing programmes lacks assurance. Although the Committee on Self-financing Post-secondary Education promulgated the Code of Good Practices on Governance and Quality Assurance for Self-financing Post-secondary Education Sector in June last year for the purpose of enhancing the quality, transparency and sustainable development of the self-financing post-secondary education sector, the adoption of the Code by institutions is on a voluntary basis only. In this connection, will the Government inform this Council:*

- (1) *of the number of secondary school leavers in the 2015-2016 school year who met the minimum requirements for university admission and, among them, the number of students who were admitted to funded programmes; the average yearly amount of subsidy received per person by those students currently receiving subsidies under the Tertiary Student Finance Scheme—Publicly-funded Programmes;*
- (2) *of the number of secondary school leavers in the 2015-2016 school year who met minimum requirements for university admission and were admitted to self-financing programmes; the average yearly amount of subsidy received per person by those students currently receiving subsidies under the Financial Assistance Scheme for Post-secondary Students; and*

- (3) *whether it will consider increasing subsidies for self-financing programmes, so as to alleviate the financial burden on students; if it will, of the details; if not, the reasons for that; of the mechanism currently put in place to monitor the quality and tuition fee levels of self-financing programmes to guard against overcharging of tuition fees by the institutions concerned?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, it is the Government's policy to support the parallel development of the publicly-funded and self-financing post-secondary education sectors. The Government strives to provide young people in Hong Kong with quality and diversified study pathways with multiple entry and exit points. Through the development of the publicly-funded and self-financing sectors, about 46% of our young people in the relevant cohort have access to degree-level education in the 2015-2016 academic year. Including sub-degree places, about 70% of our young people now have access to post-secondary education. As it is the Government's student finance policy to ensure that no student will be deprived of education because of a lack of means, various student financial assistance schemes have been put in place.

The Government understands that the community expects post-secondary institutions to provide quality nurture to our younger generation. Therefore, our policy oversight of the institutions focuses on enhancing transparency, quality assurance and good governance, and with due regard to the principles of reasonableness and proportionality.

My reply to each part of Mr LAU's questions is as follows:

- (1) In the 2015-2016 academic year, 25 782 students met the minimum general entrance requirements—I stress that it is the minimum general entrance requirements—in the Hong Kong Diploma of Secondary Education Examination ("HKDSEE") for admission to first-year-first-degree ("FYFD") programmes. Among them, 12 329 enrolled in University Grants Committee ("UGC")-funded FYFD programmes via the Joint University Programmes Admissions System ("JUPAS"). Separately, 2 519 local students were admitted to the UGC-funded FYFD programmes via non-JUPAS route, mostly based on their local sub-degree qualifications or other qualifications.

Under the Tertiary Student Finance Scheme—Publicly-funded Programmes ("TSFS"), students pursuing publicly-funded degree programmes may apply for means-tested grants to meet their tuition fees and academic expenses, as well as low-interest loans to cover their living expenses. In the 2015-2016 academic year, a successful applicant pursuing a degree programme received a non-repayable grant of about \$40,500 on average under TSFS.

- (2) In the 2015-2016 academic year, among the 25 782 HKDSEE candidates who met the minimum general entrance requirements for admission to FYFD programmes, about 5 500 enrolled in full-time locally-accredited self-financing FYFD programmes.

Students pursuing self-financing locally-accredited full-time degree programmes may apply for means-tested grants to meet their tuition fees and academic expenses as well as low-interest loans to cover their living expenses under the Financial Assistance Scheme for Post-secondary Students ("FASP"). In the 2015-2016 academic year, a successful applicant pursuing a degree programme received a non-repayable grant of about \$55,300 on average under FASP.

- (3) The maximum amount of grants to be provided under FASP is adjusted annually in accordance with the Consumer Price Index (A). Statistics over the past few years showed that the annual increase in tuition fees for self-financing post-secondary programmes was either in line with or below inflation in most of the cases. Apart from applying for assistance under FASP, students who pursue full-time locally accredited self-financing degree programmes and have passed the means test can also apply for the subsidy under the Student Travel Subsidy Scheme to meet their expenses incurred on home-school travels. In recent years, the Government has also introduced pilot schemes through the Community Care Fund to enhance the support for post-secondary students with financial needs, including the hostel subsidy, an additional academic expenses grant for eligible students under FASP, and an additional academic expenses grant for post-secondary students with special educational needs.



In addition, with the introduction of the Study Subsidy Scheme for Designated Professions/Sectors ("SSSDP") in 2014, the Government subsidizes three cohorts of students, about 1 000 per cohort, admitted from the 2015-2016 to 2017-2018 academic years to pursue designated full-time locally-accredited self-financing undergraduate programmes in selected disciplines, with a view to nurturing talent in support of specific industries with keen demand for human resources. SSSDP is administered in a two-tier arrangement in which a unit subsidy of up to \$40,000 per academic year will be provided to programmes that are not laboratory-based while a higher subsidy of up to \$70,000 will be provided to more costly programmes that are laboratory-based. Eligible students can still apply for financial assistance under FASP in respect of the actual amount of tuition fees payable after deducting the subsidy. Any annual increase in tuition fees of SSSDP-subsidized programmes beyond inflation is normally not allowed save for exceptional cases where full justifications must be provided to the Education Bureau for approval. When vetting such cases, the Education Bureau will give due consideration to various factors including whether the increase would be used to enhance the teaching and learning quality of the programme concerned, whether the use of tuition fees is proper, and whether the revised fees level, after deducting the subsidy, would still be affordable to students. The Government is reviewing the effectiveness of SSSDP with a view to determining its way forward beyond the 2018-2019 academic year.

The Government attaches great importance to the quality assurance of post-secondary programmes. The Hong Kong Council for Accreditation of Academic and Vocational Qualifications ("HKCAAVQ") is a statutory body responsible for the quality assurance of self-financing post-secondary programmes except those offered by institutions with self-accrediting status. In a nutshell, all relevant local self-financing post-secondary programmes must have undergone stringent academic accreditation by HKCAAVQ before they can be included in the Information Portal for Accredited Post-secondary Programmes and entered into the Qualifications Register. Besides, the Quality Assurance Council under UGC will commence the first round of external quality assurance audits on the

sub-degree operations (including sub-degree programmes offered on a self-financing basis) of the UGC-funded universities by the end of this year.

**MR LAU KWOK-FAN** (in Cantonese): *President, I thank the Secretary for his reply. But in recent years, both the number and proportion of secondary school leavers who have met the minimum requirements for university admission and successfully enrolled in funded undergraduate programmes have been on the decline. What is the reason for it? Will the Government seriously consider increasing the places of funded degrees? In the 2014 Policy Address, the Chief Executive announced initiatives to broaden the opportunities for local students to receive higher education, among which was the introduction of subsidies to up to 1 000 students per cohort to pursue designated full-time locally-accredited self-financing undergraduate programmes in selected disciplines (i.e. SSSDP). Instead of 1 000, is it possible to increase the number of places? I hope the Secretary will give a response in this regard.*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, I thank the Member for his supplementary question. In terms of the overall policy direction, it is the current policy to provide 15 000 subsidized places each year. I have just given an analysis that, under such a premise, over 12 000 and 2 000 students have been admitted to undergraduate programmes through JUPAS and non-JUPAS schemes respectively. In addition, as pointed out by the Member just now, in response to manpower needs or the needs of individual professions, we provide an additional 1 000 places per year to subsidize students to pursue programmes in designated disciplines under SSSDP. Besides, as you are all aware, in addition to the above policy and scheme, we have in recent years increased the number of places of top-up degree programmes from a few thousand to 5 000 each year, providing an alternative for students taking sub-degree programmes to enroll in undergraduate programmes. After completing the two-year sub-degree programmes, if they can prove their abilities to pursue further education, they can enroll in funded undergraduate programmes using such 5 000 places.*

Moreover, noting that individual students pursue education at some designated high-quality universities on the Mainland by means of diversified admission options, we provide full fee-waiving or half fee-reduction places to

subsidize them. We also offer many other scholarships on a yearly basis. Last year, over 5 000 students benefited from such scholarships, totaling more than \$140 million. All of the above show that we proactively provide support to students on a continuous basis.

I have also mentioned that we will review afresh the 1 000 places of self-financing degrees in designated disciplines with a view to determining a clear way forward for the scheme as soon as possible beyond the 2018-2019 academic year.

**MR IP KIN-YUEN** (in Cantonese): *President, the Secretary has quoted a long-term objective of the Government in his reply, which I find to be very important because the purpose of the Government's student finance policy is to ensure that no student will be deprived of education due to a lack of means and, for this reason, various student financial assistance schemes have been put in place. This is very important. However, in September this year, the media reported that the number of students studying in full-time funded institutions over the past 10 years had substantially increased by 20 000, but the number of students receiving subsidies had reduced by 3 000.*

*May the Secretary advise me on whether this report is true? If it is true, why are there fewer students receiving subsidies when the number of students has increased? Are families in Hong Kong generally getting richer now? If so, it is certainly good. But I am afraid if it is not the case, does it mean it has become more difficult to obtain subsidies? What are the reasons for students in higher education institutions having to take out loans in order to receive education?*

**SECRETARY FOR EDUCATION** (in Cantonese): *President, I thank the Member for his question. I believe it is important to ascertain whether these students belong to the same cohorts. We can look at it from three perspectives. First, the 15 000 places are provided at the policy level. But starting from the 2015-2016 academic year, the number of school leavers taking HKDSEE will drop from more than 61 000 to around 50 000, and further to around 42 000 a few years later. It is a fact that the student population will shrink. Theoretically, the proportion of students needing subsidies should increase. This is the first point.*

Second, we also need to take into account the fact that individual students will pursue further education abroad, the number of which accounts for 5% to 7% of the total. As far as we understand, the figure has risen to 7% to 9% in the last two years, which is another indicator that some students opt for other further education alternatives.

Third, as I have mentioned, some students will consider continuing their studies at some high-quality universities on the Mainland.

President, the aforesaid three points show that as the mobility and pathways of students become more diversified, we may not be able to adopt a particular "rigid indicator" and say that a certain percentage of students would definitely receive subsidies. But what can be sure is that the supply of the 10 000-odd places will remain unchanged. If the student population drops, theoretically the proportion will increase.

**MR IP KIN-YUEN** (in Cantonese): *President, the media report I quoted shows a drop in the number of students receiving subsidies among the total number of admissions. The Secretary replied that students may pursue further studies in different places and the two things have no correlation. Can the Secretary give a genuine reply to my question?*

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

**SECRETARY FOR EDUCATION** (in Cantonese): President, as I have mentioned just now, there are several tiers of subsidy arrangements: the first one is grant, and the second one is loan, depending on the channel through which the students obtain the subsidies. There are many other subsidies and scholarships worth in total \$140 million. This is another channel to provide assistance to students. Students can apply for them when necessary.

**MR NATHAN LAW** (in Cantonese): *Mr LEUNG, I have read the Secretary's main reply. He has not given any response to the issue of monitoring the operations of tertiary institutions.*

*I believe the lack of monitoring of self-financing programmes and self-financing institutions in the higher education sector is a well-known fact. Each funded university is subject to the regulation of its corresponding ordinance. However, these funded institutions are only subject to regulation of the Post Secondary Colleges Ordinance (Cap. 320) ("the Ordinance"). Since its enactment in 1960, the Ordinance has not been comprehensively reviewed in terms of governance, monitoring, finance and transparency, etc. Therefore, it is common knowledge in the higher education sector that the Ordinance needs to be reviewed, while monitoring of post-secondary education and post-secondary institutions need to be improved.*

*The public are aware of many incidents resulting from a lack of monitoring of self-financing programmes. For example, in 2013, The Community College at Lingnan University ...*

**PRESIDENT** (in Cantonese): Mr Nathan LAW, please ask your supplementary question.

**MR NATHAN LAW** (in Cantonese): *President, I am elaborating my supplementary question. I am sorry. In 2015, the Government formulated the Code of Good Practices on Governance and Quality Assurance for Self-financing Post-secondary Education Sector ("Code of Good Practices") but the provisions are extremely lax. Therefore, I would like to ask the Government: In respect of the governance, monitoring and financial transparency, etc., of post-secondary institutions, will the Government amend the Post Secondary Colleges Ordinance, review the Code of Good Practices and consult relevant stakeholders?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, in the last paragraph of the main reply, I have clearly explained that we attach great importance to the quality of post-secondary programmes. Members have mentioned the actions already taken by the Bureau. I want to add a special note here that apart from HKCAAVQ, the Quality Assurance Council under UGC will commence the first round of external quality assurance audits on the sub-degree operations and sub-degree programmes of universities by the end of 2016.

Second, some self-financing institutions have formed themselves into a federation and established a management committee on quality enhancement. They have also increased transparency by making use of the Internet to provide budgets and more information in areas which were prone to confusion in the past, such as student enrolment, so as to optimize the relevant procedures.

Third, we will strengthen the interaction between the quality management systems of self-financing and funded institutions, so as to make the overall standards more stable in the context of quality assurance.

**MR SHIU KA-CHUN** (in Cantonese): *President, I teach at a university and understand that many students are burdened with debts of hundreds of thousand dollars for pursuing self-financing degree programmes after completing sub-degree programmes. Yet the median income of average university graduates is only \$12,000. It turns out that education fails to help them move up the social ladder but impoverish them more.*

*Can the Government inform this Council on average how many years do young people spend to settle such student debts and be debt-free from the time they pursue sub-degrees to the time they graduate from self-financing degrees?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, if we take the Non-means-tested Loan Scheme for Post-secondary Students as an example, in the 2015-2016 academic year the total number of students in undergraduate programmes was 39 974, of which 7 792 were granted loans, representing a proportion of about 20%. The average loan amount was \$66,400. This is the first piece of information that we need to look at.

Second, considering that students may have difficulties in repayment when they just start working, the Government has adjusted the interest rate and repayment period of student loan schemes in the hope that students can make their repayment arrangements in a more relaxed manner. In some cases, the monthly repayment amount before the adjustment was some \$600, and now it is some \$200. If students have difficulties in repayment, they can apply to the Student Financial Assistance Agency ("SFAA") for extension of repayment period. Our objective is to help relieve, as far as practicable, the difficulties encountered by students in repayment on the premise that responsibility should be assumed.

In some individual cases, students apply for subsidies for not just one but a number of programmes. They start another programme before completing one, resulting in an increased amount of loans borrowed. For such individual cases, we will follow up with the students and the institutions concerned on a case-by-case basis.

**PRESIDENT** (in Cantonese): Mr SHIU Ka-chun, which part of your supplementary question has not been answered?

**MR SHIU KA-CHUN** (in Cantonese): *President, my question was very straightforward. I asked the Secretary how many years young people would need to spend repaying student debts after taking dub-degrees until graduation from self-financing degrees. Are there any statistics? My question was very straightforward.*

**PRESIDENT** (in Cantonese): Secretary, do you have the relevant statistics?

**SECRETARY FOR EDUCATION** (in Cantonese): President, the amounts of loans borrowed by students vary as the programmes they attend are different. As I have just mentioned, some programmes charge higher tuition fees and some charge a lower rate. The fees also vary depending on whether the use of laboratories is involved. As the loan and repayment situation varies from one student to another, I am not able to give an answer as to the length of the repayment period. However, I can tell Members that under the policy objectives, we hope students will not encounter much difficulties with loans or repayment. The staff of SFAA will provide as much assistance as possible to them.

**MR SHIU KA-CHUN** (in Cantonese): *I hope the Secretary can provide us with a written reply illustrating the status of repayment.*

**PRESIDENT** (in Cantonese): Secretary, can you provide the relevant information?

**SECRETARY FOR EDUCATION** (in Cantonese): Yes, I can. (Appendix I)

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

### **The capitalist system and way of life in Hong Kong after 2047**

6. **MR NATHAN LAW** (in Cantonese): *Paragraph 3 of the Sino-British Joint Declaration signed between the Chinese and British Governments in December 1984 sets out the Chinese Government's declaration on China's basic policies regarding the Hong Kong Special Administrative Region ("SAR"). Such basic policies include the following: the SAR will be vested with independent judicial power and power of final adjudication, the Hong Kong dollar will continue to circulate, and the SAR Government may on its own issue travel documents for entry into and exit from Hong Kong, etc. Paragraph 3(12) provides that the above-stated basic policies and the elaboration of them will be stipulated in a Basic Law by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years. On the other hand, Article 5 of the Basic Law provides that "[t]he socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years", i.e. they will remain unchanged until 2047. As there are divergent views in the community on the effect of the Basic Law after 2047, will the Government inform this Council:*

- (1) *whether the Government has conducted internal discussions and related studies on maintaining the previous capitalist system and way of life in the SAR after 2047; if it has, of the details and conclusions; if not, whether it will conduct such studies; if it will, of the details; if not, the reasons for that;*
- (2) *whether the Government has sought to understand the situation regarding the implementation, in the SAR after 2047, of the basic policies as set out under the Sino-British Joint Declaration; if it has sought to understand, whether such policies will continue to be implemented or will be changed at that time; if not, whether the Government will commence the discussions and studies within a given timeframe; if it will, of the details; if not, the reasons for that;*



*as there are comments that prolonged uncertainty about the implementation situation of such polices in the SAR after 2047 may give rise to various kinds of problems, whether the Government will form a task force to deal with the relevant issues; if it will, of the timetable for the formation and the composition of the task force; if not, how the Government will coordinate and distribute such tasks; and*

- (3) *given that a referendum was still held, despite the absence of a referendum law, in the United Kingdom ("UK") in June this year on whether UK should exit the European Union, whether the Government will, by making reference to such a practice, conduct public consultation on Hong Kong's future after 2047 using an approach similar to a referendum, in order to ensure that public views are fully reflected in the relevant discussions; if it will, of the arrangements and timetable for the consultation; if not, the reasons for that?*

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, our consolidated reply to the supplementary questions raised by Mr LAW is as follows:

As clearly stated in the Preamble of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China ("Basic Law"), "[u]pholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a Hong Kong Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, and that under the principle of 'one country, two systems', the socialist system and policies will not be practised in Hong Kong".

The Basic Law is the constitutional document of the Hong Kong Special Administrative Region ("HKSAR"). In accordance with the Constitution of the People's Republic of China, the National People's Congress ("NPC") enacts the Basic Law, prescribing the systems to be practised in the HKSAR. The Basic Law was adopted at the Third Session of the Seventh NPC and has been put into

effect since 1 July 1997. According to the explanations on "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)" and its related documents by the Chairman of the Drafting Committee for the Basic Law, Mr JI Pengfei, at the Third Session of the Seventh NPC, China's basic policies regarding Hong Kong have been incorporated into, and stipulated within, the Basic Law.

Since its return to the Motherland, Hong Kong has been implementing "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" in accordance with the Basic Law. The basic policies of the Country regarding Hong Kong have been fully implemented as per the provisions of the Basic Law. In fact, the Central Government, the HKSAR Government and the international community all unanimously agreed that the Basic Law has been functioning well since it was implemented.

As regards the continuation of the Basic Law after 2047, I must point out that the HKSAR is an inalienable part of the Country. This is a fact that has no time frame. The Country's sovereignty over Hong Kong will not change 50 years after Hong Kong's return to the Motherland, nor will the Country change its basic policies towards Hong Kong after 50 years. Hence, there is no question of the expiry of the Basic Law after 2047. As for the stipulation in Article 5 of the Basic Law that "(t)he socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years", its main purpose is to state clearly that the previous capitalist system and way of life in Hong Kong shall remain unchanged, rather than setting a time frame on it.

In his speech delivered at the welcome banquet attended by various sectors of Hong Kong on 18 May this year, the Chairman of the NPC Standing Committee, Mr ZHANG Dejiang, spoke on the issue of the implementation of "one country, two systems". I would like to quote from Chairman ZHANG's speech as follows (I quote): "First of all, we must firmly keep faith in 'one country, two systems'. There are three fundamental reasons for doing so. Firstly, 'one country, two systems' is a basic policy of the Country. It is a strategic choice, not a contingency measure, and therefore will not change. Secondly, 'one country, two systems' was formulated based on solid public opinion. It is the largest common denominator of the Motherland and Hong Kong, and therefore should not change. Thirdly, since Hong Kong's return to the Motherland, the implementation of 'one country, two systems' has been

proven to be practicable and workable. It is a good system that has passed real tests, and therefore need not be changed. In the past years, by adhering to the principle of 'one country, two systems', we have realised Hong Kong's smooth return to the Motherland, maintained the prosperity and stability of Hong Kong and promoted joint development of the Mainland and Hong Kong. In the years to come, it is still necessary for us to firmly maintain 'one country, two systems' and continue to give full play to the unique role of Hong Kong. The opinion that the Central Government will 'mainlandize' Hong Kong, or even turn 'one country, two systems' into 'one country, one system', is completely groundless. People in Hong Kong would like to see the continuation of 'one country, two systems'. Implementation of 'one country, two systems' will best serve the interests of both the Country and Hong Kong. The Hong Kong community can completely rest assured that the Central Government remain firmly committed to upholding this principle". (End of quote)

As seen from Chairman ZHANG's remarks, the Central Government is of the view that the implementation of "one country, two systems" would not, should not and need not be changed. In fact, under the staunch support of the Country, Hong Kong has been enjoying the dual advantages of "one country" and "two systems". We have not only opened up the vast Mainland market as our economic hinterland, but also consolidated and enhanced our important role in the international platform. For example, a chapter was dedicated to Hong Kong and Macao in the National 12<sup>th</sup> and 13<sup>th</sup> Five-Year Plans, acknowledging the significant functions and positioning of Hong Kong in the overall development of the Country, and consolidating and enhancing Hong Kong's status as international financial, transportation and trade centres. Under the strategic Belt and Road Initiative, support is given by the Country for Hong Kong to leverage on its strengths as an international financial centre, a global offshore Renminbi business hub and an international asset management centre to serve as an important financing platform and overseas asset management centre for Mainland enterprises to "go global", thus empowering Hong Kong as the most open international city of China. Moreover, the Mainland and Hong Kong Closer Economic Partnership Arrangement ("CEPA"), Shanghai-Hong Kong Stock Connect, Shenzhen-Hong Kong Stock Connect as well as the various major cross-boundary infrastructural projects also show the staunch support of the Country to Hong Kong in running a capitalist system. It is therefore unnecessary for the community to speculate about the continued implementation of "one country, two systems" after 2047.

Regarding a system of "referendum" mentioned in the question, we need to have a clear understanding that the HKSAR is a local administrative region of the People's Republic of China. As stipulated in Article 31 of the Constitution of the People's Republic of China, "[t]he State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of specific conditions". Article 62 of the Constitution of the People's Republic of China also stipulates the functions and powers exercised by the NPC, including sub-paragraph 13 which reads "[t]o decide on the establishment of special administrative regions and the systems to be instituted there". As there is no provision for a system of referendum in the Basic Law, at the constitutional level, the HKSAR will not and cannot hold any form of referendum. However, as stated by Chairman ZHANG (and I quote), "[o]n the basis of respect for 'one country, two systems' and the Basic Law, and for the good of Hong Kong, we are willing to listen extensively to the views and suggestions of all sectors in Hong Kong and conduct all forms of exchange". (End of quote) The HKSAR Government will also listen to the views of the community. As long as we continue to respect and abide by the provisions of the Basic Law and have faith in the implementation of "one country, two systems", we believe that Hong Kong will certainly be able to maintain prosperity and stability, and "one country, two systems" is the best arrangement for Hong Kong.

**MR NATHAN LAW** (in Cantonese): *The main reply of the Government shows that the Government actually refuses to admit that 2047 is a political time frame which needs discussions, and the public are deeply worried about such a situation. If the promise of "remaining unchanged for 50 years" has no significance and if the time frame of 2047 does not bear any other specific meaning to Hong Kong, why are they specified in the mini-constitution? Is the Government acting in an honest and transparent manner or actually attempting to cover the problems? In fact, the public are very concerned about the problems concerning the use of land, judicial independence, and so on, after 2047 and such problems cannot be brushed aside by the Government by simply saying that there is no question of 2047.*

*My follow-up question is: The Under Secretary considers and believes that "one country, two systems" is the best arrangement for Hong Kong, and he also believes that the international community has unanimously agreed that the Basic Law has been functioning well since its implementation. However, the*

*United Kingdom, another signatory of the Sino-British Joint Declaration, has issued many statements in recent years expressing concerns on the implementation of "one country, two systems" in Hong Kong, such as the LEE Po incident. Can the Under Secretary expound on how will the Government, in view of the Causeway Bay Books incident and the interpretation of the Basic Law made by the NPC recently as well as the Government's lack of a popular mandate, ensure that "one country, two systems" works well and no damages will be caused to "one country, two systems"?*

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I thank Mr Nathan LAW for his supplementary question. First of all, I would like to add or reiterate that I have just quoted in detail the remark given by Chairman ZHANG regarding "one country, two systems" and the implementation of the Basic Law. I would like to point out that such a remark was not the personal opinions of Chairman ZHANG, but rather a remark that he made on behalf of the Central Authorities regarding the thorough implementation of China's overall basic policies regarding the HKSAR. In fact, since we had started the discussion on the issue of Hong Kong's return to the Motherland and the drafting of the Basic Law in the 1980s, leaders of the Central Government have given a clear explanation on China's basic policies regarding Hong Kong. For example, the late Mr DENG Xiaoping pointed out clearly at an international conference in the 1980s (and I quote to this effect): "As a matter of fact, 50 years is only a vivid way of putting it and it will not change after 50 years. For the first 50 years it cannot be changed, and for the second there will be no need to change it. So this is not just idle talk." (End of quote) Therefore, such a remark is definitely not an easy or idle remark, but rather a remark representing the Central Authorities' determination to implement "one country, two systems" and the Basic Law in the HKSAR for many years.

Second, as I have pointed out in the main reply just now, China's basic policies regarding the HKSAR have been stipulated in the Basic Law while the Basic Law will not expire automatically after 2047 but will remain effective beyond 2047. Therefore, these basic policies will remain protected by law.

Third, as I have just mentioned, the implementation of "one country, two systems" and the operation of the Basic Law have all along been very well since Hong Kong's return to the Motherland and we did not see any practical need for

changes. Therefore, since Hong Kong's return to the Motherland, the Central Authorities and the HKSAR Government have all along been implementing "one country, two systems" in strict accordance with the stipulations of the Basic Law. It was the case in the past and will remain the same in the future.

**DR ELIZABETH QUAT** (in Cantonese): *President, some people in Hong Kong attempt to engage in acts of secession and even promote "Hong Kong independence". One of their tactics is creating fear. They misinterpret the Basic Law and mislead the people of Hong Kong by saying that there is a time frame of 50 years for "one country, two systems", and they even claim that "one country, two systems" will become "one country, one system" after 2047, and land leases, land use and judicial independence cannot go beyond 2047 and there will be no protection for private properties in the future, and so on.*

*I would like to ask the Government if it will provide a clear explanation to the public on whether there is actually a time frame of 2047 for the use of land and the judicial system. If not, what specific measures will be implemented by the Government in the future to convey the correct messages to society in a more authoritative manner to facilitate public understanding?*

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, with regard to the supplementary question raised by Dr Elizabeth QUAT, I think I have pointed out rather clearly in the main reply earlier that the claim of "a time frame of 2047" is completely groundless and the implementation of the Basic Law will remain effective after 2047.

Dr QUAT has just mentioned some problems concerning specific policies, such as the issue of land leases. In fact, I have also noticed that the Secretary for Development had attended a meeting in the Legislative Council earlier on and replied to questions raised by Members on whether it was necessary to renew land leases after 2047. All in all, we can say that we have an existing policy and mechanism which are effective and have precedents to go by in handling problems concerning renewal of land leases. It is certain that the HKSAR Government has the ability and experience to handle issues in this regard.

If Members have further questions on the practical implementation or details of the policy, I believe the Secretary for Development and his colleagues will be very willing to provide further clarification or response to Members' questions through appropriate channels or on suitable occasions in future.

**DR PRISCILLA LEUNG** (in Cantonese): *President, Mr Nathan LAW's question precisely shows that many people in Hong Kong have used 2047 to kick up a fuss by advocating "referendum on self-determination", "Hong Kong independence", "national self-determination", and so on, after 2047, which violate the international laws, "one country, two systems" and the Basic Law. In fact, there is no question of sovereignty being subject to discussion after 2047. Contracts, for instance, as mentioned earlier, will actually be protected. All that is open to discussion is whether the existing capitalist system will be maintained after 2047 but there is no question of holding a "referendum on self-determination" or whatsoever.*

*Such being the case, President, I wish to ask the Under Secretary: Given that so many people have taken advantage of 2047, particularly by using "self-determination" to advocate "Hong Kong independence", are there specific policies on the part of the Government to step up efforts to prevent young people from being misled? We seem to know all the more clearly what "Hong Kong independence" is all about, and they are using "referendum on self-determination" to disguise and promote "Hong Kong independence" in order to mislead the young people in their thinking. Will the authorities step up education in local secondary schools in order to address this problem squarely? Does the HKSAR Government have policies particularly relating to the promotion and teaching of the accurate knowledge of the Basic Law?*

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): *President, Dr LEUNG mentioned the issues of "Hong Kong independence" and referendum. Here, I can point out expressly that first, as I said in the main reply earlier, the systems of the HKSAR are established by the Country in accordance with the Constitution of the People's Republic of China and prescribed by law enacted by the National People's Congress in the light of specific conditions. Therefore, there is no question of the HKSAR unilaterally making any decision on its systems.*

Second, as I said earlier, "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" are well stipulated in the Basic Law and have been implemented very effectively since Hong Kong's return to the Motherland. Therefore, there is practically no room for any changes to be made to these stipulations. For this reason, we absolutely oppose all advocacies on "Hong Kong independence" or "self-determination" or other propositions. These are violations of the constitutional arrangement between our SAR and the Country, and we oppose all suggestions which go against the Basic Law and the arrangement of "one country, two systems".

Surely, Dr LEUNG also mentioned how we can continue to step up education and publicity efforts. I very much agree that we have to make continuous efforts to publicize and promote the Basic Law in society on an ongoing basis. As we always stress, we attach great importance to the promotion and publicity of the Basic Law, and in this connection, the committee responsible for promoting the Basic Law is chaired by Chief Secretary for Administration, which reflects that this area of work is handled and followed up by high-level government officials.

The promotion of the Basic Law, apart from being part of the duties of this Bureau, also involves many different government departments and policy bureaux and their joint efforts to promote the Basic Law effectively at the respective levels, in various aspects and among different sectors of the community. We will make continuous efforts in the future and if Members have any concrete proposal on the promotion of the Basic law, they are very much welcome to discuss with us. We will be more than happy to take on board and implement proposals which can enable the public and various sectors of the community to have more in-depth understanding of the Basic Law and "one country, two systems".

**MS STARRY LEE** (in Cantonese): *President, in his reply earlier the Under Secretary told us that the authorities have, over a long period of time, attached great importance to the promotion of the Basic law. As we all know, it will soon be 20 years since the reunification of Hong Kong with the Motherland and had the promotional work been really successful and the public understood it so well, there would not have been so many misconceptions and distortions. We must admit that many people may be creating panic deliberately and some people with ulterior motives may be creating distortions deliberately.*



*I wish to ask the Under Secretary: Apart from carrying out promotional work, does he know how many people and organizations in society have distorted the Basic Law deliberately and created panic deliberately, so that target-specific actions can be taken to address the problem, and can he cite some examples from the work that has been carried out, or do they have these figures?*

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I think it is very difficult for me to specifically target individual acts or individual organizations in my discussion here. But as I said just now, we attach great importance to the promotion of and education on the Basic Law. Various policy bureaux and departments have, over a period of time, stepped up the promotion and publicity of the Basic Law targeting different social groups in various sectors of the community. I believe we have to keep up our efforts in future and if, in society, there are actions in violation of the implementation of the Basic Law and "one country, two systems", we will address them squarely and follow them up in a serious and impartial manner.

**MS STARRY LEE** (in Cantonese): *The Under Secretary has not answered my supplementary question. The question that I asked just now was very specific as I asked him whether he knew how many organizations and people in society had deliberately distorted the Basic Law and what actions they would take. As he may not have the relevant information now, I would ask him to provide it after the meeting.*

**PRESIDENT** (in Cantonese): Under Secretary, can you provide the relevant supplementary information in writing?

**UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I do not have the specific figures up my sleeves. I can check with my colleagues when I go back and if there are such figures, we can provide them after the meeting. (Appendix II)

**PRESIDENT** (in Cantonese): Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Changes in planned uses of sites**

7. **MR HUI CHI-FUNG** (in Chinese): *President, regarding issues involving changes in the planned uses of sites, will the Government inform this Council:*

- (1) *in respect of the approved cases in the past five years in which sites planned for "Government, Institution or Community", "Open Space" and "Green Belt" uses (collectively referred to as "public use" below) were rezoned for residential, industrial or commercial use (collectively referred to as "non-public use" below), of the details of such cases including the locations, areas and the new uses of the sites concerned; whether the authorities, after changing the planned uses of the sites concerned, have implemented the following compensatory measures: (i) rezoning other sites within the relevant districts for public use, and (ii) requesting the owners of the sites rezoned for non-public use to incorporate recreational, leisure and greening facilities in the developments on the relevant sites; if they have, of the details; if not, the reasons for that;*
- (2) *in respect of the cases in which the authorities are planning to change the planned uses of sites from public use to non-public use in the coming two years, of the details of such cases including the locations, areas and the new uses of the sites concerned; whether the authorities, after changing the planned uses of the sites concerned, will implement the two compensatory measures mentioned in (1) above; if they will, of the details; if not, the reasons for that; and*
- (3) *whether there is any existing policy requiring the authorities to implement the two compensatory measures mentioned in (1) above after public use sites are rezoned for non-public use; if so, of the details of the policy; if not, whether the authorities will formulate such a policy, so as to ensure that changes in the planned uses of sites will not result in a reduction of recreational, leisure and greening facilities available for use by residents?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, under the multi-pronged strategy to increase land supply, the Government has been carrying out land use reviews to identify more developable land for housing and other uses in the short to medium term, with a view to optimizing the use of land resources. Such land use reviews conducted by the Planning Department ("PlanD") had already covered land currently unleased or unallocated, under short term tenancy or other short-term uses, and other Government land currently with no development plan. These include land with development potential that are in the fringe of the built-up areas in existing urban areas and new towns, adjacent to existing roads and other infrastructure, and with relatively low conservation value and buffering effect, including suitable land within the "Government, Institution or Community" ("G/IC"), "Open Space" ("O") and "Green Belt" ("GB") zones.

In examining the suitability of a site for housing or other developments, the Government, as always, will holistically consider various relevant factors, including whether the site is no longer needed for the originally planned use, the development programme of the originally planned use, whether suitable sites are available as alternatives, the location and size of the site, local characteristics, traffic, environment, air ventilation, ecology, infrastructures, recreational and community facilities, urban design, etc. PlanD will also consult relevant government departments to confirm that rezoning of the site concerned for housing and other developments will not create insurmountable technical difficulties or unacceptable impacts on traffic and environment, etc.

Through aforementioned ongoing land use reviews, the Government has identified some 190 sites with housing development potential in the short to medium term over the last few years (including the some 150 sites announced in the 2014 Policy Address and another 42 sites for residential development in the short to medium term identified under the various initiatives to increase land supply announced in the 2013 Policy Address). Among these 190 sites, about a third were originally zoned "GB"; another one third originally zoned "G/IC"; about a tenth originally zoned "O"; and the rest were in other land use zones. In addition, PlanD has also, on an ongoing basis, conducted land use reviews and rezoned suitable sites for industrial and commercial uses to meet the needs of our continual economic development.

If the sites proposed for rezoning are currently zoned for "G/IC" or "O", PlanD and relevant departments will consider the district's existing and future demand for G/IC facilities or open space to ensure that the provision of the

relevant facilities or open space in the district after rezoning will still comply with the Hong Kong Planning Standards and Guidelines, and that the rezoning will not bring about unacceptable impact on the district in terms of environment, community services and infrastructural support. Where necessary and with the support of relevant bureaux or departments, the Government will mandate the reprovisioning or provision of necessary public facilities such as refuse collection points, community halls or social welfare facilities in the development projects concerned, or identify other suitable sites for reprovisioning or providing such facilities. The Government will also seek the views of the District Council ("DC") and the local community on the proposed change of land use and the reprovision of the relevant facilities.

Regarding "GB" zones, the Stage 1 "GB" review completed by PlanD in 2012 mainly focused on devegetated, deserted or formed GB sites. In 2013, PlanD completed the Stage 2 "GB" review, which covers sites in the fringe of built-up areas close to existing urban areas and new towns. These sites mainly fall on the fringe of "GB" zones or are close to developed areas or public roads. Though vegetated, they have relatively less buffering effect and lower conservation value. Moreover, as these sites are close to supporting infrastructure facilities such as transport, water supply and sewerage, they are considered as having good potential to be rezoned for housing purposes, and are clear choice for urban expansion.

In rezoning "GB" zones, besides assessing the development proposal in accordance with the established mechanism mentioned above to ensure no unacceptable impact on the area, the authority concerned will, in cases where natural trees or precious trees with conservation value are found within individual sites (including rezoned "GB" sites), request the project proponent (including the Government and private developers) to preserve or relocate the existing trees with conservation value, or replant trees in accordance with the established greening guidelines and tree preservation mechanisms.

Having consulted PlanD and Lands Department, my consolidated reply to the three-part question is as follows.

In the past five years (i.e. from December 2011 to November 2016), a total of about 86 "G/IC", "O" and "GB" sites were approved by the Town Planning Board ("TPB") for rezoning to residential use (including about 70 sites identified in the above mentioned land use reviews), while 12 "G/IC", "O" and "GB" sites

were rezoned to commercial or industrial uses upon approval by TPB. In addition, TPB received a total of 34 applications for amendments to plans relating to rezoning "G/IC", "O" or "GB" sites for residential, industrial or commercial uses, of these five were agreed/partially agreed by TPB. Details of the 98 sites agreed by TPB for rezoning and the five planning applications agreed/partially agreed by TPB are set out in Schedules 1 and 2 respectively.

As mentioned above, a holistic approach will be adopted to take into account all relevant factors when considering the rezoning of "G/IC", "O" and "GB" sites for other development uses. The Government will also consult relevant bureaux and departments to ensure that the developments will not bring any unacceptable impact to the areas, and make necessary reprovisioning/provision of certain facilities on a need basis. We do not keep these statistics.

Regarding the Government's plans on rezoning "G/IC", "O" and "GB" sites in the coming two years, detailed planning and technical assessments will have to be conducted before the sites' actual size, development parameters, estimated numbers of residential units or commercial or industrial floorspace to be produced, etc., can be ascertained. PlanD will provide further details of individual sites when seeking to amend the statutory plans concerned and consult DCs and the public in accordance with the established procedures.

#### Schedule 1

#### Details of Sites Rezoned from "G/IC", "O" or "GB" zones to Residential, Commercial or Industrial Uses Agreed by TPB in the Past Five Years (i.e. from December 2011 to November 2016)\*

##### (1) Sites Rezoned to Residential Use

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
Hong Kong				
1	Lui Kee Education Services Centre and Wan Chai Polyclinic <sup>#</sup>	G/IC	R(E)	0.27

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
2	Junction of Shouson Hill Road West and Wong Chuk Hang Path, Shousan Hill <sup>#</sup>	G/IC	R(C)3	1.27
3	Junction of Aberdeen Reservoir Road and Yue Kwong Road, Aberdeen	G/IC	R(A)	0.31
4	West of Wong Ma Kok Road (near Regalia Bay), Stanley <sup>#</sup>	GB	R(C)1	2.55
5	Junction of Victoria Road and Cadogan Street, Sai Wan	O and U	R(A)6	0.91
6	Java Road, North Point <sup>#</sup>	G/IC	R(A)	0.12
7	Junction of Chai Wan Road, Wing Ping Street and San Ha Street, Chai Wan <sup>#</sup>	O	R(A)	0.37
<b>Kowloon</b>				
8	Sau Ming Road, Kwun Tong <sup>#</sup>	G/IC	R(A)2	0.28
9	Junction of Dumbarton Road and Grampian Road, Kowloon Tong	G/IC(3)	R(C)9	0.21
10	Junction of Ko Chiu Road and Pik Wan Road, Yau Tong <sup>#</sup>	G/IC	R(A)	0.72
11	Lei Yue Mun Path <sup>#</sup>	G/IC mainly, GB and Road	R(A)6	0.32
12	Choi Hing Road and Choi Hing Lane, Ngau Tau Kok <sup>#</sup>	G/IC mainly, GB and Road	R(A)1	1.23
13	Choi Wing Road, Ngau Tau Kok <sup>#</sup>	G/IC	R(A)2	0.67
14	Hiu Ming Street/Hiu Kwong Street, Kwun Tong <sup>#</sup>	O and GB	R(A)	1.14
15	223 Princess Edward Road West, Ho Man Tin	G/IC	R(B)	0.23
16	Sheung Shing Street, Ho Man Tin <sup>#</sup>	O	R(B)3	0.91
17	Junction of Ma Tau Wai Road and Ma Hang Chung Road	G/IC	R(A)	0.03
18	Sheung Fung Street, Tsz Wan Shan	G/IC	R(A)	0.36
19	Yan Wing Street (near Lei Yue Mun Estate), Yau Tong <sup>#</sup>	GB	R(A)	1.11

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
20	Ko Chiu Road, Yau Tong (Site A)	G/IC, OU (Ventilation Building) and GB	R(A)7	0.4
21	Ko Chiu Road, Yau Tong (Site B) <sup>#</sup>	G/IC mainly and OU (Ventilation Building)	R(A)	0.37
Tsuen Wan and West Kowloon				
22	West of Sham Hong Road, Sham Tseng	O and GB	R(D)	0.72
23	Junction of Lai Chi Kok Road and Tonkin Street	O	R(A)	2.3
24	Junction of Fuk Wa Street/Fuk Wing Street (East of Camp Street), Sham Shui Po <sup>#</sup>	G/IC and R(A)7	R(A)10	0.31
25	Junction of Soy Street and Shanghai Street, Mong Kok <sup>#</sup>	G/IC	R(A)4	0.06
26	322-324 Reclamation Street/445-447 Shanghai Street, Mong Kok <sup>#</sup>	G/IC	R(A)	0.03
27	Junction of Fat Tseung Street West and Sham Mong Road, Sham Shui Po <sup>#</sup>	G/IC mainly, GB and Road	R(A)11	0.62
28	Tai Wo Hau Road Phase 1, Kwai Chung <sup>#</sup>	O and R(A)	R(A)2	0.32
29	Tai Wo Hau Road Phase 2, Kwai Chung <sup>#</sup>	G/IC and O	R(A)2	0.31
30	Lai Kong Street, Kwai Chung <sup>#</sup>	G/IC	R(A)2	0.38
31	Sai Shan Road, Tsing Yi <sup>#</sup>	GB	R(A)4	0.62
32	Near Cheung Wang Estate, Tsing Yi <sup>#</sup>	GB and R(A)	R(A)3	0.14
33	North of Yin Ping Road, Tai Wo Ping <sup>#</sup>	GB	R(C)13	2.04
34	Junction of Tsing Yi Road and Tsing Hung Road, Tsing Yi <sup>#</sup>	O and Road	R(A)4	4.29

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
Sha Tin, Tai Po and North				
35	Hang Kwong Street, Ma On Shan <sup>#</sup>	G/IC	R(B)3	0.31
36	Ma Kam Street, Ma On Shan <sup>#</sup>	G/IC	R(B)4	0.31
37	Shek Mun Estate, Sha Tin	O	R(A)4	1.83
38	Lo Fai Road (Eastern Portion) <sup>#</sup>	GB	R(C)9	4.13
39	Lo Fai Road (Western Portion) <sup>#</sup>			
40	Shan Tong Road, Lai Chi Shan, Tai Po <sup>#</sup>	GB	R(B)8	4.25
41	Near Cheung Shue Tan Road, Tai Po Kau <sup>#</sup>	GB	R(C)8	2.54
42	Chung Nga Road West, Tai Po <sup>#</sup>	GB mainly and G/IC	R(A)9	9.59
43	Chung Nga Road East, Tai Po <sup>#</sup>	G/IC		
44	Area 9, Tai Po <sup>#</sup>	G/IC and GB		
45	Ma On Shan Road (Northern Portion) <sup>#</sup>	GB	R(A)	1.89
46	Ma On Shan Road (Southern Portion) <sup>#</sup>			
47	Lok Wo Shan Lane, Ma On Shan <sup>#</sup>	O	R(B)5	0.83
48	Hang Tai Road, Area 86B, Ma On Shan <sup>#</sup>	G/IC and Road	R(A)8	3.69
49	Science Park, Pak Shek Kok	O	R(B)6	0.67
50	Whitehead, Ma On Shan <sup>#</sup>	G/IC	R(C)3	0.46
51	Junction of Hang Kin Street and Hang Ming Street, Area 90B, Ma On Shan <sup>#</sup>	O	R(A)10	0.59
52	North of Tai Po Road near Garden Villa, Tai Wai <sup>#</sup>	GB	R(B)3	0.33
53	North of To Shek Service Reservoir, Sha Tin <sup>#</sup>	GB	R(B)2	1.13
54	North of Lai Ping Road near Yung Ping Path, Kau To <sup>#</sup>	GB and R(B)	R(B)2	0.67
55	Queen's Hill (Public Housing Portion), Lung Yeuk Tau <sup>#</sup>	G/IC(2) mainly, R(C) and AGR	R(A)	13.77
56	Queen's Hill (Private Housing Portion), Lung Yeuk Tau <sup>#</sup>	G/IC(2)	R(B)	3.97



	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
<b>Tuen Mun &amp; Yuen Long West</b>				
57	Junction of Wu Hong Street and Wu On Street, Tuen Mun	G/IC	R(A)	0.23
58	East of So Kwun Wat Road, Area 56, Tuen Mun <sup>#</sup>	G/IC mainly, O and GB	R(B)18	2.68
59	West of So Kwun Wat Road, Area 56, Tuen Mun <sup>#</sup>	G/IC and GB	R(B)2	0.75
60	Ex-Gordon Hard Camp Site, Area 48, Tuen Mun <sup>#</sup>	G/IC and GB	R(B)	1.11
61	Ex-Perowne Barracks (near Kwun Tsing Road), Castle Peak Road—Castle Peak Bay Section, Area 48, Tuen Mun (Western Portion) <sup>#</sup>	G/IC	R(B)14	2.75
62	Ex-Perowne Barracks (near Kwun Tsing Road), Castle Peak Road—Castle Peak Bay Section, Area 48, Tuen Mun (Eastern Portion) <sup>#</sup>	G/IC	R(B)15	2.4
63	Junction of Hang Fu Street and Hoi Wing Road, Area 16, Tuen Mun <sup>#</sup>	G/IC	R(A)22	0.88
64	Ex-Hong Kong Christian Service Pui Oi School (Phase 1), Hin Fat Lane, Castle Peak Road—Castle Peak Bay, Tuen Mun <sup>#</sup>	G/IC and GB	R(A)22	0.48
65	Area 29 West, Tuen Mun <sup>#</sup>	G/IC and R(A)	R(A)21	1.32
66	Area 2, Tuen Mun <sup>#</sup>	G/IC	R(A)23	0.31
67	Area 54 Site 5, Tuen Mun <sup>#</sup>	G/IC mainly, GB and Road	R(A)25	0.77
68	Kei Lun Wei, Area 54, Tuen Mun <sup>#</sup>	G/IC	R(A)24	1
69	South of Kwun Chui Road, Area 56, Tuen Mun <sup>#</sup>	GB and R(B)	R(B)2	1.24
70	Wang Chau Phase 1, Yuen Long <sup>#</sup>	GB	R(A)4	5.67

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
71	North of Jade Cove, So Kwun Wat, Tuen Mun <sup>#</sup>	GB	R(B)2	6.03
72	North of The Aegean, So Kwun Wat, Tuen Mun <sup>#</sup>			
73	North of Fiona Garden, So Kwun Wat, Tuen Mun <sup>#</sup>			
<b>Fanling, Sheung Shui and Yuen Long East</b>				
74	Ex-Kin Tak Public School <sup>#</sup>	G/IC and AGR	R(C)2	0.64
75	East of Hang Tau Road, Kwu Tung South	G/IC	R(C)2	0.59
76	Choi Yuen Road, Area 27, Fanling <sup>#</sup>	G/IC and O	R(A)1	1.24
77	South of Yung Shing Court, Fanling Area 49 <sup>#</sup>	G/IC and GB	R(A)2	0.82
<b>Sai Kung and Islands</b>				
78	Tui Min Hoi, Hong Kin Road, Sai Kung <sup>#</sup>	G/IC	R(B)5	0.35
79	Hong Tsuen Road, Sai Kung Tuk <sup>#</sup>	G/IC	R(B)4	0.87
80	Ex-Peng Chau Chi Yan Public School (Northern Portion) <sup>#</sup>	G/IC and V	R(C)4	0.17
81	Junction of Pik Sha Road and Clear Water Bay Road <sup>#</sup>	GB	R(C)10	0.13
82	Ngan Kwong Wan Road West, Mui Wo <sup>#</sup>	G/IC	R(A)	0.77
83	15 Fa Peng Road, Cheung Chau (Cheung Chau Inland Lot No.11)	G/IC(4)	R(C)7	0.05
84	Fa Peng Road, Cheung Chau	G/IC(4) and R(C)5	R(C)8	0.34
85	East of San Shek Wan Village, South Lantau Coast (Lot No. 687 in D.D.329)	GB	R(C)	0.04
86	Near Shan Ha, Tung Chung Road <sup>#</sup>	G/IC and Road	R(A)1	0.92

## (2) Sites Rezoned for Commercial/Industrial Uses

	<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site Area (hectare) (about)</i>
<b>Hong Kong</b>				
1	Exhibition Station, Wan Chai North	G/IC(1), OU (Railway Station Facilities), OU (Railway Ventilation Building), OU (Amenity), OU (Landscaped Elevated Walkway) and Road	CDA <sup>^</sup>	1.65
2	Yip Kan Street, Aberdeen	G/IC(1)	OU (Business) <sup>2^</sup>	0.26
3	Murray Road, Central	G/IC	C(3)	0.31
4	Queensway Plaza	O and Road	C(4)	0.67
<b>Kowloon</b>				
5	Cha Kwo Ling Road	C and O	C	0.96
<b>Tsuen Wan and West Kowloon</b>				
6	Middle Road, Tsim Sha Tsui	G/IC	C(11)	0.26
7	650 Cheung Sha Wan Road	G/IC	C(5)	0.16
8	Tai Lin Pai Road, Kwai Chung	G/IC	C(3)	0.12
9	Cheung Shun Street, Cheung Sha Wan	G/IC	C(6)	0.42
10	Yu Chau West Street, Cheung Sha Wan	G/IC	OU (Business) <sup>5^</sup>	0.29
<b>Sai Kung and Islands</b>				
11	Area 137, Tseung Kwan O	O(2)	OU (Deep Waterfront Industry) <sup>^</sup>	2.75
12	Area 6, Tung Chung	G/IC	C(3)	0.66

## Abbreviation:

AGR	Agriculture
C	Commercial
CDA	Comprehensive Development Area
G/IC	Government, Institution or Community
GB	Green Belt
O	Open Space
OU (Amenity)	Other Specified Uses annotated Amenity
OU (Business)	Other Specified Uses annotated Business
OU (Deep Waterfront Industry)	Other Specified Uses annotated Deep Waterfront Industry
OU (Landscaped Elevated Walkway)	Other Specified Uses annotated Landscaped Elevated Walkway
OU (Railway Station Facilities)	Other Specified Uses annotated Railway Station Facilities
OU (Railway Ventilation Building)	Other Specified Uses annotated Railway Ventilation Building
OU (Ventilation Building)	Other Specified Uses annotated Ventilation Building
R(A)/R(B)/R(C)/R(D)/R(E)	Residential (Group A)/Residential (Group B)/ Residential (Group C)/Residential (Group D)/ Residential (Group E)
Road	Area shown as 'Road' on the OZP
U	Undetermined
V	Village Type Development

## Notes:

- \* The above tables include sites with original zoning mainly of "G/IC", "O" or "GB". Sites with original zoning involving minor portions of the above land use zones are not included in the above tables. Besides, the above tables do not include sites within Kwu Tung North and Fanling North New Development Area and Tung Chung New Town Extension.
- # Sites identified under Land Use Reviews (total 70 sites).
- ^ Other zonings related to commercial and industrial development.

## Schedule 2

Planning Applications Agreed/Partially Agreed by  
TPB for Amendments to Plans to Rezone Sites  
in "G/IC", "O" or "GB" zones for Residential, Industrial or Commercial Use  
in the Past Five Years  
(i.e. from December 2011 to November 2016)

<i>Location</i>	<i>Original Land Use Zone</i>	<i>Land Use Zone after Rezoning</i>	<i>Site area (sq m) (about)</i>
Cheung Chau	G/IC	Residential (Group C) 7	446
The Peak	GB	Residential (Group C) 6	1 100
Tong Yan San Tsuen, Yuen Long	G/IC and Residential (Group B)1	Residential (Group B) 1	688
Tong Yan San Tsuen, Yuen Long	G/IC	Residential (Group B) 1	792
Tin Wan, Aberdeen	G/IC and Road	Residential (Group A)*	7 725

Note:

\* The proposed development is a public housing project of the Hong Kong Housing Society.

### Supply of and demand for international school places

8. **MR JEFFREY LAM** (in Chinese): *President, according to the findings of a consultancy study released in 2012 on the provision of international school places at primary and secondary levels in Hong Kong, there will be a projected shortfall of 4 203 primary places in the 2016-2017 school year. Some members of the business sector have relayed to me that when overseas talents and investors consider whether to develop their careers and conduct investment activities in Hong Kong, they are very concerned about whether they can arrange their minor children to be enrolled in the international schools in Hong Kong. As most of them will work or conduct investment activities in business districts after arriving in Hong Kong, international school places on Hong Kong Island are much in demand. Moreover, there has been a rising trend in recent years in the number of local students enrolling in international schools. In this connection, will the Government inform this Council:*

- (1) *of the current number of international school places, broken down by the three regions of Kowloon, the New Territories and Hong Kong Island; whether it knows the number of students currently enrolled in international schools, broken down by the districts in which they live;*
- (2) *whether it knows the respective numbers and percentages of local students and overseas students among the students of international schools in each of the past three school years;*
- (3) *of the measures adopted by the authorities in the past three school years to boost the number of international school places in the regions of Hong Kong Island and Kowloon; and*
- (4) *whether the authorities have any long-term policy in place to solve the problem of inadequate supply of international school places; if they do, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President, the Government is committed to developing a vibrant international school sector through various measures mainly to meet the demand for international school places from overseas families living in Hong Kong and families coming to Hong Kong for work or investment. My response to the four parts of the question raised by Mr Jeffrey LAM is as follows:

- (1) The distribution of the numbers of international school places and students by region, and the areas of residence of international school students in the 2015-2016 school year are set out at Annex 1.
- (2) The numbers and percentages of local and non-local students among the students in international schools from the 2013-2014 to 2015-2016 school years are set out at Annex 2.
- (3) and (4)

We have implemented a number of measures to support the development of the international school sector, including allocation of vacant school premises ("VSPs") and greenfield sites ("sites") for developing international schools, facilitation to in-situ expansion and

redevelopment of existing international schools, provision of interest-free loan for the construction of school premises according to established mechanism, etc. According to the findings of a consultancy study completed in end-2012 (the 2012 Study), it is projected that based on the position of the 2011-2012 school year, there would be an estimated shortfall of around 4 200 primary international school places by the 2016-2017 school year. To meet the projected shortfall, we have allocated a total of five VSPs and three sites for international school development via the two School Allocation Exercises ("SAEs") commenced in 2012 and 2014 respectively. Of these eight development projects, three are on the Hong Kong Island and one is in Kowloon. About a total of some 6 000 places will be gradually provided by these eight new international school campuses from the 2014-2015 school year onwards, including at least about 4 700 primary school places. Furthermore, we have provided policy support to the expansion plans of two existing international schools on the Hong Kong Island, and facilitated the schools' liaison with relevant government departments for taking forward the projects. These two projects are in the pipeline and are expected to gradually provide a total of 1 100 international school places starting from the 2017-2018 school year onwards.

Further to the 2012 Study, we have commissioned a new round of study to update the latest provision of international school places at primary and secondary levels in Hong Kong based on the status in the 2015-2016 school year, and to project the demand and supply of international school places in the seven school years starting from 2016-2017. This study also includes collection of views from international schools, business sector and international community, in order to have a deeper understanding of the concerns of different stakeholders. Such information, coupled with the past trends of demand for international school places and the forecast changes in economic growth, etc., will be useful reference for projecting the demand for international school places from overseas families coming to Hong Kong for work or investment. The consultant is finalizing the analysis and study report. It is expected that relevant work will be completed in the coming month. Subject to the findings of the study and availability of suitable sites/VSPs for

international school development, we will consider whether and if so, when to launch another SAE for international school development.

## Annex 1

Distribution of the number of international school places and students  
for 2015-2016 school year<sup>(1)(2)</sup>

<i>Region</i>	<i>Number of students</i>	<i>Number of school places</i>
Hong Kong Island	21 376	23 917
Kowloon	8 448	9 247
New Territories	7 145	7 942
Total	36 969	41 106

Notes:

- (1) Figures include the English Schools Foundation ("ESF") schools and other private international schools but not the special school operated by ESF.
- (2) Figures refer to the position as at September 2015.

Distribution of international school students by areas of residence  
for 2015-2016 school year<sup>(1)(2)</sup>

<i>Region</i>	<i>Number of students</i>
Hong Kong Island	12 264
Kowloon	5 582
New Territories	9 393
Unknown <sup>(3)</sup>	9 730
Total	36 969

Notes:

- (1) Figures include the ESF schools and other private international schools but not the special school operated by ESF.
- (2) Figures refer to the position as at September 2015.
- (3) Some schools did not provide the areas of residence of students. These cases were classified as "unknown".



## Annex 2

Numbers and percentages of local and non-local students enrolled in international schools from 2013-2014 to 2015-2016 school years<sup>(1)(2)</sup>

<i>School Year</i>	<i>Total Number of Local Students<sup>(3)</sup> (%)</i>	<i>Total Number of Non-Local Students (%)</i>	<i>Total Number of Students</i>
2013-2014	5 650 (15.9%)	29 930 (84.1%)	35 580
2014-2015	6 413 (17.5%)	30 222 (82.5%)	36 635
2015-2016	7 089 (19.2%)	29 880 (80.8%)	36 969

Notes:

- (1) Figures include students studying in ESF schools and other private international school but not the special school operated by ESF.
- (2) Figures refer to the position as at September of the respective years.
- (3) Local students refer to those who are Hong Kong permanent residents (with the right of abode in the Hong Kong Special Administrative Region) and do not have any passport other than the HKSAR Passport or the British National (Overseas) Passport.

### **Pressure on the services of the accident and emergency departments of public hospitals**

9. **PROF JOSEPH LEE** (in Chinese): *President, it has been reported that the consultancy firm commissioned by the Hospital Authority ("HA") recommended earlier to raise the charges for the services of the accident and emergency ("A&E") departments of public hospitals. However, some members of the public have pointed out to me that while raising A&E charges will increase the financial burden on low-income people, it may not be effective in reducing the number of persons seeking consultation in the A&E departments in the long run. Those members of the public have also pointed out that the pressure on the services of A&E departments should be alleviated through improving the triage system for patients and encouraging private medical institutions to strengthen their outpatient services. In this connection, will the Government inform this Council:*

- (1) *whether it knows if HA has regularly reviewed (i) the triage system of A&E departments and (ii) the target waiting times for patients under the various triage categories; if HA has, of the details; if not, the reasons for that;*
- (2) *whether it knows, among the patients under the various triage categories in each of the past five years, the respective percentages of patients who were treated within the relevant target waiting times; whether HA has explored the reasons why some patients were not treated within the target waiting times; if HA has, of the details; if not, the reasons for that;*
- (3) *as it has been reported that some patients triaged as non-urgent were not treated until they had waited for nearly 10 hours, whether the Government knows if HA will allocate additional resources and manpower to increase the quota for general outpatient clinics and extend their service hours, so as to alleviate the pressure on the services of A&E departments; if HA will, of the details; if not, the reasons for that; and*
- (4) *whether it knows if HA will discuss with private doctors and private hospitals to encourage them to expand the scale of their operations and extend their service hours, particularly those of evening outpatient services, in order to reduce the demand for the services of the A&E departments of public hospitals; if HA will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, my reply to the question raised by Prof Joseph LEE relating to the accident and emergency ("A&E") services of public hospitals is as follows:

- (1) and (2)

To ensure that patients in serious conditions will receive timely treatment, Hospital Authority ("HA") adopts a triage system which classifies patients attending the A&E Departments into five categories, namely critical, emergency, urgent, semi-urgent and non-urgent, according to their clinical conditions.

For patients triaged as critical, emergency and urgent, HA has set performance pledges on their waiting time for treatment. According to the performance pledges, all patients who are triaged as critical patients will be treated immediately, 95% of patients triaged as emergency patients will be treated within 15 minutes and 90% of patients triaged as urgent will be treated within 30 minutes. The table below sets out the percentage of patients received treatment within the target waiting time in A&E Departments under HA over the past five years.

<i>Triage categories</i>	<i>Target waiting time</i>	<i>Percentage of A&amp;E patients being treated within target waiting time</i>				
		<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2015-2016</i>
Triage I (Critical)	Immediate	100%	100%	100%	100%	100%
Triage II (Emergency)	15 minutes	98%	97%	96%	97%	97%
Triage III (Urgent)	30 minutes	91%	84%	75%	75%	78%

The above table shows that in the past five years, the A&E Departments under HA were able to provide immediate treatment for all critical patients and the waiting time of emergency patients also met the performance pledges. This shows that the majority of patients with pressing medical needs received timely medical treatment under the triage system. As regards patients triaged as urgent, their vital signs are relatively stable as compared with those triaged as critical and urgent. Nevertheless, HA will continue to improve the service quality of its A&E services, with a view to offering treatment to all A&E patients within the target waiting time. Measures being taken include inviting doctors who are about to leave HA or who have retired to work part-time in the A&E Departments, implementing the A&E Support Session Programme and deploying additional staff to rationalize patient flow and crowd management.

The Coordinating Committee ("COC") in A&E of HA is responsible for reviewing the triage system of A&E Departments on a regular basis for continuous improvement to the system. In August this

year, COC in A&E updated the internal guidelines for the triage system according to the service needs. The areas updated include the clinical symptoms and triage procedures for different categories of patients. In addition, HA's Key Performance Indicator ("KPI") Review Working Group and COC in A&E regularly review the KPIs of HA, including the target waiting time of different triage categories of patients for A&E services.

- (3) The general outpatient ("GOP") services provided by HA are primarily targeted at the elders, the low-income individuals and patients with chronic diseases. Patients under the care of GOP clinics comprise two major categories: chronic disease patients in stable medical condition, such as patients with diabetes mellitus or hypertension, and episodic disease patients with relatively mild symptoms, such as those suffering from influenza, cold or gastroenteritis. Patients with severe and acute symptoms should go to A&E Departments of hospitals where necessary staffing, equipment and ancillary facilities are in place for appropriate treatment and comprehensive care.

To meet the rising service demand, HA endeavours to improve the GOP services, including renovating and modernizing the facilities of ageing clinics to streamline patient flow, improve clinic environment and increase clinical space. HA also actively recruits staff to enhance service capacity. With the implementation of various measures, the total GOP attendances increased by nearly 600 000 between 2012-2013 and 2015-2016, and the consultation quota of GOP clinics will be further increased in 2016-2017. To cope with increasing public demand for GOP services, HA will take into account the actual operation and service demand and continue to seek resources through its annual planning exercise under the established mechanism, so as to increase the overall consultation quota of GOP clinics.

HA will continue to closely monitor the operation and service utilization of its clinics, and flexibly deploy manpower and other resources to ensure that primary care services could be appropriately provided for the target groups.

- (4) To offer more choices to patients and facilitate the continuous development of our primary care services, the Government and HA attach great importance to private outpatient services. HA maintains contact with various doctors' associations such as the Hong Kong Medical Association ("HKMA"). For example, it has appealed to private practitioners via HKMA to open their clinics during long holidays and extend their daily clinic hours to meet the possible upsurge in service demand during the winter influenza surge this year. The relevant information is displayed on HKMA's website, which will be linked to the HA website for public reference.

HA has also launched public-private partnership ("PPP") programmes proactively, which provide choice for suitable patients to receive treatment from service providers in the private sector and thus relieve the pressure on public hospitals. As one of the clinical PPP programmes currently managed by HA, the General Outpatient Clinic Public-Private Partnership Programme was extended to 12 districts in phases in the third quarter of 2016. It will be gradually extended to all 18 districts from 2017-2018 to 2018-2019. Under the programme, eligible patients can select participating private doctors as their family doctors. Each patient will receive up to 10 subsidized consultations per year, including medical consultations covering both chronic and episodic illnesses.

### **Enhancing the role of Hong Kong's finance industry in respect of Renminbi businesses**

10. **MR CHAN CHUN-YING** (in Chinese): *President, some members of the finance industry have pointed out that following the International Monetary Fund's inclusion of renminbi ("RMB") in its Special Drawing Rights ("SDR") currency basket in October this year, the Government should introduce measures to promote Hong Kong's role as an RMB asset management centre, and assist the industry in capitalizing on the opportunities arising from our country's implementation of the strategy of the Silk Road Economic Belt and 21<sup>st</sup> Century Maritime Silk Road ("the Belt and Road Initiative"), so as to promote the development of Hong Kong's RMB settlement services. In this connection, will the Government inform this Council:*

- (1) *whether it has conducted studies on ways to enhance the role of Hong Kong's finance industry as a guide for foreign investors when they engage in RMB asset investments, and ways to encourage such investors to increase their acquisition of RMB-denominated bonds, equities and other assets by making reference to the weighting of currencies in the SDR currency basket, so as to strengthen the role of Hong Kong as an RMB asset management centre which connects Mainland and overseas investors; if it has conducted such studies, of the details; if not, the reasons for that;*
- (2) *regarding the countries and places along the Belt and Road which do not use the US dollar as their major settlement currency for international transactions, whether the Government will conduct a study on the feasibility of Hong Kong providing RMB transaction settlement services to the central banks of or large enterprises in such countries; if it will, of the details; if not, the reasons for that; and*
- (3) *apart from the Shanghai-Hong Kong Stock Connect and the Shenzhen-Hong Kong Stock Connect which have already been implemented, whether the Government will discuss with the Mainland authorities the establishment of mutual access mechanisms between Hong Kong and the Mainland for the trading of other types of financial investment products (including funds and bonds), so as to consolidate Hong Kong's role as a springboard for bilateral investments between Hong Kong and other places; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, my reply to the three parts of the question is as follows:

- (1) Hong Kong has been playing a pioneering role in the process of Renminbi ("RMB") internationalization and capital account liberalization in the Mainland. In the past few years, we have implemented a number of important measures to support the financial sector in establishing diversified channels for cross-border investment, as well as promoting the mutual access between the

Hong Kong and Mainland markets. These include the Shenzhen-Hong Kong Stock Connect and Shanghai-Hong Kong Stock Connect, the Mutual Recognition of Funds ("MRF") arrangement between the Mainland and Hong Kong, the RMB Qualified Foreign Institutional Investors ("RQFII") Scheme and the Qualified Foreign Institutional Investors ("QFII") Scheme. Furthermore, with the world's largest offshore RMB liquidity pool, a highly efficient financial infrastructure and a wide range of RMB products and services, Hong Kong has become a leading offshore RMB asset management centre.

The Hong Kong Monetary Authority ("HKMA") has been actively reaching out to Mainland asset management companies to encourage them to establish a presence in Hong Kong, thereby enhancing the depth and scale of our asset management market, promoting the development and trading of RMB and other investment products as well as reinforcing Hong Kong's function as an asset management centre. This will not only facilitate the local industry to tap into the Mainland market, but will also bring in more Mainland capital and demand for related financial services to Hong Kong, which are conducive to enhancing the ties between the asset management markets in Hong Kong and the Mainland. In fact, many Mainland asset management companies have already set up a presence in Hong Kong to provide RMB investment and asset management services. In 2015, 283 Securities and Futures Commission-authorized funds were managed by Mainland-related fund groups, up by 11.9% as compared with 2014.

The Government has been working with relevant Mainland authorities to facilitate overseas investors to access the Mainland market through Hong Kong. In addition, we have engaged the industry closely and have provided them with a favourable tax and regulatory environment. For example, the Inland Revenue (Amendment) (No. 2) Ordinance 2016, passed in June this year, allows under specified conditions, interest deduction in calculating profits tax for intra-group financing business of corporations operating in Hong Kong, and profits tax rate reduction by 50% for qualifying corporate treasury centres ("CTCs"). This will help

attract multinational and Mainland corporations to set up CTCs in Hong Kong, draw in more asset management and other related financial activities, and consolidate Hong Kong's role as an international asset management centre.

HKMA also set up the Infrastructure Financing Facilitation Office ("IFFO") in July 2016 to bring together key stakeholders at home and abroad to facilitate infrastructure investments and financing using Hong Kong's platform. Since then, more than 50 partners have joined IFFO. The partners include multilateral development banks, public and private sector investors, project developers and operators and professional service providers. One of the IFFO's tasks is to build capacity and knowledge on infrastructure investments and financing in the industry. For example, a workshop on "Private Participation in Infrastructure Project Finance in Emerging Markets" was held in October 2016. IFFO will continue to strengthen cooperation with various stakeholders, promote the development of Hong Kong as an infrastructure investment and financing centre, and explore development opportunities for the industry along the Belt and Road and other regions.

Looking ahead, we will continue to liaise with the Mainland authorities to explore further policy headroom for establishing more cross-border investment channels. This will attract more Mainland and international asset management companies to establish or expand their presence in Hong Kong with a view to drawing in more capital and strengthening the network among the markets of Hong Kong, the Mainland and other places, and thus enhance the functions of Hong Kong as an asset management centre linking up the Mainland and the rest of the world.

- (2) As an international financial centre and the global offshore RMB business hub, Hong Kong has been playing an important role in promoting RMB internationalization and supporting the development of other overseas markets. Insofar as RMB settlement service is concerned, Hong Kong's RMB Real Time Gross Settlement ("RTGS") system, established in 2007, has been providing efficient and reliable RMB settlement services for banks in



various parts of the world and supporting real-time cross-border RMB payment through its connection with the payment system in the Mainland. Eligible banks from different places can access the RMB RTGS system in Hong Kong by becoming a participating bank of Hong Kong's RMB clearing platform. Currently, more than 200 banks around the world have become participating banks, providing related RMB services to corporates and institutions in different places through Hong Kong's RMB clearing platform. Furthermore, in collaboration with the industry, we have been actively stepping up cooperation with other offshore RMB business centres and overseas markets as well as promoting Hong Kong's RMB platform and our unique advantages in capitalizing on the opportunities arising from the Belt and Road Initiative. We will continue our work on this front.

- (3) Shanghai-Hong Kong Stock Connect launched in 2014, the Mainland-Hong Kong MRF arrangement launched last year and Shenzhen-Hong Kong Stock Connect launched this year are major milestones in the promotion of the mutual access between the capital markets in Hong Kong and the Mainland. We note that there are suggestions in the market that more traded products (including exchange-traded funds and bonds) be included as eligible securities under the mutual market access scheme. The Government and regulators will continue to discuss with relevant Mainland authorities the deepening of mutual market access and to study the feasibility of expanding the scope of eligible securities for trading under the mutual market access scheme, with a view to reinforcing Hong Kong's role in connecting the financial markets in the Mainland and the rest of the world. The China Securities Regulatory Commission and the Securities and Futures Commission mentioned in their joint announcement regarding Shenzhen-Hong Kong Stock Connect issued on 16 August 2016 that they have reached a consensus to include exchange-traded funds as eligible securities under the mutual market access scheme after Shenzhen-Hong Kong Stock Connect has been in operation for a period of time and upon the satisfaction of relevant conditions. This will further enrich the variety of traded products and provide more investment opportunities and convenience for domestic and overseas investors.

**Provision of training and employment opportunities for young people who have not completed senior secondary education**

11. **MR SHIU KA-CHUN** (in Chinese): *President, in recent years, the International Labour Organization has been promoting the Decent Work Agenda and has expressed concerns about the employment opportunities for and the low-income problem of young people. Decent work means productive work in which the rights of workers are protected, which generates an adequate income, with adequate social protection and sufficient work. On the other hand, the unemployment rate of young people aged 15 to 19 for the second quarter of 2016 was as high as 17.4%, which was five times the overall unemployment rate (3.5%). In this connection, will the Government inform this Council if it knows:*

- (1) *given that young people who have not completed senior secondary education may study the basic craft courses offered by the Construction Industry Council or the various types of programmes offered by the Hotel and Tourism Institute, the Chinese Cuisine Training Institute, the International Culinary Institute, the Maritime Services Training Institute, the Youth College and Pro-Act Development and Training Centres under the Vocational Training Council to obtain qualifications such as being registered as a semi-skilled worker, a Certificate of Basic Craft Studies, a Certificate of Vocational Education, a Certificate of Technician Foundation Studies, a Diploma of Foundation Studies or a Diploma of Vocational Education ("vocational qualifications"), (i) the respective numbers of persons who studied the aforesaid courses and (ii) the respective numbers of persons who completed such courses and obtained the relevant vocational qualifications, and the respective percentages of such numbers in the total number of trainees who studied the relevant courses, in each of the past five years (set out in a table);*
- (2) *among the young people who obtained the relevant vocational qualifications in each of the past five years, the number of those who were engaged in work relevant to their vocational qualifications at the end of the subsequent sixth month (set out in a table);*
- (3) *among the young people who obtained the relevant vocational qualifications in each of the five years, the respective numbers and percentages of those (i) who were employed in full-time jobs,*

(ii) who were employed in part-time jobs, (iii) who pursued further studies, and (iv) who were unemployed, within the subsequent six months (set out in tables of the same format as the table below);

Year: \_\_\_\_\_

<i>Vocational qualifications</i>	<i>(i) Number of persons (%)</i>	<i>(ii) Number of persons (%)</i>	<i>(iii) Number of persons (%)</i>	<i>(iv) Number of persons (%)</i>
<i>Registered semi-skilled worker</i>				
<i>Certificate of Basic Craft Studies</i>				
<i>Certificate of Vocational Education</i>				
<i>Certificate of Technician Foundation Studies</i>				
<i>Diploma of Foundation Studies</i>				
<i>Diploma of Vocational Education</i>				

(4) the number of young people who obtained the relevant vocational qualifications and were employed within the subsequent six months in each of the past five years, with a breakdown by the salary income group to which their monthly salaries belong (set out in tables of the same format as the table below):

Year: \_\_\_\_\_

<i>Monthly salary (\$)</i>	<i>Number of registered semi-skilled workers</i>	<i>Number of persons holding a Certificate of Basic Craft Studies</i>	<i>Number of persons holding a Certificate of Vocational Education</i>	<i>Number of persons holding a Certificate of Technician Foundation Studies</i>	<i>Number of persons holding a Diploma of Foundation Studies</i>	<i>Number of persons holding a Diploma of Vocational Education</i>
<i>Below 2,000</i>						
<i>Between 2,000 and 3,999</i>						

<i>Monthly salary (\$)</i>	<i>Number of registered semi-skilled workers</i>	<i>Number of persons holding a Certificate of Basic Craft Studies</i>	<i>Number of persons holding a Certificate of Vocational Education</i>	<i>Number of persons holding a Certificate of Technician Foundation Studies</i>	<i>Number of persons holding a Diploma of Foundation Studies</i>	<i>Number of persons holding a Diploma of Vocational Education</i>
<i>Between 4,000 and 5,999</i>						
<i>Between 6,000 and 7,999</i>						
<i>Between 8,000 and 9,999</i>						
<i>Between 10,000 and 14,999</i>						
<i>Between 15,000 and 19,999</i>						
<i>Between 20,000 and 29,999</i>						
<i>30,000 or above</i>						

- (5) *given the persistently high unemployment rate of young people, whether the authorities have studied measures to boost the training places and employment opportunities for young people, so as to smoothen their transition from school to work; and*
- (6) *whether the authorities have studied the formulation of measures to facilitate young people to obtain decent work; if they have not, whether they will conduct a study expeditiously?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, the Government attaches great importance to youth employment and is committed to providing comprehensive training and employment support to assist young people in entering the job market. Because of the lack of working experience, higher job mobility and more time required in job search, etc., youth unemployment rate is higher than the overall figure. This phenomenon is also common for many economies as pointed out by the International Labour Organisation. Hong Kong's latest unemployment rate for young people aged 15 to 19 for the three-month period from August to October 2016 has dropped to 10.7%.

My reply to the question raised by Mr SHIU Ka-chun is as follows:

- (1) The information sought is provided as follows:

<i>Vocational Qualification</i>	<i>Year</i>	<i>Number of persons who study the Basic Craft Course of the Construction Industry Council ("CIC")</i>	<i>Number of persons who study and subsequently completed the relevant course, and obtained the registered semi-skilled worker status</i>	<i>% of the total number of persons who study the relevant course</i>
Registered semi-skilled worker	2011	323	230	71%
	2012	423	266	63%
	2013	452	236	52%
	2014	518	483	93%
	2015	461	390	85%

Hotel and Tourism Institute, Chinese Culinary Institute and International Culinary Institute of the Vocational Training Council ("VTC") offer full-time post-secondary 3 ("PS3") certificate programmes for students without completing senior secondary schooling. These certificate programmes, in general, are of

durations of two to three years. Prior to 2013-2014 academic year ("AY"), some certificate programmes offered were of a shorter duration from 22 weeks to one year. Maritime Services Training Institute, another member institution of VTC, also offers a full-time PS3 certificate programme with a duration of 23 weeks. The numbers of enrolled students, graduates and relevant percentages of the full-time PS3 certificate programmes offered by these four institutions from 2010-2011 AY to 2014-2015 AY are as follows:

<i>Vocational Qualification</i>	<i>Academic Year</i>	<i>Total Number of Enrolled Students (Including graduating and non-graduating classes)</i>	<i>Number of Enrolled Students of Graduating Classes</i>	<i>Number of Graduates</i>	<i>Percentage of Number of Graduates over Number of Enrolled Students of Graduating Classes</i>
Certificate	2010-2011	939	554	385	69%
	2011-2012	956	705	497	70%
	2012-2013	750	375	267	71%
	2013-2014	759	303	213	70%
	2014-2015	790	351	229	65%

Moreover, Youth Colleges and Pro-Act Training and Development Centres of VTC also offer full-time PS3 Diploma of Vocational Education ("DVE") programme for students without completing senior secondary schooling. The PS3 DVE programme adopts a credit-based system. Based on their level of study when joining the programme as well as their own needs, students can choose from an array of modules. Upon accumulation of requisite credits, full-time students will be eligible for being awarded the Certificate of Basic Craft Studies ("BCC"), Certificate of Technician Foundation Studies ("TFC") and DVE (not including Certificate of Vocational Education) at different exit points. Students spend different time to

acquire different exit awards. It normally takes three to four years for a Secondary Three school leaver to complete the DVE programme and acquire the DVE qualification. Besides, some full-time DVE students may transfer to part-time studies when they intend to join the workforce. The enrolment of full-time students of PS3 DVE programme from 2010-2011 AY to 2014-2015 AY are as follows:

<i>Academic Year</i>	<i>2010-2011</i>	<i>2011-2012<sup>(1)</sup></i>	<i>2012-2013<sup>(1)</sup></i>	<i>2013-2014</i>	<i>2014-2015</i>
Total Number of Enrolled Students (Including students of all years)	2 767	4 015	4 842	5 312	5 405

Note:

- (1) The figures of 2011-2012 AY and 2012-2013 AY include some students of Diploma in Vocational Studies under the Old Academic Structure.

Owing to different progress of credit accumulation and choices of exit points of DVE students, the relevant graduation percentage is not available. The number of graduates at different exit points from 2010-2011 AY to 2014-2015 AY are shown as follows:

<i>Academic Year</i>	<i>Number of Graduates with DVE award</i>	<i>Number of Graduates with TFC award</i>	<i>Number of Graduates with BCC award</i>
2010-2011	- <sup>(3)</sup>	27	183
2011-2012 <sup>(2)</sup>	139	104	252
2012-2013 <sup>(2)</sup>	444	103	245
2013-2014	599	60	159
2014-2015	761	57	100

Notes:

- (2) The figures of 2011-2012 AY and 2012-2013 AY include some graduates of Diploma in Vocational Studies under the Old Academic Structure.
- (3) The first cohort of graduates of the DVE graduated in the 2011-2012 AY.

- (2) The information provided by CIC is:

<i>Vocational Qualification</i>	<i>Year</i>	<i>Among the above youngsters who obtained the registered semi-skilled worker status, number of persons who are engaged in work related to the qualification after six months</i>	<i>% of the total number of the above persons obtained the registered semi-skilled worker status</i>
Registered semi-skilled worker	2011	187 <sup>(4)</sup>	81% <sup>(4)</sup>
	2012	234 <sup>(4)</sup>	88% <sup>(4)</sup>
	2013	212	90%
	2014	430	89%
	2015	340	87%

Note:

- (4) CIC can only provide the employment data of their graduates in 2011 and 2012 after three months of graduation.

The VTC conducts a graduate employment survey every year to enquire the graduates' employment status within the six months after graduation. In the survey, no question is set for asking graduates whether the vocational qualification (Certificate, DVE, TFC or BCC) that they acquired is related to the jobs they are working in. Hence, no available data could be provided.

- (3) Regarding the employment/education/unemployment situation among the young people within the subsequent six months after they obtained the relevant vocational qualifications in each of the past five years, CIC does not have the relevant statistical data whereas the information provided by VTC is in Annex 1.
- (4) The statistical data on the salary distribution for the young people who obtained the relevant vocational qualifications and were employed within the subsequent six months in each of the past five years is provided in Annex 2.



- (5) To promote youth employment, the Government provides youths with comprehensive training and employment support through VTC, the Employees Retraining Board ("ERB") and the Labour Department ("LD").

The mission of VTC is to provide a valued choice to secondary school leavers and in-service practitioners. Both pre-employment and in-service training programmes of VTC can help learners acquire the values, knowledge and skills for lifelong learning and enhanced employability. It is worth mentioning that with funding from the Government, VTC has implemented the Pilot Training and Support Scheme since the 2014-2015 AY to provide young people with a clear career progression pathway by integrating structured classroom learning with on-the-job training. Apprenticeship training for targeted industries will be provided to students alongside a guaranteed level of salary and incentive allowance. The total commitment of the Scheme is \$288 million, benefiting about 4 000 students of four cohorts. In addition, the Government has provided recurrent subvention of about \$18 million to VTC since the 2014-2015 AY for providing industrial attachment opportunities for 9 000 students each year and hence improving their employability.

ERB provides dedicated training courses for young people aged 15 or above, including the "Youth Training Programme", "Squad 3S Programme", "Youth Management Trainee Programme", etc. These courses are full-time placement-tied courses, rendering training and placement follow-up services to young trainees. Eligible young people may enrol in ERB's courses for the general public according to their interest and occupational aspiration. ERB will determine the training places of each course flexibly taking into account the market demand. Training bodies may also apply to ERB for allocating additional training places as appropriate.

LD launches the Youth Employment and Training Programme ("YETP") which provides one-stop pre-employment and on-the-job training for young school leavers aged 15 to 24 with educational attainment at sub-degree level or below to enhance their employability. YETP offers diversified services with no pre-set quota. Enrolment is on a year-round basis without any minimum academic requirements so as to allow participation of any young person who aspires to receive training or to seek employment. The services offered under YETP include pre-employment training courses, workplace attachment, on-the-job training, off-the-job vocational training course and examination allowance, customized career guidance and employment support services offered by registered social workers. Through the provision of training allowance, LD encourages employers to employ young people joining YETP and provide them with on-the-job training.

LD has also set up two youth employment resource centres entitled "Youth Employment Start" ("Y.E.S.") to provide one-stop and integrated employment and self-employment support services to young people aged 15 to 29. Y.E.S. offers a wide range of services to assist young people to enhance their employability and facilitate their access to the latest employment market information so that they can secure a firm footing in the employment market and sustain in their development.

These services include assessments on their career potential, career guidance, professional counselling service, recruitment activities and training programmes, etc. Y.E.S. works closely with schools to assist secondary school students to understand the world of work.

The Government will continue to monitor closely the employment market trends, manpower needs of different sectors and career interests of young people, and review the existing measures basing on the actual situation so as to help young people transit from school to work.

- (6) LD provides comprehensive and free employment services to all job seekers (including young people) in their job hunt. To enhance job seekers' employment opportunities, LD maintains close liaison with employers of various industries to canvass vacancies suitable for job seekers with a diverse range of educational background and working experience. The relevant information is widely disseminated through its network of 13 job centres, the Interactive Employment Service website, its mobile application and vacancy search terminals installed in numerous locations across the territory. LD also organizes job fairs to expedite the dissemination of employment information. As set out in part (5) of the reply, LD has launched YETP and set up Y.E.S. to further assist young people in gaining employment.

LD also endeavours to safeguard and improve employees' rights and benefits. For example, the Employment Ordinance provides eligible employees including young people with various protection and benefits including payment of wages, restrictions on wage deductions, rest days, paid statutory holidays, paid annual leave, sickness allowance, severance payment and long service payment, etc. The Employment of Young Persons (Industry) Regulations regulate the working hours and general conditions of employment of young persons (i.e. persons aged 15 but below 18) in industrial undertakings, and prohibits employing young persons to work in dangerous trades.

The Government will continue to review labour policies from time to time with a view to progressively improving the rights and benefits of employees (including young people) while striking a reasonable balance between employers' and employees' interests and having due regard to the pace of Hong Kong's socio-economic development.

## Annex 1

## The employment situation upon obtaining the relevant vocational qualification

Based on the statistics of the graduate employment survey conducted annually by VTC from 2010-2011 AY to 2014-2015 AY, the relevant percentages of graduates' status within the six months after graduation, including taking up full-time job(s), part-time job(s), pursuing further studies and seeking employment, are as follows:

Vocational Qualification	<i>Percentages of graduates taking up full-time job(s), part-time job(s), pursuing further studies and seeking employment within the six months after graduation<sup>(1)</sup></i>																			
	<i>(i) Employed in full-time job (%)</i>					<i>(ii) Employed in part-time job (%)</i>					<i>(iii) Pursuing further studies (%)</i>					<i>(iv) Seeking employment (%)</i>				
	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Certificate	75%	75%	82%	61%	68%	11%	7%	2%	5%	5%	8%	9%	6%	23%	18%	6%	6%	7%	10%	6%
DVE <sup>(2)</sup>	-	28%	33%	27%	20%	-	12%	5%	9%	7%	-	45%	50%	55%	64%	-	9%	9%	6%	8%
TFC	81%	73%	59%	54%	60%	7%	15%	11%	20%	24%	4%	4%	12%	8%	13%	8%	6%	11%	15%	4%
BCC	84%	90%	85%	81%	75%	5%	2%	4%	3%	11%	4%	6%	4%	9%	7%	5%	1%	5%	4%	7%

Notes:

- (1) Some graduates responded to the survey that due to personal reasons, they were neither seeking employment nor pursuing further studies. In this regard, the sum of percentages of all parts may not be equal to 100%. Besides, owing to rounding, the sum of percentages of all parts may also not be 100%.
- (2) The first cohort of graduates of the DVE graduated in the 2011-2012 AY. The figures of 2011-2012 AY and 2012-2013 AY include some graduates of Diploma in Vocational Studies under the Old Academic Structure.

## Annex 2

## Salary distribution upon obtaining the relevant vocational qualification

The information provided by CIC is as follows:

Monthly Salary (\$)	<i>Monthly salary<sup>(1)</sup> of youngsters who obtained the registered semi-skilled worker status and engaged in work related to the qualification after six months</i>				
	2011	2012	2013	2014	2015
Less than 2,000	-	-	-	-	-
2,000 to 3,999	-	-	-	-	-
4,000 to 5,999	-	-	-	-	-
6,000 to 7,999	-	-	-	-	-
8,000 to 9,999	31 <sup>(2)</sup>	24 <sup>(2)</sup>	3	-	-
10,000 to 14,999	156 <sup>(2)</sup>	210 <sup>(2)</sup>	209	430	320
15,000 to 19,999	-	-	-	-	20
20,000 to 29,999	-	-	-	-	-
30,000 or above	-	-	-	-	-

Notes:

- (1) CIC can only provide the salary data of their graduates for the first job after graduation.
- (2) CIC can only provide the employment data of their graduates in 2011 and 2012 after three months of graduation.

Based on the statistics of the graduate employment survey conducted annually by VTC from 2010-2011 AY to 2014-2015 AY, not all graduates had responded to the survey. Thus, the actual numbers of all graduates who were employed are not available. According to the responded graduates who were taking up full-time job(s), the distribution of their monthly salary is shown as below:

Monthly Salary (\$)	<i>Distribution of monthly salary of graduates taking up full-time job(s) within the six months after graduation</i>																			
	<i>Certificate</i>					<i>DVE<sup>(3)</sup></i>					<i>TFC</i>					<i>BCC</i>				
	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2010-2011</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>
Less than 2,000	-	-	-	1%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2,000 to 3,999	-	-	-	-	-	-	-	1%	-	-	-	-	-	-	-	1%	-	-	3%	-
4,000 to 5,999	1%	1%	-	1%	1%	-	8%	2%	-	3%	-	1%	3%	-	9%	16%	6%	-	-	-
6,000 to 7,999	13%	4%	2%	3%	6%	-	31%	11%	3%	6%	68%	57%	20%	9%	9%	76%	67%	44%	22%	13%
8,000 to 9,999	56%	47%	29%	17%	9%	-	38%	46%	44%	20%	27%	17%	31%	44%	21%	6%	20%	40%	53%	41%
10,000 to 14,999	29%	45%	63%	59%	66%	-	21%	38%	46%	59%	5%	21%	34%	47%	44%	1%	7%	13%	20%	39%
15,000 to 19,999	1%	2%	4%	16%	14%	-	-	2%	5%	7%	-	4%	3%	-	18%	-	-	1%	2%	3%
20,000 to 29,999	-	-	-	4%	5%	-	3%	1%	1%	2%	-	-	8%	-	-	-	-	1%	-	4%
30,000 or above	-	-	-	-	-	-	-	-	1%	2%	-	-	-	-	-	-	-	-	-	-

Note:

- (3) The first cohort of graduates of the DVE graduated in the 2011-2012 AY. The figures of 2011-2012 AY and 2012-2013 AY include some graduates of Diploma in Vocational Studies under the Old Academic Structure.

## **Naming of geographical places**

12. **MR ALVIN YEUNG** (in Chinese): *President, at present, the naming of geographical places is not subject to any statutory regulation. Under the current arrangements, the Geographical Place Names Board ("the Board") established under the Survey and Mapping Office of the Lands Department ("LandsD") is responsible for the establishment, implementation and review of the procedures for the formulation, verification and adoption of geographical place names. It is learnt that the Board comprises representatives from relevant government departments, including the Agriculture, Fisheries and Conservation Department, the Home Affairs Department, the Information Services Department, LandsD. In this connection, will the Government inform this Council:*

- (1) of the respective numbers of representatives on the Board from various government departments;*
- (2) of the current general procedures for naming geographical places and amending existing names; whether such procedures have stipulated that (i) public consultation meetings must be held and (ii) a minimum number of such meetings must be held; if so, of the details; if not, the reasons for that;*
- (3) of the criteria adopted by the Board, when conducting consultations with representatives of residents and local organizations, for determining whether or not the views collected should be adopted;*
- (4) whether the Board accepts views given orally by representatives of residents; if the Board does not, of the reasons for that; and*
- (5) of the channels through which the public may raise objections to and make recommendations on the geographical place names adopted by the Board; whether the Board will restart the consultation procedures upon receipt of such views and recommendations; if the Board will not, of the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, my reply to the various parts of Mr Alvin YEUNG's question is as follows:

- (1) The membership of the Geographical Place Names Board ("GPNB") comprises representatives of the relevant departments. Apart from the posts of Chairman, Deputy Chairman and Secretary being taken

up by representatives of the Lands Department ("LandsD"), other members include one representative each of the Agriculture, Fisheries and Conservation Department, the Home Affairs Department, the Hongkong Post, the Information Services Department, LandsD and the Marine Department, two representatives of the Rating and Valuation Department, and one representative of the Official Languages Division of the Civil Service Bureau.

- (2) After receiving proposals for naming geographical places and amending existing geographical names, GPNB will preliminarily assess the proposals and seek advice from the government departments concerned. Representatives of local residents and local organizations will be consulted via the District Offices of the Home Affairs Department on these proposals before submission to GPNB for consideration. Upon GPNB's endorsement, the proposals will be submitted to the relevant District Councils ("DCs") for consideration. After these DCs have endorsed the concerned proposals, notices of the proposed geographical place names will be advertised in local English and Chinese newspapers and posted at the locations concerned, the relevant District Offices, and the relevant District Lands Offices, District Survey Offices as well as the Map Publications Centre (Hong Kong) of the Survey and Mapping Office under LandsD for public consultation. If members of the public hold different views on the proposals, their views will be submitted to GPNB for further assessment and decision. If no objection from the public is received, GPNB will adopt the proposed geographical place names.

As mentioned above, the existing procedure includes various forms of public consultation.

- (3) The criteria generally considered by GPNB include:
  - (i) There should be a practical need in introducing new names in written documents or in verbal communication;
  - (ii) The names chosen should generally be neutral and not related to individual persons, institutions or goods;

- (iii) Complicated or rarely-used Chinese characters should be avoided in geographical place names; and
  - (iv) Requests for name changes will only be considered with sufficient justifications, such as when existing geographical place names are vulgar and may cause embarrassment in verbal communication or in writing.
- (4) GPNB will examine all the views received, including verbal ones of residents' representatives. Whether written or verbal, the views will facilitate GPNB's further consideration as long as they are clear and specific.
- (5) If members of the public hold different views on geographical place names which have already been adopted by GPNB, they may submit new proposals to GPNB for consideration. GPNB will address and consider the views received in accordance with the aforementioned procedure for naming geographical places.

### **Law enforcement actions against obstruction of public places caused by shop front extension**

13. **MR SHIU KA-FAI** (in Chinese): *President, the Fixed Penalty (Public Cleanliness Offences) (Amendment) Ordinance 2016 (4 of 2016) has come into operation since 24 September this year. The law enforcement officers of the Food and Environmental Hygiene Department ("FEHD") may issue fixed penalty notices to the relevant offenders in respect of shop front extension causing obstruction of public places. The fixed penalty is \$1,500. However, quite a number of shop operators and members of the public have relayed to me that shop operators face tough operating environment due to the declining retail sales and the overly stringent law enforcement actions taken by FEHD officers. According to the authorities, in general, where the extension of business activities beyond the confines of shops contributes to the vibrancy of the district and constitutes a distinct characteristic without posing any imminent danger to pedestrians and other road users, and subject to a consensus having been reached by the various parties concerned, the specific locations concerned may be accorded lower priorities for law enforcement or even be designated as "tolerated areas". In this connection, will the Government inform this Council:*



- (1) *how the authorities determine whether an extension of business activities beyond the confines of shops does "contribute to the vibrancy of the district and constitute a distinct characteristic";*
- (2) *given that the existing tolerated areas cover only five locations, of the locations which the authorities had considered but eventually not included in the tolerated areas, and the reasons for that (set out in a table); and*
- (3) *of the total number of complaints, received by the authorities since the implementation of the aforesaid Ordinance, from shop operators or members of the public about the law enforcement actions taken by FEHD officers, with a breakdown by nature of such complaints?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance ("the Ordinance") has come into operation since 24 September this year. A fixed penalty system is introduced as an additional enforcement tool to tackle the problem of shop front extensions ("SFEs"). Under the Ordinance, the Food and Environmental Hygiene Department ("FEHD") and the Hong Kong Police Force are empowered to, among other things, issue fixed penalty notices of \$1,500 in addition to summons against SFEs involving offences on obstruction of public places under section 4A of the Summary Offences Ordinance (Cap. 228).

Following the commencement of the SFE fixed penalty system, there is visible improvement on the SFE situation and pavement access during the past two months. In general, the public show support to the newly introduced fixed penalty system. My answers to the respective parts of the question are as follows:

- (1) and (2)

Only under very exceptional circumstances could individual location be designated as a "tolerated area". The arrangement is ad hoc in nature, and the number of such "areas" is very limited in Hong Kong. According to past experience, the designation of an individual location as a "tolerated area" should be subject to deliberation and

consensus reached among enforcement departments, other relevant departments, shop operators and/or district personalities. Under the condition that the shop operators can exercise self-discipline by adhering to the agreed level of extension, the matter would be considered by relevant District Council ("DC"). DC, representing the public opinion, is familiar with district circumstances. It would take into account whether the SFEs at the said location could constitute distinct characteristics and contribute to the vibrancy of the district, and consider whether to support designating it as a "tolerated area" in a prudent manner. The locations of the "tolerated areas" would also be subject to regular review of the enforcement departments, DCs and/or District Management Committees.

- (3) During the period from 24 September to 30 November this year, FEHD, Home Affairs Department and District Offices have received a total of 73 complaints about FEHD's enforcement action against SFEs. Among them, 40 cases complained about unfair or selective enforcement, 13 cases concerned attitude of individual staff, 6 complained about the stringent enforcement, and 14 cases included complaints about ineffective enforcement measures at certain locations, dissatisfaction with the "tolerated areas" arrangement and inadequate publicity work. Enforcement departments will handle the complaints in accordance with established procedures. They would also continue to ensure effective and consistent enforcement actions in tackling the problem SFEs.

### **Measures to reduce plastic bottle waste**

14. **DR KWOK KA-KI** (in Chinese): *President, according to the information of the Environment Bureau, around 58 000 to 79 000 tonnes of plastic bottle waste was disposed of at landfills each year from 2010 to 2014. Some environmentalists have suggested that the Government should provide more drinking fountains in public venues and encourage members of the public to bring their own water bottles so that they will purchase less bottled water and beverages, thereby reducing the plastic bottle waste generated. In this connection, will the Government inform this Council:*

- (1) *of the number of each of the following types of venues, and set out by name of the venue the respective numbers of (i) fountain type water dispensers, (ii) non-fountain type water dispensers, and (iii) drinks vending machines, installed at the venue (set out in a table):*
  - (i) *public libraries, museums, performance venues, land sports facilities, parks, beaches and swimming pool complexes under the Leisure and Cultural Services Department;*
  - (ii) *public markets and cooked food centres under the Food and Environmental Hygiene Department;*
  - (iii) *community halls/community centres under the Home Affairs Department;*
  - (iv) *Government Offices;*
  - (v) *ferry piers;*
  - (vi) *public transport interchanges;*
  - (vii) *clinics under the Department of Health; and*
  - (viii) *public hospitals and outpatient clinics under the Hospital Authority;*
- (2) *whether it has plans to install or increase the number of drinking fountains in the venues listed in (1); if so, of the details and timetable; if not, the reasons for that; and*
- (3) *given that disposable plastic cups and bottled water are no longer provided in the Taipei City Hall building since April this year, whether the authorities have plans to take similar measures in government buildings; if so, of the details and timetable; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the Government has been adopting the principle of "reduce, reuse and recycle" to tackle the waste management challenges. In accordance with this principle, we have always encouraged the public to use less disposable items. Water dispensers provided by the Government in public places are mainly installed in active recreational facilities managed by the Leisure and Cultural Services Department ("LCSD"), such as sports centres, sports grounds and swimming pools, etc. LCSD provides these water dispensers mainly for the convenience of the public and to promote environmental protection by encouraging members of the public to bring their own reusable water bottles.

My reply to Dr KWOK's question is as follows:

- (1) There are two main types of water dispensers, namely fountain and non-fountain type provided in government venues. For fountain type water dispensers, water is drawn from the water mains of the Water Supplies Department and sterilized by ultra-violet light before use. They are designed for use at both indoor and outdoor venues. As there is no need to change water bottles, they are suitable for use at venues with high water usage. Most of the non-fountain type water dispensers dispense water from bottled water. A small portion of these dispensers dispense water from water mains after treatment by a filter system. They are designed for use at indoor venues only. Figures on water dispensers and drinks vending machines at the venues mentioned in the question are set out at the Annex.
- (2) The relevant government departments will continue to explore various measures to encourage the public to use less disposable plastic beverage bottles, including the installation of more water dispensers in suitable government premises to provide the public with potable water. Nevertheless, due consideration has to be given to a number of factors, such as the service nature, utilization rate, suitable type of water dispensers to be installed, hygiene and water quality management, and arrangement for repairs and maintenance, etc. Relevant work is still underway and thus no specific timetable for implementation is available for the time being.
- (3) The Government has been actively promoting waste reduction at source. We drew up relevant guidelines in 2012, according to which various government departments should adopt green measures as well as avoid and reduce waste generation. Such measures include to serve potable water by glasses or reusable containers when organizing or attending activities and meetings; avoid purchasing bottled beverages and one-off disposable utensils and containers; and set up recycling facilities in government buildings as far as possible to facilitate recycling of plastics and other recyclables. We will make reference to the practices of other places and enhance the guidelines or introduce suitable measures from time to time to promote waste reduction and recycling.

## Annex

Number of water dispensers and drinks vending machines  
provided at government venues

<i>Venues</i>	<i>Number of water dispensers</i>			<i>Number of drinks vending machines</i>
	<i>Fountain type</i>	<i>Non-fountain type</i>	<i>Two-in-one (Fountain and Non-fountain type)</i>	
Public libraries, museums, performance venues, land sports facilities, parks, beaches and swimming pool complexes under the Leisure and Cultural Services Department	1 442	377	0	691
Public markets and cooked food centres under the Food and Environmental Hygiene Department	20	0	0	2
Community halls/community centres under the Home Affairs Department	16	0	0	52
Government Offices	0	0	0	2
Ferry piers	0	0	9	105
Public transport interchanges	0	0	0	16
Clinics under the Department of Health	0	148	0	0
Public hospitals and outpatient clinics under the Hospital Authority	0	344	0	263
Total:	1 478	869	9	1 131

**Victims of sexual violence giving witness statements and undergoing forensic examinations in public hospitals**

15. **DR FERNANDO CHEUNG** (in Chinese): *President, according to the Information to Adult Sexual Violence Victims published by the Hong Kong Police Force in June this year, when victims of sexual violence, after making a Police report, have been sent to any public hospital for consultation and treatment and if the situation allows, they may choose to give their witness statements and undergo forensic examinations in the same hospital. In this connection, will the Government inform this Council:*

- (1) *whether victims of sexual violence may give their witness statements and undergo forensic examinations in any public hospital at present; of the places in a hospital where victims of sexual violence in general give their witness statements and undergo forensic examinations;*
- (2) *whether victims of sexual violence may first go to a public hospital on their own for consultation, then make Police report, give their witness statements and undergo forensic examinations there;*
- (3) *of the criteria adopted by the Police for determining whether a situation allows victims of sexual violence to give their witness statements and undergo forensic examinations in a hospital, and the respective situations that allow and do not allow such arrangements; and*
- (4) *whether it has assessed if the places and facilities in various public hospitals where victims of sexual violence give their witness statements and undergo forensic examinations conform to the relevant guidelines of the World Health Organization ("WHO"); if it has assessed and the outcome is in the affirmative, of the details of such places and facilities, and whether it can furnish the relevant photographs to this Council; if the assessment outcome is in the negative, whether the authorities have plans to upgrade such places and facilities so that they comply with WHO's relevant guidelines; if they have such plans, of the implementation timetable?*

**SECRETARY FOR SECURITY** (in Chinese): President, the Government attaches great importance to the needs of sexual violence victims. In respect of sexual violence cases, police investigation will be conducted in such a way that the victims will not be further traumatized. The Police will also introduce to the victims the counselling and support services of the Social Welfare Department ("SWD") and other relevant non-governmental organizations. Subject to the victims' consent, the Police will arrange for referrals to appropriate follow-up services.

To provide victims reporting sexual violence cases with relevant information in a timely manner, the Police compiled the "Information to Adult Sexual Violence Victims" in June this year. It explains the victims' rights and the procedures that they may have to go through while assisting the police investigations. This includes the arrangement under the One-Stop Service Model that a victim, upon being sent to a public hospital for medical services after making a report, may choose to give a witness statement and undergo forensic examinations at the same hospital if the situation allows. This service model has been put in place since 2007. It features a multi-disciplinary approach to ensure close cooperation and collaboration amongst various professionals for the provision of a customer-oriented and one-stop service, which enables the victims to receive services and go through relevant procedures in a convenient, safe, confidential and protected environment, thus minimizing the need for them to repeat their unpleasant experience. For the implementation of the service model, SWD, in collaboration with related social service units, the Hospital Authority ("HA"), the Hong Kong Police Force and the Forensic Pathology Service of the Department of Health, etc., has formulated an effective workflow and the "Procedural Guidelines for Handling Adult Sexual Violence Cases".

The consolidated reply, prepared in consultation with the Labour and Welfare Bureau and the Food and Health Bureau, to Dr CHEUNG's question is as follows:

- (1) At present, if an adult sexual violence victim chooses to give a witness statement and/or undergo forensic examinations at the same time when receiving medical services in any HA public hospitals with Accident and Emergency ("A&E") Departments, the Police will make arrangements accordingly.

Urgent medical services are provided at all A&E departments of HA hospitals for victims of sexual violence where necessary. With the victim's consent, the designated nursing staff and/or medical officer will, ensuring the protection of the victim's privacy, arrange a suitable place in the A&E department for the forensic pathologist to conduct forensic examination and the Police to take a statement.

- (2) Upon receipt of a report by a victim (whether reported to the Police before the victim is sent to a public hospital or when the victim is receiving medical services at the A&E Department of a public hospital), the Police will, in the light of the circumstances of the case, explain to the victim the investigation procedures and his/her rights. Should the victim opt for the one-stop service, the Police will make appropriate arrangements for the victim to give a witness statement and/or undergo forensic examinations at the same hospital.
- (3) Whether a victim will give his/her statement and undergo forensic examination at the same hospital is subject to the preference of the victim and the professional advice of the medical officers.
- (4) According to the Guidelines for Medico-legal Care for Victims of Sexual Violence of the World Health Organization, the place for statement-taking and forensic examination should be private, clean, secure and with 24-hour accessibility to necessary services to provide victims with the necessary protection. The A&E departments under HA provide round-the-clock service with police officers on duty and strict infection control measures in place to ensure protection in the above mentioned aspects.

According to the "Procedural Guidelines for Handling Adult Sexual Violence Cases" issued by SWD, if the victim has reported the case to the Police, the Police will arrange forensic examination when situation warrants. If it is necessary to collect evidence at the hospital, HA will arrange a suitable place for the forensic pathologist to conduct forensic examination and the Police to take a statement. In case forensic examination has to be performed in the examination suites of the Forensic Pathology Service, the Police will arrange transportation and provide escort service for the victim.



**Maternity protection for female employees**

16. **MR HO KAI-MING** (in Chinese): *President, in connection with the maternity protection for female employees provided under the Employment Ordinance (Cap. 57), will the Government inform this Council:*

- (1) *of the respective numbers, in each of the past five years, of (i) working and non-working pregnant women, (ii) pregnant women issued with attendance certificates or sick leave certificates upon attending antenatal check-ups by the public healthcare sector, and (iii) female employees suffering from miscarriage and preterm birth, and their respective percentages in the total number of pregnant employees;*
- (2) *of the respective numbers of complaints, received by the authorities in the past five years, from female employees about their being discriminated by employers within half year or one year since resumption of duty after maternity leave;*
- (3) *of the number of compensation claims made in the past five years by pregnant employees on grounds of unreasonable and unlawful dismissal; among such cases, the number and percentage of the successful claims; the number of employers who were prosecuted in the past five years for unlawful dismissal of pregnant employees; and*
- (4) *whether the authorities will consider formulating new measures to enhance the employment protection for employees during their pregnancy and upon expiry of their maternity leaves, including issuance of leave certificates for pregnancy-related medical examinations for pregnant women attending antenatal check-ups, extending the post-maternity leave employment protection period, and specifying in A Concise Guide to the Employment Ordinance (i) the definition of "preterm birth" and "miscarriage", and (ii) maternity leave and wage protection for female employees suffering from preterm birth and miscarriage; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the various parts of the question raised by Mr HO Kai-ming is as follows:

- (1) (i) The Department of Health ("DH") does not maintain statistics of local pregnant women. However, in the past five years, the numbers of mothers of known live births in Hong Kong by working mothers and non-working mothers are listed below:

<i>Number of Mothers of Known Live Births in Hong Kong by Working Mothers and Non-working Mothers</i>					
	<i>Year</i> <i>2011</i>	<i>Year</i> <i>2012</i>	<i>Year</i> <i>2013</i>	<i>Year</i> <i>2014</i>	<i>Year</i> <i>2015</i>
Working persons	57 546	53 024	30 095	33 400	30 293
Non-working persons	26 211	23 541	15 054	15 163	13 072
Unknown*	10 233	13 791	10 994	12 763	15 608
Total	93 990	90 356	56 143	61 326	58 973

Note:

\* As the data collection is on a voluntary basis, persons who did not provide response will be classified as "Unknown".

Source: Census and Statistics Department ("C&SD")

- (ii) Maternal and Child Health Centres ("MCHCs") under DH provide a comprehensive antenatal shared-care programme in collaboration with the Obstetric Department ("OBS") of public hospitals under the Hospital Authority ("HA"). Postnatal checkup is also provided by MCHCs and OBS.

Doctors in MCHCs and HA will issue Certificate pertaining to Pregnancy and Expected Date of Confinement upon the pregnant client's requests. Certificate of Attendance or Sick Leave Certificate can be issued for medical examination in relation to pregnancy or post confinement medical treatment visit. Certificate of Attendance can also be issued for routine postnatal service visit. However, MCHCs and HA do not maintain the numbers of Certificate of Attendance and Sick Leave Certificate issued for pregnant and postnatal women.

- (iii) DH does not maintain the numbers of pre-mature births and relevant information and DH is unable to compute the percentage of the number of abortus of working women to the total number of pregnant working women. On the other hand, the numbers of inpatient discharges and deaths\* due to spontaneous abortion<sup>#</sup> and its ratio to the number of mothers of known live births over the last five years are listed below:

<i>Year</i>	<i>Number of inpatient discharges and deaths due to spontaneous abortion<sup>^</sup></i> <i>(a)</i>	<i>Number of mothers of known live births in Hong Kong</i> <i>(b)</i>	<i>Ratio (a):(b)</i>
2011	3 848	93 990	1:24.4
2012	3 969	90 356	1:22.8
2013	3 815	56 143	1:14.7
2014	3 996	61 326	1:15.3
2015	4 153	58 973	1:14.2

Notes:

# Spontaneous abortion is defined as the premature expulsion from the uterus of the products of conception—of the embryo, or of a non-viable fetus. Spontaneous abortion refers to abortion occurring naturally.

\* On episode basis, including discharges and deaths in public hospitals, correctional institution hospitals and private hospitals.

<sup>^</sup> In 2011 to 2015, the number of deaths due to spontaneous abortion for each year is zero.

Source:

Number of inpatient discharges and deaths due to spontaneous abortion:  
HA and DH

Number of mothers of known live births in Hong Kong: C&SD

- (2) The Labour Department ("LD") does not keep statistics on female employees' complaints about discrimination by their employers after resuming work from maternity leave.
- (3) The Labour Tribunal does not keep statistics on claims involving pregnant employees who allegedly were unreasonably and unlawfully dismissed. Between the period 2011 to 2015, LD

launched prosecution against 18 employers who were suspected to have terminated the employment contracts of pregnant employees. Of these employers, 16 were convicted of the offence.

- (4) The existing provisions on maternity protection under EO have accorded comprehensive protection to pregnant employees and have struck a reasonable balance between the interests of employers and employees. For the relevant provisions under EO concerning pregnant employees attending antenatal check-up, public health institutions/doctors will issue the required medical certificates according to the circumstances and needs of their clients. In respect of the "Concise Guide to the Employment Ordinance" ("Guide") published by LD, the Guide attempts to succinctly set out in writing the stipulations of major EO provisions for consumption by members of the public. Such stipulations comprise various benefits and rights including maternity protection. From time to time LD edits and updates the contents of relevant publicity publications having regard to the actual circumstances and needs of the community. For detailed provisions in EO, a member of the public may approach LD for making enquiries.

### **Municipal solid waste**

17. **MR CHAN HAK-KAN** (in Chinese): *President, the Government released in 2013 the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022 ("the Blueprint") which set out the reduction target for municipal solid waste ("MSW") disposal rate on a per capita basis: by 2017, the disposal rate would be reduced by 20% from 1.27 kg per day to 1 kg or below. On the other hand, according to the information contained in Monitoring of Solid Waste in Hong Kong—Waste Statistics for 2014, MSW disposal rate on a per capita basis rose from 1.27 kg in 2011 to 1.35 kg in 2014. Moreover, the quantity of MSW disposed of at landfills rose by an average annual rate of 1.9% during the period from 2010 to 2015, with the weight of food waste accounting for as high as 37.2% of the weight of MSW disposed of at landfills in 2014. Some members of the public have pointed out that the target set by the Blueprint cannot be achieved. In this connection, will the Government inform this Council:*

- (1) *of the respective overall MSW disposal rates in the entire year of 2015 and the first half of 2016;*
- (2) *of the respective quantities of each type of MSW recovered and disposed of at landfills, and their percentages in the total quantity of that type of waste, in each of the past five years;*
- (3) *whether it has analysed the causes for the rise in the quantity of MSW disposed of at landfills in the past five years; if it has, of the outcome;*
- (4) *of the weight of food waste, and its percentage, in MSW disposed of at landfills in each of the past five years (with a breakdown by source of food waste, including households, food premises and supermarkets); whether it has formulated targeted measures to reduce food waste at source; if it has, of the details;*
- (5) *of the respective handling capacities of various waste recovery facilities and the actual quantities of waste handled by them at present;*
- (6) *of the ratio of the quantity of imported recyclable materials to that of re-exported recyclable materials in each of the past five years; and*
- (7) *given that quite a number of countries have implemented landfill taxes and bans in order to gradually reduce dependency on landfills, whether the Government will make reference to the relevant practice and formulate similar policies; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022 ("the Blueprint") issued by the Environment Bureau in May 2013 sets out a comprehensive strategy to reduce waste and increase recovery and recycling in Hong Kong. It also sets

a target of 40% reduction in per capita municipal solid waste ("MSW") disposal rate by 2022. The Monitoring of Solid Waste in Hong Kong Report mentioned in the questions raised by Mr CHAN Hak-kan covers total solid waste, including MSW, special waste and overall construction waste. Since the relevant waste reduction target is only applicable to MSW (i.e. domestic waste and commercial and industrial waste ("C&I waste")), and the questions raised by Mr CHAN Hak-kan are about such wastes, thus our answer and relevant statistics are focused on MSW.

Our replies to the questions raised by Mr CHAN Hak-kan are as follow:

- (1) The Monitoring of Solid Waste in Hong Kong Report for 2015 is currently under compilation by the Environmental Protection Department ("EPD"). The Report is expected to be completed and published by the end of 2016. The compilation of relevant figures for 2016 is expected to be completed in the latter half of 2017.
- (2) Annual statistics on disposal and recovery of various MSW and its recovery rate over the past five years are at Annex 1.
- (3) There was a rising trend in MSW disposal over the past five years, mainly because of an increase in C&I waste disposal (of 13% from 2010 to 2014). Economic growth will usually stimulate consumption and hence production activities, which in turn might contribute to generating more C&I waste, including those generated in shops, eateries, hotels, offices and markets in private housing estates where commercial activities are conducted. The growth in C&I waste largely correlated with the growth in real Gross Domestic Product, as well as the higher growth of local as well as and foreign consumer demand (e.g. visitors).
- (4) Over the past five years, the quantity of food waste (including domestic food waste and C&I food waste) disposed of at landfills and its percent share in respective waste category are at Annex 2. To tackle the food waste problem in Hong Kong, the Government

unveiled "A Food Waste and Yard Waste Plan for Hong Kong 2014-2022" in 2014 which maps out the overall strategies for handling food waste, including reduction at source, reuse and donation, recyclable collection, and turning food waste into energy. Among them, reduction at source and reuse and donation are the main targeted measures for reduction of food waste at source.

Launched in May 2013, Food Wise Hong Kong is a territory-wide campaign for food waste reduction, which aims to raise public awareness of food waste problem. Since the start of Food Wise Hong Kong, we have been promoting food waste avoidance and appealing to the community to adopt personal and domestic behavioural change to reduce food waste through various publicity and educational programmes. In addition, we have also been drawing up and promoting good practices on food waste reduction for C&I establishments, and facilitating surplus food donation between the establishments and charitable organizations in the community.

As reported at the meeting of the Legislative Council Panel on Environmental Affairs on 24 October 2016, although food waste still accounted for the largest share of MSW in terms of waste disposal in landfills, the percent share of food waste disposal in landfills has fallen from 37% in 2014 to 33% in 2015. In 2015, the quantity of food waste disposed of at landfills was 1.23 million tonnes (3 382 tonnes per day), which has decreased by 7.1% as compared with the same in 2014. Discounting the factor of population growth, the municipal food waste per-capita disposal rate has fallen from 0.50 kg per day in 2014 to 0.46 kg per day in 2015, which has decreased by 7.9% year-on-year. This is likely because of the public's gradual acceptance of Government's yearlong education programmes and publicity campaigns, which advocate domestic waste reduction at source, source separation and recycling. EPD will continue to closely monitor the effectiveness of these measures to reduce domestic waste disposal.

- (5) At present, locally generated recyclable materials are mainly handled by private recycling facilities, but we do not have relevant details of the design and actual capacities of these facilities. Moreover, a certain portion of these recyclables are handled by recycling facilities constructed and operated by the private recyclers in EcoPark. In 2015, these facilities processed a total of over 160 000 tonnes of recyclables, exceeding the original projected annual throughput set at 58 600 tonnes in 2006 when the Government applied for funding support from the Legislative Council. In addition, in order to accumulate experiences and acquire information related to source separation, collection and the application of biological treatment of food waste, EPD commissioned the Pilot Composting Plant at the Kowloon Bay Waste Recycling Centre. It has processed 268 tonnes of food waste in 2015.
- (6) Latest statistics on import and re-export of recyclables over the past five years are at Annex 3. In recent year, the respective quantities of imports and re-exports of recyclables have been broadly balanced, indicating that most of the imported recyclables have been re-exported. As regards the small quantities of imports in excess of re-exports, the local recycling industry should be capable of consuming them for the production of raw materials or recycled products for either local consumption or export (as domestic export).
- (7) We are now on track to implement the strategies and measures under the Blueprint. We will continue the progressive implementation of mandatory producer responsibilities schemes and submit legislative proposals to the Legislative Council on the implementation of quantity-based MSW charging. We expect these measures can help promote waste reduction and recycling effectively. We will continue to closely monitor the effectiveness of these measures and consider the unique circumstances and conditions of Hong Kong to review the need of introducing additional measures or tools.



## Annex 1

## Statistics on MSW Disposal and Recovery

<i>Type of Waste/ Recyclables</i>	<i>Recovery quantity</i>	<i>Disposal quantity</i>	<i>Recovery Rate</i> <i>[=(Recovery quantity/ (Recovery quantity+ Disposal quantity)) x 100%]</i>
	<i>(Thousand Tonnes)</i>	<i>(Thousand Tonnes)</i>	<i>(Percent)</i>
Paper			
2010	1 195	732	62%
2011	1 278	705	64%
2012	1 162	697	63%
2013	1 035	666	61%
2014	948	702	57%
Plastics			
2010	1 577	708	69%
2011	843	618	58%
2012	317	668	32%
2013	243	681	26%
2014	99	736	12%
Ferrous Metals <sup>(1)</sup>			
2010	566	49	92%
2011	667	52	93%
2012	500	70	88%
2013	523	53	91%
2014	845	57	94%
Non-ferrous Metals			
2010	155	15	91%
2011	115	14	89%
2012	78	18	82%
2013	79	12	87%
2014	76	20	79%

<i>Type of Waste/ Recyclables</i>	<i>Recovery quantity    Disposal quantity</i>		<i>Recovery Rate</i> <i>[=(Recovery quantity/ (Recovery quantity+ Disposal quantity)) x 100%]</i>
	<i>(Thousand Tonnes)</i>	<i>(Thousand Tonnes)</i>	<i>(Percent)</i>
<b>Glass<sup>(2)</sup></b>			
2010	5	136	3%
2011	5	101	4%
2012	18	106	15%
2013	10	129	7%
2014	8	104	7%
<b>Textile</b>			
2010	20	85	19%
2011	11	79	12%
2012	4	107	3%
2013	7	99	7%
2014	4	107	4%
<b>Wood</b>			
2010	17	98	15%
2011	18	105	14%
2012	9	128	7%
2013	6	134	4%
2014	6	116	5%
<b>Food Waste</b>			
2010	N.A.	1 181	N.A.
2011	0.6	1 308	0%
2012	7	1 221	1%
2013	29	1 331	2%
2014	7	1 329	1%
2015 <sup>(3)</sup>	14	1 234	1%

<i>Type of Waste/ Recyclables</i>	<i>Recovery quantity Disposal quantity</i>		<i>Recovery Rate</i> <i>[=(Recovery quantity/ (Recovery quantity+ Disposal quantity)) x 100%]</i>
	<i>(Thousand Tonnes)</i>	<i>(Thousand Tonnes)</i>	<i>(Percent)</i>
Electrical and Electronic Equipment <sup>(4)</sup>			
2010	61	13	82%
2011	67	9	88%
2012	56	14	80%
2013	56	15	78%
2014	56	15	79%
Total <sup>(5)</sup>			
2010	3 603	3 327	52%
2011	3 019	3 283	48%
2012	2 163	3 396	39%
2013	2 009	3 485	37%
2014	2 053	3 570	37%

N.A. No data or not applicable

Notes:

- (1) Ferrous metals generated from construction, renovation and demolition works are not included.
- (2) Glass beverage bottles recovered through deposit-and-refund system operated by local beverage manufacturers are not included in the recovery quantity.
- (3) The Environmental Protection Department ("EPD") has compiled the statistics on food waste disposal for 2015 in advance to facilitate the discussion of the Panel on Environmental Affairs of the Legislative Council on 24 October 2016.
- (4) The volume of waste electrical and electronic equipment recovered for recycling is compiled from the findings of a survey on "Generation & Disposal Practice of Used/End-of-Life Electrical & Electronic Equipment and Batteries in Hong Kong" commissioned by EPD.
- (5) Figures may not add up to total due to rounding off.

2011-2015<sup>(1)</sup> Statistics on Food Waste Disposal at Landfills

Year	Domestic Food Waste		Commercial and Industries (C&I) Food Waste <sup>(2)</sup>		Total Food Waste	
	Disposal (Tonnes per day)	Share in total domestic waste disposal (Percent)	Disposal (Tonnes per day)	Share in total C&I waste disposal (Percent)	Disposal (Tonnes per day)	Share in municipal solid waste disposal (Percent)
2011	2 528	42%	1 056	35%	3 584	40%
2012	2 528	40%	809	27%	3 337	36%
2013	2 645	42%	1 003	32%	3 648	38%
2014	2 608	41%	1 033	31%	3 640	37%
2015	2 397	37%	985	27%	3 382	33%

Notes:

- (1) EPD has compiled the statistics on food waste disposal for 2015 in advance to facilitate the discussion of the Panel on Environmental Affairs of the Legislative Council on 24 October 2016.
- (2) EPD did not compile a breakdown of the disposal statistics on food waste originating from dining hall, restaurants and supermarkets.

## Latest Statistics on Import and Re-export of Recyclables

Year	Import Volume of Recyclables	Re-export Volume of Recyclables	Share of Re-exported Recyclables in Imported Recyclables
	(Thousand Tonnes)	(Thousand Tonnes)	(Percent)
2010	5 736	3 113	54%
2011	4 837	3 101	64%
2012	3 922	3 470	88%
2013	3 146	2 814	89%
2014	3 650	3 477	95%

Notes:

- (1) Compilation of the above import and re-export figures is based on the latest relevant external trade statistics released by the Census and Statistics Department, while compilation of trade statistics is based on information contained in trade declarations made by importers/exporters to the Customs and Excise Department. Information declared in trade declarations is mainly for compilation of trade statistics, and the shipment/goods details declared by importers/exporters at the time of import and re-export might be different. Therefore, the annual import/re-export figures on recyclables can only be used for rough comparison.
- (2) As pointed out in the report of a consultancy study commissioned by EPD in 2012, certain re-export recyclables might have been erroneously declared as domestic exports in 2010 and 2011, resulting in lower volumes of re-export recyclables for these two years. Since April 2014, the government departments concerned have strengthened the checking of the relevant export declarations and held regular seminars to assist traders in lodging accurate trade declarations.

### **Water resources management and drinking water safety**

18. **DR ELIZABETH QUAT** (in Chinese): *President, some environmentalists have pointed out that with the intensification of global warming and the growth in the world population, water resources have become increasingly scarce. They consider that although Hong Kong currently does not have the problem of scarcity of water resources, the Government should step up its management of the precious water resources, and it should attach importance to drinking water safety, which has a direct impact on public health. In this connection, will the Government inform this Council:*

- (1) *given that in recent years, countries such as the United States, Germany, Switzerland and Singapore and more than 30 Mainland cities have adopted the "sponge city" concept (i.e. to collect rainwater for use by a city and improve the city's flood relief capacity through enhancing the water storage capacity and water recycling system of the city) in their urban planning, and that the Secretary for Development indicated in August this year that the Government was actively taking forward this concept, whether the Government has conducted in-depth studies in this regard; if so, of the details; whether it has adopted such a concept in its planning for development of new towns and redevelopment of old districts; if so, of the details; if not, the reasons for that;*

- (2) *given that the government departments currently involved in water resources management include the Water Supplies Department ("WSD"), the Drainage Services Department ("DSD"), the Environmental Protection Department, the Buildings Department and the Housing Department, whether the Government will, by making reference to Singapore's practice, set up a dedicated department to take up the responsibility of water resources management; if so, of the details; if not, the reasons for that;*
- (3) *given that reservoirs overflow occurred in 10 of the past 11 years, resulting in the discharge of drinking water into the sea, and that WSD and DSD are implementing an Inter-reservoirs Transfer Scheme to transfer the overflow from the Kowloon Group of Reservoirs to Lower Shing Mun Reservoir, of the latest progress of the Scheme and the commencement and completion dates of the works; whether it has formulated new measures to reduce occasions of drinking water being discharged into the sea; if so, of the details; if not, the reasons for that;*
- (4) *given that an environmental group had found perfluorinated chemicals, which are hazardous to human health, in the samples of drinking water taken from five reservoirs, and that such substance is currently not one of the regular parameters for monitoring drinking water quality, whether the Government will make reference to the practice of advanced countries and include such chemicals as one of the regular monitoring parameters, and whether it will publish, on a regular basis, monitoring reports on hazardous chemicals in drinking water; if so, of the details; if not, the reasons for that;*
- (5) *of the date on which the Government last conducted a review on the system for conducting tests on drinking water from reservoirs and other details;*
- (6) *as the Director of Audit's Report ("the Report") published last month pointed out that for 63 of the 71 river monitoring stations situated in water control subzones, the average levels of Escherichia coli recorded in 2015 had exceeded the relevant water quality objectives, whether the Government has specific measures in place to improve the water quality of rivers; if so, of the details; if not, the reasons for that;*

- (7) *given that one of the causes of pollution to watercourses is the failure to properly manage septic-tank-and-soakaway ("STS") systems in rural areas, and that the Report pointed out that the 78 existing private desludging operators had not been issued with the relevant licences, whether the Government has measures in place to strengthen its regulation of STS systems and such type of operators; if so, of the details, including whether it will amend the legislation to impose heavier penalties on unlicensed engagement in such business; if there is no such measure, the reasons for that;*
- (8) *given that currently the Government has added fluoride to drinking water to reduce the risk of dental decay in the community, but some medical research reports have pointed out that the intake of an excess level of fluoride will do harm to children's brain development, whether the Government has studied if fluoridation of drinking water (i) does more good than harm and (ii) has impacts on children's brain development; if so, of the details; whether the Government will consider using instead other chemicals which have lower health risks; if so, of the details; if not, the reasons for that; and*
- (9) *of the per capita water consumption and the total water consumption in each of the past 10 years, as well as the relevant details; whether it has studied how Hong Kong's per capita annual water consumption compares with the figures of other advanced cities in the world; of the new measures in place to encourage the public to conserve water; whether it has set a target for water conservation; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government promulgated the Total Water Management strategy in 2008 to address the challenges brought by climate changes. The strategy advocates containing growth of water demand by promoting water conservation and effective water mains leakage management. The strategy also seeks to develop a new water supply framework by exploring new water resources that are not susceptible to climate changes featuring the primary water sources of rainfall, Dongjiang water and seawater for flushing, and ancillary water sources covering desalination, reclaimed water, grey water reuse and rainwater harvesting. In this connection, the Water Supplies Department ("WSD") has commenced a

consultancy study at the end of 2014 to evaluate the effectiveness of the current measures and project the long-term supply and demand of water up to 2040, with a view to making appropriate adjustments and enhancements to the current measures and formulating new policies and plans for water resources management.

The Government attaches great importance to the quality of drinking water supplied by WSD to the general public. Under the current water quality monitoring scheme of WSD, over 160 000 water samples are collected each year from catchment areas, impounding reservoirs, water treatment works, service reservoirs, trunk mains and consumers' taps for an array of physical, chemical, bacteriological, biological and radiological tests to ensure that the water quality complies with the health-based guideline values of the World Health Organization ("WHO"). The relevant water quality monitoring data are regularly uploaded to WSD's website for information of the public.

The following is our reply, after consultation with the Food and Health Bureau and the Environmental Protection Department ("EPD"), to the nine parts of the question:

- (1) The Government has adopted the sponge city concept of "following the nature with flexibility" in designing the drainage improvement works completed in recent years. For instance, the engineered wetland of the Yuen Long Bypass Floodway can perform natural purification for the water bodies in the wetland effectively. The Ho Chung River in Sai Kung and Lam Tsuen River in Tai Po are also designed to simulate natural river courses and adopt natural river bed substrate to facilitate infiltration of river water. The Government has also incorporated elements that simulate the natural water cycle in its large-scale drainage improvement works and drainage planning for new development areas, such as green rooftops, porous road surfacing and rainwater harvesting systems. The objective is to facilitate the infiltration, natural purification and reuse of rainwater with a view to enhancing our city's resilience to flooding.

At present, the Government is actively seeking opportunities, including suitable new development areas, for re-using harvested rainwater for non-potable uses. Taking the Anderson Road Quarry



Development project as an example, the Government plans to construct an artificial lake that will feature triple functions. During most of the time, the lake can serve as a leisure area for public enjoyment. At times of heavy rainstorms, it can impound rainwater and help reduce flooding risk downstream. Part of the lake water can also be used for irrigation and other non-potable uses locally after treatment.

- (2) Diverse models for water resources management are adopted in different parts of the world. The governments need to determine the most efficient framework for water resources management in the light of their own situation. At present, our primary water sources (i.e. rainwater collected locally, Dongjiang water and seawater for toilet flushing) and related facilities are managed by WSD while stormwater drainage systems and facilities for collection, treatment and discharge of sewage are under the purview of the Drainage Services Department. EPD is primarily responsible for monitoring the water quality of Hong Kong's marine, beaches and rivers, and enforcement of the Water Pollution Control Ordinance to protect the waters from pollution. The Government has no plan to make any changes in this respect for the time being.
- (3) Rainfall in Hong Kong varies greatly between dry and rainy seasons. As such, reservoirs are needed as buffers to cope with the seasonal imbalance in the supply and demand of water resources. In designing water catchment areas and reservoir capacities, our primary consideration is whether the water collected in the catchments and stored in reservoirs can meet the demand of the supply zones in dry years. Construction of a reservoir requires huge investments in terms of land and capital. If we focus on years with exceptionally high rainfall and construct an over-sized reservoir, the storage capacity would be wasted most of the time. This is neither an ideal way to utilize our land nor a cost-effective approach. Therefore, our reservoirs are generally of moderate size and may overflow during occasional persistently heavy rainfall.

In this connection, we are proactively taking effective measures to reduce overflow from reservoirs. Before the onset of the rainy season each year, we will make reference to the information provided by the Hong Kong Observatory to reduce total storage of reservoirs to allow more storage space for rainwater and, hence, reduce the chance of overflow.

The quantities of reservoir overflow have been reduced to 40.2 million cu m, 23.1 million cu m and 3.3 million cu m in 2013, 2014 and 2015 respectively. We will continue to study ways to further reduce reservoir overflow and convert the overflow into usable water resources.

When the Lai Chi Kok Transfer Scheme was formulated for reducing the flood risks at West Kowloon region, the Government took advantage of the opportunity it presented to take forward the Inter-Reservoirs Transfer Scheme ("IRTS") concurrently. Under IRTS, a tunnel connecting the Kowloon Byewash Reservoir and the Lower Shing Mun Reservoir will be built to transfer the overflow from the Kowloon Group of Reservoirs to Lower Shing Mun Reservoir to achieve the dual objectives of reducing the run-off flowing into the Lai Chi Kok drainage system and converting the overflow into potable water resources. Currently, the Government is reviewing the detailed design, method statements and related environmental impact assessments of IRTS in order to enhance its cost-effectiveness and prepare the implementation schedule.

- (4) The 2011 edition of WHO's Guidelines for Drinking-water Quality has not established any guideline values for perfluorinated chemicals ("PFCs"). Notwithstanding this, WSD has been monitoring the levels of PFCs in raw water and drinking water under the Stockholm Convention's Persistent Organic Pollutants Monitoring Program. In this connection, WSD has started to test for perfluorooctane sulfonic acid ("PFOS") since July 2012. The sample test results also include data related to perfluorooctanoic acid ("PFOA"). The past monitoring results indicated that the levels of PFOA and PFOS in the reservoir waters were under the reporting values of 0.01 microgram per litre and 0.005 microgram per litre respectively, which were below the health advisory levels of the United States

Environmental Protection Agency<sup>(1)</sup> and the guidance levels of the United Kingdom's Drinking Water Inspectorate<sup>(2)</sup>. Therefore, the risk of reservoir water being polluted by PFCs is very low. WSD has no plan to incorporate PFCs into its routine monitoring programme. As for the other chemical compounds identified to be harmful to human health in the 2011 edition of WHO's Guidelines for Drinking-water Quality, WSD has kept them under regular monitoring and published the findings on its website.

- (5) WSD conducts annual review to formulate water quality monitoring programmes (including testing parameters for water quality and frequency) for reservoirs for the following year. The last review, concluded in February 2016, covered sampling locations as well as testing parameters and frequency. Its findings confirmed that there was no need to revise the water quality monitoring programmes.
  - (6) EPD has implemented the Water Pollution Control Ordinance and the Livestock Waste Control Scheme since the 1980s and formulated 16 Sewerage Master Plans for the whole territory. The above mentioned legislation and various plans have brought about steady improvements to the water environment of Hong Kong. All gazetted beaches in Hong Kong have achieved the bacteriological water quality objectives since 2010. The Cross Harbour Race has also resumed since 2011. Moreover, 82% of our rivers attained the grading of "Good" or above in 2015, as compared with only 35% in 1986. The levels of *Escherichia coli* of our rivers have also been reduced by 80%, when compared with those in the 1980s. The pollution load of most major rivers has also dropped significantly and up to a maximum of 96%. EPD will continue to pursue a multi-pronged approach to improve the river water quality in the most cost-effective manner. It will step up efforts to vet the design and performance of septic-tank-and-soakaway ("STS") systems for
- (1) The United States Environmental Protection Agency has established health advisory levels for the total concentrations of PFOA and PFOS, which are PFCs found to cause significant human health effects, at 0.07 microgram per litre (70 nanogram per litre) respectively.
  - (2) The Drinking Water Inspectorate of United Kingdom has established 0.3 microgram per litre (300 nanogram per litre) as the guidance values for both PFOA and PFOS in drinking water.

new village house at the planning stage and take enforcement actions against the polluting STS systems. Village sewerage programmes will be implemented in the light of available resources and the local situation. Provision of dry weather flow interceptors at high risk or polluting areas and public toilets at unsewered rural areas will also be considered. The surface drainage systems will also be cleansed.

- (7) The STS system is a cost-effective installation commonly used at village houses in Hong Kong and other countries. With proper design, operation and maintenance, the STS system can effectively curb pollution. To help residents of village houses operate their STS systems properly, EPD has issued the Guidance Notes on Discharge from Village Houses, setting out guidelines on the operation and maintenance of the STS systems. Upon receipt of a pollution complaint, EPD will inspect the STS system concerned and require the owner to make improvements. If the problem persists with evidence indicating pollution of nearby water bodies, EPD will consider taking legal actions.

EPD has introduced licensing regimes for the collection of chemical wastes and clinical wastes, with due regard for the different nature. But private desludging service providers are not required to obtain such collection licenses as the sludge in septic tanks are not hazardous wastes. As such, these service providers will not be held liable for operating without licence under the Waste Disposal Ordinance. Notwithstanding this, desludging service providers should stand vigilant and provide proper services to avoid adversely affecting environmental hygiene. The operators involved in illegal dumping of sludge from septic tank will be prosecuted. Under the Waste Disposal Ordinance, a person is liable to a maximum fine of \$200,000 and imprisonment for 6 months on the first occasion on which he is convicted of unlawful disposal of waste. With regard to the Audit's recommendation for strengthening the regulation of desludging services, EPD and the Food and Environmental Hygiene Department will review in detail the relevant provisions of the Waste Disposal Ordinance and, where necessary, consult the trade on the way forward.

- (8) According to the Department of Health ("DH"), it is the consensus of international health authorities (including WHO, World Dental Federation and American Dental Association) that water fluoridation is a safe and effective public health policy. Maintaining a suitable and low level of fluoride in the oral cavity can lower the risk of dental decay in both children and adults. According to WHO's Guidelines for Drinking-water Quality, the guideline value for fluoride in drinking water is 1.5 mg per litre. The current level of fluoride in drinking water recommended by DH in the light of the local situation is 0.5 mg per litre, which is far below WHO's guideline value.

According to DH's public health surveillance, water fluoridation plays an important role in maintaining the good oral health status of the Hong Kong population. WSD has also closely monitored the fluoride content in the treated drinking water to ensure that the average fluoride content in drinking water complies with DH's recommended level and is fit for consumption. DH and WSD will continue to review the arrangement regularly.

As for the medical research of the effect of fluoride on neurodevelopment of children, the medical profession is still divided over the methodology, data analysis, etc. For instance, the fluoride concentrations in water adopted in the studies were significantly higher than WHO's guideline value. The features of sampling locations of these studies were also different from the sources of drinking water. Therefore, DH considers that there is no sufficient evidence to prove that adding appropriate amount of fluoride in drinking water will undermine people's health, including children's neurodevelopment.

- (9) The annual total water consumption and per capita water consumption in Hong Kong in the past 10 years are shown below:

<i>Year</i>	<i>Annual Water Consumption (million cu m/year)</i>			<i>Annual per capita consumption<sup>(3)</sup> (cu m/year)</i>
	<i>Fresh Water</i>	<i>Sea Water</i>	<i>Total</i>	
2006	963	260	1 223	178.4
2007	951	270	1 221	176.6

<i>Year</i>	<i>Annual Water Consumption (million cu m/year)</i>			<i>Annual per capita consumption<sup>(3)</sup> (cu m/year)</i>
	<i>Fresh Water</i>	<i>Sea Water</i>	<i>Total</i>	
2008	956	275	1 231	176.9
2009	952	271	1 223	175.4
2010	936	269	1 205	171.6
2011	923	271	1 194	168.8
2012	935	273	1 208	168.9
2013	933	278	1 211	168.5
2014	959	271	1 230	169.9
2015	973	272	1 245	170.4

Note:

- (3) Annual per capita consumption is computed by dividing total water consumption of the year by total population.

The following table sets out the domestic per capita water consumption in some developed cities in 2014 as shown in the International Statistics for Water Services 2016 released by the International Water Association in the same year:

<i>City (Country)</i>	<i>Domestic per capita water consumption<sup>(4)</sup> (litre/day)</i>
Madrid (Spain)	107
Amsterdam (Netherlands)	136
London (United Kingdom)	155
Paris (France)	187
Sydney (Australia)	200
Tokyo (Japan)	220
Seoul (South Korea)	284
New York (United States)	476

Note:

- (4) Domestic per capita water consumption includes both fresh water and flushing water. Water consumption of different cities may vary, depending on the availability of water resources, domestic water consumptions pattern, household size and local climate, etc.

Over the past 10 years, the domestic per capita water consumption of Hong Kong fluctuated between 177 litres and 184 litres per day and, when compared with other major cities, falls within the middle strata. Since sea water is widely used for flushing purpose in Hong Kong, our actual per capita fresh water consumption is around 130 litres per day.

WSD has adopted a multi-pronged approach to encourage the public to save water. It has rolled out an array of software and hardware measures to promote water conservation and set the target of saving 10 litres of water a day per person by reference to overseas experience in 2014.

On the software measures, WSD has put emphasis on encouraging our young generation to develop water saving habits. It launched the "Cherish Water Campus" Integrated Education Programme for primary schools in the 2015-2016 school year. As at November 2016, around 210 schools have joined the programme. The water conservation education will be further extended to kindergartens in the school year of 2017-2018. Furthermore, a large-scale five-day educational campaign, the Water Conservation Week 2016, was held from 17 to 21 November this year to help the public understand the challenges in relation to water resources that are brought by climate changes and encourage them to use less water. Over 20 000 people participated in the Water Conservation Week.

As regards the hardware measures, WSD has given out flow controllers to nearly 140 000 households for participating in the "Let's Save 10L Water" Campaign. It has also completed the installation of flow controllers on water taps and showers at more than 80 000 public housing households. It also plans to further promote the use of water saving devices by mandating the use of devices with Water Efficiency Label in new developments and building renovation projects.

Furthermore, WSD is constructing a new Water Resources Education Centre in Tin Shui Wai scheduled to commence operation in 2019 to enhance the knowledge of the public about water resources and water conservation.

## **Information security in Hong Kong**

19. **MR CHARLES PETER MOK** (in Chinese): *President, in recent years, information security incidents and cybercrimes, which involved increasingly sophisticated modus operandi and technology, have occurred frequently in Hong Kong, thus putting the networks of government departments, financial system and enterprises under threats. In the first eight months of this year, the Police have received 49 reports of blackmails using encryption ransomware, and the total monetary loss involved in five of such cases was nearly \$70,000. In addition, the Hong Kong Computer Emergency Response Team Coordination Centre ("HKCERT") under the Hong Kong Productivity Council received 247 reports of blackmails using encryption ransomware over the first nine months of this year, representing a more than threefold year-on-year increase. Regarding the enhancement of the information security of government departments, the financial system and the business operations of enterprises in Hong Kong, will the Government inform this Council:*

- (1) *whether it knows the respective numbers, in each of the past three years, of reports of incidents in which computers or websites of (i) government departments and (ii) other organizations were subject to cyberattacks and encountered information security incidents, with a breakdown by name of the department/organization and type of incident (including web defacement, intrusion of networking and information systems, distributed denial-of-service ("DDoS") attacks and blackmails using encryption ransomware);*
- (2) *given that the computers of the Harbour Patrol Section of the Marine Department and the Office of the Centre for Food Safety of the Food and Environmental Hygiene Department had, one after another, fallen victims to implantations and intrusions by hackers in October this year, of the respective monetary losses suffered by the Government as a result of such incidents; whether the authorities have reviewed if the computer systems and anti-virus software in use by various government departments are adequate to guard against cyberattacks, such as phishing websites, botnets, malicious software and DDoS attacks;*



- (3) *given that the server of the Immunization Record System of the Clinical Information Management System ("CIMS") of the Department of Health was earlier suspected of having been intruded into by hackers, how the authorities will enhance the security of CIMS to protect the personal data and privacy of members of the public;*
- (4) *given that the Office of the Government Chief Information Officer ("OGCIO") has indicated its plan to strengthen its efforts to defend against cyber threats by forming a new team in the middle of this year, (i) whether that team has been formed, (ii) what specific tasks the team has undertaken and has planned to undertake respectively, and (iii) whether the team will conduct information security assessments and audits for various government departments; if the team will, of the timetable; if not, the reasons for that;*
- (5) *of the number of cyber security drills conducted by the Government Computer Emergency Response Team Hong Kong in collaboration with the Hong Kong Police Force ("HKPF") since its establishment, and the respective categories and scales of the simulated cyberattack incidents (set out separately in chronological order);*
- (6) *of the scope of work of the Cyber Security and Technology Crime Bureau ("CSTCB") of the HKPF in addressing cybercrimes; whether CSTCB has participated in the various types of information security work of the Security Bureau, the Innovation and Technology Bureau and OGCIO, including (i) the conduct of security risk assessments and audits, (ii) the implementation of technical security solutions, and (iii) the upgrade of security infrastructures;*
- (7) *how many organizations participated in the "SME Free Web Security Health Check Pilot Scheme" organized by the authorities through HKCERT this year; whether and how the authorities have assessed the effectiveness of the scheme, and whether they will expand the scheme to enable more small and medium enterprises ("SMEs") to participate; given that SMEs face higher information security risks, whether the Government will provide SMEs with extra funding and support to help them strengthen the security of network infrastructure and enhance information security;*

- (8) *given that a large-scale cyberattack launched by hackers in the United States in October this year has rendered a number of major local websites paralysed, whether the authorities have formulated an information security strategy in relation to the promotion of smart city development in Hong Kong, so as to address cyberattacks targeting household, personal and mobile network devices, merchant point-of-sale systems and Internet-of-Things systems;*
- (9) *given that incidents of hacker intrusions into automatic teller machine systems of banks have occurred successively in Thailand and Taiwan recently, whether the authorities have specific measures in place to safeguard the information security of the financial system of Hong Kong so as to ensure that the system has adequate protection against similar incidents of hacker intrusions; whether they will conduct comprehensive risk assessments on the current information security of government agencies, financial institutions, industry bodies (such as telecommunication companies) and their infrastructures;*
- (10) *whether the authorities have assessed Hong Kong's long-term needs for information security personnel to tie in with the direction of smart city and financial technology development in Hong Kong; whether they have plans to formulate policies to nurture information technology personnel and network security experts, so as to address various types of information security threats; and*
- (11) *since the review of the current legislation and the relevant administrative measures in 2000, whether the authorities have plans to establish afresh an inter-departmental working group for the enhancement of information security work to study ways to address the new challenges posed by the application of cloud technology?*

**SECRETARY FOR INNOVATION AND TECHNOLOGY** (in Chinese): President, with the rapid development of information technology ("IT") and increasing popularity of smart devices, information security and the threats posed by cyber attacks have brought impacts on Internet users. The Government has been closely monitoring the trend of cyber attacks and related security threats.

The Office of the Government Chief Information Officer ("OGCIO") has been collecting cyber threat information disseminated by the cyber security industry and computer emergency response teams around the world, and issue timely security alerts and reminders to Government bureaux and departments ("B/Ds"), as well as assist government IT management staff and Information Security Incidents Response Teams in B/Ds to make prompt response and strengthen their precautionary measures.

Having consulted the Security Bureau, the Commerce and Economic Development Bureau, the Financial Services and the Treasury Bureau and other relevant departments, the reply to each part of the question is as follows:

- (1) In the past three years, OGCIO received a total of 31 information security incident reports from government departments, while the Hong Kong Computer Emergency Response Team Coordination Centre ("HKCERT") received a total of 13 517 such reports from local enterprises and users over the same period. The relevant incidents by type are set out in Annex.
- (2) Regarding the hacker intrusion incident at the Harbour Patrol Section of the Marine Department and the office of the Centre for Food Safety of the Food and Environmental Hygiene Department, the departments concerned have promptly and properly dealt with the incidents in accordance with the established information security incident response mechanism and procedures. As the intrusions were caused by ransomware, OGCIO also immediately issued reminders and guidelines on strengthening ransomware prevention to B/Ds, requesting them to step up checks on the computer systems and anti-malware softwares, so as to ensure the information security defensive capabilities within the Government. The Government has not suffered any monetary loss as a result of the relevant incidents.

On protecting government information systems and networks, the Government has put in place overall management framework, technical measures and security mechanisms to closely monitor the operation of government information and network systems, so as to detect and block various kinds of potential cyber attacks. B/Ds

should abide by the Government's information security policies and guidelines, take appropriate measures to ensure the safe and normal operation of the Government's information and network systems, including the implementation of multiple layers of security such as the use of firewalls, intrusion detection and defensive systems and anti-malware softwares. B/Ds should also ensure the correct set-up of systems and the timely installation of security patches to prevent any security vulnerabilities from posing threats against the Government's information systems. Moreover, they should conduct regular security risk assessments and third-party audits on their information and network systems, to ensure that the systems comply with the relevant security requirements and regulations, and have adequate defensive capabilities to protect government systems and data assets.

In addition, OGCI has been closely monitoring the trends of cyber attacks and the associated security threats, providing timely technical assistance and recommending precautionary measures to B/Ds. It also issues technical guidelines, security alerts and reminders and organizes seminars to strengthen their information security awareness and capabilities to prevent, detect and respond to cyber attacks.

- (3) In July 2016, the Department of Health ("DH") discovered that the Immunization Record System of its Clinical Information Management System had been intruded by hackers. DH handled the incident in accordance with the established procedures, reported the incident to OGCI and the Office of the Privacy Commissioner for Personal Data, and referred the case to the Police for investigation. DH also sent letters to all those who might be affected, advising them to be vigilant against any illegal use of their personal information.

On the protection of personal and classified information, the Government has put in place very stringent information security requirements and responsive measures, stipulating that the access to and use of relevant application systems and data should be restricted to authorized persons and that data access rights should be clearly defined and reviewed periodically. It is also required that sensitive

data and documents, when being saved or transmitted, should be encrypted in accordance with recognized industry standards to ensure the proper protection of government data assets.

In 2016, OGCIO conducted a comprehensive review on the "Government IT Security Policy and Guidelines", by making reference to the latest ISO 27001 international standards and other industry best practices, in order to strengthen the security requirements in individual areas, including the confidentiality requirements for storing sensitive information and departmental management capability to respond to information security incidents.

- (4) OGCIO set up a new team in July this year to step up actions against cyber security threats. The team is establishing a pilot cyber threat information sharing platform, which will collate and evaluate cyber threat information and data from different sources using big data analytics technology, so that more targeted cyber threat alerts can be issued to B/Ds and provide them with advice on counter measures. Moreover, OGCIO will launch a new round of "security compliance audits" by the end of this year to assess B/Ds' compliance with the "Government IT Security Policy and Guidelines". During the course of assessment, OGCIO will assist relevant B/Ds to continuously improve their security management systems and to cope with emerging security threats.
- (5) Since 2014, the Hong Kong Police Force ("HKPF") has conducted various types of cyber security drills together with industry stakeholders and local critical infrastructures. In 2014, a total of 14 organizations of critical infrastructures participated in the drills. In 2015, the number of participating organizations increased to 28. Through various simulated incident scenarios, cyber security drills test the capabilities of incident analysis, the standing incident response procedures and the communication protocol of the participants. The simulated cyber attacks incidents include the most common scenarios with profound impacts, such as Distributed Denial of Services attacks, web defacement, intrusion of network and information systems, ransomware, malware and sensitive data breaches.

The Police will, in collaboration with OGCIO, conduct a large-scale cyber security drill involving 30 government departments in January 2017 to enhance government departments' capability to protect information systems and handle cyber security incidents.

- (6) The Cyber Security and Technology Crime Bureau ("CSTCB") of HKPF is responsible for a wide range of duties in tackling cyber crimes. Its major functions include:
- (a) detecting syndicated and highly sophisticated technology crimes and conducting proactive intelligence-led investigations;
  - (b) providing assistance to critical infrastructures by conducting timely cyber threat audits and analyses to prevent and detect cyber attacks against them;
  - (c) enhancing incident response capability to major cyber security incidents or massive cyber attacks;
  - (d) strengthening thematic researches on cyber crime trend and mode of operation, vulnerabilities of computer systems and development of malware;
  - (e) strengthening cooperation with local and overseas stakeholders and law enforcement agencies to counter prevalent technology crimes and cyber threats; and
  - (f) conducting trainings on cyber security and technology crimes.

Since its establishment, CSTCB has been collaborating with various government departments and stakeholders of different trades to strengthen the reliability of the information system network of critical infrastructures, as well as to enhance Hong Kong's capability to protect relevant information system networks and guard against cyber attacks.

- (7) To enhance the cyber security awareness among local small and medium enterprises ("SMEs") and strengthen their defensive capabilities against cyber attacks, HKCERT launched the "SME Free Web Health Check Pilot Scheme" jointly with a number of local trade associations early this year to check the health status of the SMEs' websites and suggest improvement measures, and to verify the effectiveness of the measures upon implementation. The first round of checks under the scheme was completed in the middle of this year, and website security check reports and free consultation services were provided to 30 participating SMEs. In August, seminars were held to share the findings and improvement suggestions. A second round of checks has also been completed. Through the scheme, participating SMEs can have a better understanding of the security risks of their websites and the best practices in website security, thereby enhancing the protection for their websites. OGCIO will continue to work closely with HKCERT to explore activities which will further raise the cyber security level of local SMEs.

The Innovation and Technology Commission launched a \$500 million Technology Voucher Programme on a pilot basis under the Innovation and Technology Fund on 21 November this year to subsidize the use of technological services and solutions by SMEs, including IT that assists enterprises to enhance cyber security.

- (8) In the process of promoting the development of smart city, it is imperative to develop relevant IT security and technical standards. When considering the options for implementing Internet of Things, the Government will evaluate the security risks in the relevant segments, including terminal devices, network systems, information management, etc., in order to comply with the requirements under the security regulations and policies of the Government. We are conducting a consultancy study for formulating a Smart City Blueprint for Hong Kong, including the development of IT security and technical standards. The study is expected to complete in mid-2017.

- (9) The Hong Kong Monetary Authority ("HKMA"), the banking industry and HKPF have been monitoring the crime cases related to ATMs, including the cases involving overseas ATMs being intruded by hackers, causing them to dispense cash automatically. According to information provided by HKMA, these cases involved the planting of malwares into the overseas ATMs in respect of which no protective measures against malwares have been implemented. In Hong Kong, effective security measures against malwares have been implemented in all ATMs in accordance with HKMA's guidelines. In light of these cases, HKMA, the banking industry and HKPF have earlier reminded banks to review their security controls, so as to further reduce the risk of local ATMs being hacked.
- To strengthen the cyber resilience of the banking sector in Hong Kong, HKMA announced in May 2016 the launching of Cybersecurity Fortification Initiative ("CFI"), which is underpinned by three pillars:
- (a) Cyber Resilience Assessment Framework: the assessment framework aims at assessing an authorized institution ("AI")'s cyber risk exposure and cyber resilience. The results will form a basis for an improvement plan for cyber resilience. It also allows HKMA to get a holistic view of the preparedness of individual AIs, as well as the entire banking sector, in cyber security;
- (b) Professional Development Programme: the Professional Development Programme is a localized certification scheme and training programme developed by HKMA together with the Hong Kong Institute of Bankers and the Hong Kong Applied Science and Technology Research Institute ("ASTRI"). The aim of launching this integrated and well-structured programme is to train and nurture cyber security practitioners in the AIs and the IT industry, so as to enhance their cyber security awareness and technical capabilities to conduct cyber resilience assessments and simulation testing; and



- (c) Cyber Intelligence Sharing Platform: the Cyber Intelligence Sharing Platform is jointly implemented by HKMA and the Hong Kong Association of Banks ("HKAB") to support the implementation of simulation testing and facilitate the sharing of cyber intelligence among AIs. Relevant cyber intelligence sourced from different reliable channels will be collected, analysed and shared on this platform together with detailed cyber-threat analysis report and recommendations. Through this platform, member banks of HKAB will be able to tap the latest threat scenarios and get prepared accordingly.

With the support of the banking industry and other stakeholders, HKMA has made good progress in implementing CFI. The three pillars are expected to be formally rolled out in December 2016.

Furthermore, CSTCB has been endeavouring to facilitate the sharing of cyber-attack intelligence in the financial sector of Hong Kong. CSTCB is planning to establish a Cyber-attack Intelligence Sharing Platform to address dynamic cyber threat and the increasingly complex cyber attacks, as well as to share intelligence on cyber attacks.

In May this year, HKPF, HKMA and ASTRI co-organized Cyber Security Summit 2016, which was a three-day event with supervisors of financial institutions, regulatory bodies and technology solution providers among its guests. The summit shared the latest local and global trends of cyber attacks, and enhanced the awareness and preparedness of important professional bodies and critical infrastructures in Hong Kong in response to cyber security incidents and hacker attacks.

As regards telecommunications operators, according to information provided by Commerce and Economic Development Bureau, they are required to ensure the effective operation of their networks to maintain and provide satisfactory services in accordance to the licence conditions.

- (10) According to the statistics by the Information Systems Audit and Control Association, there are 2 327 Certified Information System Auditors and 474 Certified Information Security Managers in Hong

Kong as at September 2016. Moreover, information of the International Information Systems Security Certification Consortium, Inc. shows that a total of 1 413 local practitioners have acquired the qualification of Certified Information Systems Security Professional. To address the information security threats faced by Hong Kong, the Government will continue to collaborate with schools and the education sector (including tertiary institution) to enrich the IT-related disciplines with information security programmes. The Government will also work with professional associations of information security to promote professional accreditation for IT practitioners so as to train up more IT practitioners with professional knowledge and skills in information security, and to facilitate the development of relevant manpower resources.

- (11) The Government has formulated a set of comprehensive "Government Information Technology Security Policy and Guidelines" which is subject to regular reviews, in order to address challenges brought by the Government's use of cloud and other IT developments.

Annex

#### Reports of Information Security Incidents Received by OGCIO

<i>Information security incident</i>	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017 (As at October 2016)</i>
Website defacement	2	2	1
Unauthorized access	2	1	2
Denial-of-service attack	6	2	-
Ransomware	-	-	3
Others (including fraudulent email, malware infection, loss of mobile device, data leakage, etc.)	5	1	4
Total:	15	6	10
B/Ds involved	13	5	10

## Reports of Information Security Incidents Received by HKCERT

<i>Computer security incident</i>	<i>2014</i>	<i>2015</i>	<i>2016 (As at October)</i>
Hacking/website defacement	146	151	76
Distributed denial-of-service attacks	125	130	94
Ransomware	-	51	278
Phishing	594	1 978	1 635
Botnets	1 973	1 943	1 611
Malware (excluding ransomware)	298	226	787
Other computer security incidents (including identity theft, data leakage, unauthorized access, etc.)	307	449	665
Total	3 443	4 928	5 146

**Provision of support services for patients with mental illness**

20. **MR CHU HOI-DICK** (in Chinese): *President, it has been reported that the estimated number of patients with mental illness in Hong Kong ranges between 1 million and 1.7 million at present, with around 200 000 of them suffering from severe mental illness ("SMI"). Besides, there are about 48 000 people diagnosed as having schizophrenia and such number shows an upward trend. The Social Welfare Department ("SWD") re-organized its mental health support services in October 2010 by setting up 24 Integrated Community Centres for Mental Wellness ("ICCMWs") in various districts across the territory. Moreover, since April 2010, the Hospital Authority ("HA") has implemented in phases the comprehensive case management programmes in different districts across the territory for patients with SMI considered suitable for treatment in community settings. However, some mental illness concern groups have pointed out that the community support services cannot cater for the needs of patients, especially those who suffered from schizophrenia. Such patients, during convalescence, usually take oral medication to control their conditions over a long period of time. Since some of them do not take medication on time, nor do they attend regular follow-up consultations at clinics, the treatment procedures become less effective and the patients relapse. Those concern groups have also pointed out that in recent years, quite a number of overseas places have*

*administered the second generation anti-psychotic injection drugs ("injection drugs") which have effectively reduced the chances of relapse and relieved the pressure on the healthcare facilities and services related to mental illness. Regarding the provision of support services for patients with mental illness, will the Government inform this Council:*

- (1) of the following information in respect of each of the ICCMWs in each of the past three years: (i) the staffing establishment and the number of staff, broken down by rank, (ii) the amount of funding received, (iii) the number of members broken down by type of mental illness (including schizophrenia), (iv) the number of cases handled and (v) the respective numbers of family members and carers of patients with mental illness for whom services were provided;*
- (2) given that SWD in the past did not have information on cases handled by ICCMWs in respect of patients with SMI or general mental illness, whether SWD will expeditiously collect such information to facilitate follow-up actions; if SWD will, of the details; if not, the reasons for that;*
- (3) whether it knows the following information in respect of each of the comprehensive case management programmes implemented by HA in each of the past three years: (i) the staffing establishment and the number of staff, broken down by rank, (ii) the amount of funding received and (iii) the number of cases handled broken down by type of mental illness;*
- (4) whether it knows, among the existing patients with schizophrenia at convalescence stage, the number and percentage of those who have relapsed and the relevant reasons; the percentage of cases in which the relapse is attributable to discontinuation of follow-up treatment or medication on patients' own initiative in the total number of relapse cases; whether HA has put in place specific measures to ensure that patients receive follow-up treatment on a regular basis and take medication on time; if HA has, of the details; whether HA has assessed the effectiveness of such measures; if HA has assessed, of the criteria adopted;*

- (5) *as HA's guidelines provide that (i) patients with schizophrenia will first be prescribed new oral medication, (ii) and if they are found to have failed to take medication according to instructions, they will be prescribed the first generation injection drugs, (iii) but if they suffer from prominent side effects after taking the first generation injection drugs, they will be prescribed the second generation injection drugs which have less side effects, whether the Government knows, among the patients with schizophrenia at convalescence stage in the past three years, the number and percentage of those who were prescribed the second generation injection drugs on a regular basis; whether it has studied if that percentage is lower than those in advanced countries; if it has studied and the outcome is in the affirmative, of the reasons for that;*
- (6) *whether it knows the expenditures incurred by HA in the past three years on prescribing the second generation injection drugs; whether HA has assessed (i) the clinical outcome and (ii) the short, medium and long term cost-effectiveness, of prescribing that type of injection drugs; if HA has, of the details; if not, the reasons for that;*
- (7) *whether it knows if HA will allocate additional resources so that all patients with schizophrenia at convalescence stage may be prescribed the second generation injection drugs; if HA will, of the details; if not, the reasons for that; whether HA will include the second generation injection drugs in its Drug Formulary so that more patients can receive appropriate treatment; and*
- (8) *whether it has plans to conduct studies on the mental health conditions of members of the public; if it does, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, my reply to the various parts of the question is as follows:

- (1) According to the information provided by the Labour and Welfare Bureau, in the past three years, the resources allocated to Integrated Community Centres for Mental Wellness ("ICCMWs") by the Government is as follows:

	<i>2013-2014 (Actual)</i>	<i>2014-2015 (Actual)</i>	<i>2015-2016 (Revised Estimate)</i>
Amount of Funding (\$ million)	221.6	254.8	281.1

According to the Funding and Service Agreements of ICCMWs, the essential staffing requirements of ICCMWs include social workers, psychiatric nurses and occupational therapists. The existing manpower of a notional team of ICCMW comprises 26 posts, including 17 social workers, 2 psychiatric nurses, 1 occupational therapist and 6 supporting staff. However, under the Lump Sum Grant Subvention System, ICCMWs have the flexibility to deploy the subvention in arranging suitable staffing, which includes essential staff to ensure service quality to meet service needs. As the size of population served by the 24 ICCMWs varies, the team size and the allocation that they obtain are therefore different.

The statistics on the number of members, number of cases and number of family members/carers served by the 24 ICCMWs in the past three years are tabulated below:

<i>24 ICCMWs</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2015-2016</i>
Number of members served*	24 294	25 662	26 524
Number of cases served (as at the end of March of the financial year)	12 108	12 593	12 435
Number of family members/carers served	3 395	2 587	3 069

Note:

\* The Social Welfare Department does not maintain information on members classified by the types of their mental illnesses.

- (2) The caseworkers at ICCMWs will collect information on service users' diagnosis in handling cases, seek information from the Hospital Authority ("HA") on their medical conditions to facilitate assessment, and formulate appropriate care and follow-up plans

according to the background and needs of the service users. ICCMWs will continue to collect such information for caseworkers to follow up individual cases. As ICCMWs can, on the basis of the aforementioned information, collect and make reference to the number of psychiatric cases in Hong Kong (including figures on both general and severe mental illness cases) provided by HA in the follow-up of individual cases and service planning, the Social Welfare Department does not have plan to separately collect information on cases in respect of patients with severe mental illness or general mental illness handled at ICCMWs.

(3) and (4)

Since the 2010-2011 financial year, HA has rolled out the Case Management Programme in different districts of Hong Kong by phases for patients with severe mental illness. Under the Programme, case managers (including psychiatric nurses, occupational therapists and registered social workers, etc.) work closely with other service providers, particularly ICCMWs set up by the Social Welfare Department, in providing intensive, continuous and personalized support for patients with severe mental illness. In the 2014-2015 financial year, the Programme was extended to cover all 18 districts across the territory to benefit more patients. As at 31 March 2016, HA employed a total of 327 case managers to provide personalized and intensive community support for over 15 400 patients with severe mental illness.

The respective numbers of case managers and cases handled under the Case Management Programme in the past three years are tabulated below:

<i>Financial year</i>	<i>Number of case managers (as at 31 March of the year)</i>	<i>Number of cases handled (as at 31 March of the year)</i>
2013-2014	260	14 600
2014-2015	301	15 600
2015-2016	327	15 400

As at 31 March 2016, the staffing establishment of case managers for the Case Management Programme is tabulated below:

<i>Professional Discipline</i>	<i>Number of Staffs</i>
Psychiatric Nurses	240
Occupational Therapists	62
Registered Social Workers	24
Others	1

From the 2015-2016 financial year onwards, HA introduced a peer support element into the Case Management Programme to enhance community support for patients with severe mental illness. HA currently employs a total of 10 rehabilitated ex-service users to serve as peer supporters, who help patients with severe mental illness achieve their individual rehabilitation goals and acquire the skills to manage their mental health problems.

As some of the resources for the Case Management Programme is shared with other services, the relevant expenditure for the services provided under the Case Management Programme cannot be calculated separately.

On the other hand, HA has established a 24-hour psychiatric advisory hotline, namely Mental Health Direct, since January 2012 to further enhance mental health services and strengthen support for ex-mentally ill patients and their carers. The hotline is operated by professional psychiatric nurses, who answer calls from patients with mental illness, carers, relevant stakeholders and the public, to provide professional advice on mental health issues and arrange timely referrals for them. Aside from advisory service, the Mental Health Direct also provides telecare service whereby psychiatric nurses will approach rehabilitated ex-mentally ill patients to follow up their conditions and help them better adapt to community life. Moreover, for those patients with mental illness failing to show up for scheduled consultations, a follow-up service under the Mental Health Direct has been rolled out in phases in all hospital clusters, through which such patients will be approached



and new appointment for follow-up consultation will be made for them. The service has now been extended to most of the psychiatric specialist outpatient clinics.

HA provides continuous and personalized follow-up services for patients with severe mental illness. As the needs of these patients may vary in different stages and there is no single clinical definition of "relapse", HA does not have relevant figures of relapse cases.

HA will continue to review and monitor its services to ensure that they suit the needs of patients.

(5) to (7)

Over the years, HA has been making every effort to increase the use of new generation psychiatric drugs which have proven effectiveness with fewer side effects, including antipsychotic drugs, antidepressant drugs, and drugs for dementia and attention deficit/hyperactivity disorder. Taking the patients' wish into account, psychiatrists will provide necessary drug treatment for patients as appropriate, having regard to their clinical needs and in accordance with the clinical treatment protocol. The number of patients prescribed with the new generation antipsychotic drugs at public hospitals has increased from about 39 200 in the 2010-2011 financial year to 67 000 in the 2014-2015 financial year, representing an increase of 70%.

In the 2014-2015 financial year, HA repositioned the new generation oral antipsychotic drugs (save for Clozapine due to its more complicated side effects) from the special drug category to the general drug category in its Drug Formulary so that all these drugs could be prescribed as first-line drugs.

The new generation long-acting antipsychotic ampoule is currently incorporated into the special drug category of HA's Drug Formulary. Psychiatrists will provide necessary drug treatment for patients as appropriate, having regard to their clinical needs and in accordance with the clinical treatment protocol. The number of patients who

received the new generation long-acting antipsychotic injections at public hospitals in the past three years and the expenditure involved are tabulated below:

<i>Financial year</i>	<i>Number of patients who received the new generation long-acting antipsychotic injections</i>	<i>Expenditure involved (\$ million)</i>
2013-2014	1 500	43
2014-2015	1 900	56
2015-2016	2 200	72

Besides, HA has put into place an established mechanism under which experts will examine and review regularly the treatment options and drugs for patients with adjustments made as appropriate, taking into account factors like scientific evidences, clinical risks and treatment efficacy, technological advancement and views of patient groups, etc. HA will continue to closely monitor the latest development of the clinical and scientific evidences of new psychiatric drugs. It will also continue to review and introduce new drugs, and formulate guidelines for clinical use of such drugs in accordance with the established mechanism having regard to the principle of optimizing the use of limited public resources and providing appropriate treatment for as many needy patients as possible.

- (8) In January 2016, the Department of Health ("DH") launched a three-year territory-wide public education and publicity programme named Joyful@HK. Joyful@HK aims to increase public engagement in promoting mental well-being and to enhance their knowledge and understanding on mental health. Under the Campaign, DH commissioned the Department of Psychiatry of The Chinese University of Hong Kong to conduct a Mental Health and Well-being Survey, with a view to examining the mental health status of the public, the public's awareness of symptoms of common mental health problems, willingness towards seeking help, and the attitude and practice of the public on pro-mental well-being lifestyle activities.

DH will continue to promote mental health among various groups of citizens and conduct health education on common mental health problems through the Joyful@HK Campaign. The aim is to enable members of the public to integrate three key elements of the Campaign, namely "Sharing", "Mind" and "Enjoyment", into their daily lives for enhancing their mental well-being, and encouraging them to seek help from professionals when necessary.

### **Upward trend of the number of people suffering from diabetes**

21. **MR PAUL TSE** (in Chinese): *President, according to the information of the Department of Health ("DH"), one out of every 10 people in Hong Kong suffers from diabetes. One out of every five patients with diabetes is diagnosed at a young age (i.e. diagnosed before turning 40). Patients with diabetes have become increasingly younger. In 2007, 2.6 out of every 100 000 children under the age of 19 suffered from the disease, with 12-fold increase in the number of such type of children with diabetes in a period as short as 10 years between 1997 and 2007, which is a shocking rate of increase. Close to 36% of the members of the public have soft or sugary drinks at least once or more a day. Drinks available in the market have a very high sugar content, e.g. a glass of red bean icy drink and a glass of iced lemon tea contain eight and four teaspoons of sugar respectively. To avoid children's exposure to a higher risk of diabetes due to excessive consumption of drinks with a sugar content, some countries have imposed a sugar levy on drinks with a sugar content. In this connection, will the Government inform this Council:*

- (1) *given that patients with diabetes have become increasingly younger, whether the Government will review the effectiveness of the current practice of health education alone for raising the awareness of diabetes prevention among parents, adolescents and children, in the hope that they will consume less drinks with a high sugar content; if it will, of the details;*
- (2) *given that the number of people with diabetes seeking consultation from the Hospital Authority in recent years has risen from 296 000 in 2009-2010 to 390 000 in 2014-2015, whether the Government has projected, on the basis of this rate of increase, the additional manpower and resources required in the public*

*healthcare system in the current financial year as well as each of the next five years to cope with the situation in which the number of diabetic patients keeps increasing;*

- (3) whether it will, from the perspective of "prevention is better than cure", consider following the practice of countries such as France, the United Kingdom, Denmark, Norway, etc. to introduce a sugar levy to raise the prices of drinks with a sugar content, so as to dampen the public's desire (especially that of children) to buy such drinks, and subsidize public healthcare expenditure with the revenue from the sugar levy;*
- (4) as a number of people with diabetes have relayed that it is often difficult for them to find suitable food with a low sugar content when dining out, whether DH has reviewed the effectiveness of the "EatSmart@restaurant.hk" Campaign, which has been implemented for years; whether it will formulate a policy to encourage restaurants to include in their menus dishes that are suitable for people with diabetes; and*
- (5) of the effectiveness of the work at the present stage of the "Committee on Reduction of Salt and Sugar in Food" established by the Government last year, as well as its work progress?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, like other non-communicable diseases, the risk of diabetes can be significantly reduced by maintaining healthy body weight through regular physical activity and a healthy diet. We have been implementing strategies to prevent non-communicable diseases in Hong Kong. In October 2008, the Government published a document titled "Promoting Health in Hong Kong: A Strategic Framework for Prevention and Control of Non-communicable Diseases". The document tackles unhealthy lifestyle habits which have significant impact on the health of Hong Kong people but can be preventable or modifiable. A cross-sectoral and multi-disciplinary steering committee chaired by the Secretary for Food and Health was set up to monitor the development direction and implementation progress of the strategy.

Successful implementation of the strategy depends on close collaboration among the Government, the public and private sectors, the community and the public in fostering an environment which promotes healthy lifestyles.

Regarding relevant parts of the question, we provide our response as follows:

- (1) The Department of Health ("DH") has been sparing no efforts in employing different methods to raise public awareness of the prevention and management of diabetes. Among others, for people whose immediate relative(s) has/have diabetes, or who are aged 45 or above, overweight (body mass index ("BMI") 23 to 24.9), obese (BMI 25 or above) or centrally obese (with a waist circumference of 90 cm or above for males, or 80 cm or above for females), DH advises them to have regular body checks for diabetes. Diabetic patients should follow the medical advice of doctors, including taking prescribed drugs properly, controlling blood pressure and refraining from smoking. The World Health Organization ("WHO") selects an important public health topic as the theme for the World Health Day on 7 April every year, and this year's theme is diabetes. Echoing the theme of "World Health Day 2016", DH has launched a series of publicity and public education campaigns since April this year, in collaboration with various bureaux/departments and supporting organizations, to increase public awareness of the prevention and management of diabetes. In particular, with a view to encouraging the general public to engage in regular physical activity, DH has invited the Physical Fitness Association of Hong Kong, China to design the "Ten-minute Exercise", a moderate-intensity physical activity suitable to be done at the workplace and at home. Through websites and booklets, DH also promotes to the public 39 diabetes-friendly recipes designed by dietitians. A booklet named "Managing Diabetes Made Easy" was published in collaboration with Diabetes Hongkong to help new diabetic patients to better understand their body conditions, enrich their knowledge of diabetes, and monitor and control the disease in order to prevent complications. Moreover, DH published two books titled "Living at Ease with Diabetes" and "Healthy Dining with Diabetes". Written by a multi-disciplinary team of health professionals, the two books explain the proper management of

diabetes and offer practical advice on diet modification, exercises, travelling, life skills and psychological adjustment. They also encourage patients to manage their conditions and delay complications by optimizing blood sugar control so as to enjoy years of healthy life.

In addition to the above promotional activities, DH has also been encouraging and supporting, through a life-course and setting-based approach, people of all ages to have a healthy diet, engage in regular physical activity and maintain normal body weight in family, school, workplace and community settings. Specific measures include:

- (i) DH endeavours to promote, protect and support breastfeeding to prevent childhood obesity. The Family Health Service ("FHS") under DH assists parents in choosing the appropriate food for their infants, young and pre-school children through various means, including leaflets on healthy eating, online health education information and individual guidance by health care personnel in Maternal and Child Health Centres. In particular, parents are encouraged not to provide sugar-added drinks and snacks for their children. The FHS also advocates maintaining an adequate amount of physical activity among children, and cultivating a healthy diet and lifestyle in young children to prevent childhood obesity.
- (ii) An EatSmart@school.hk Campaign with emphasis on the promotion of healthy eating was launched in primary schools in the 2006-2007 school year. Under the campaign, primary schools developed policies and implemented measures on healthy diets through home-school cooperation, with a view to effectively implementing the nutritional requirements laid down by DH in supplying lunches and snacks. This serves to ensure that school children can learn and are nurtured in a "nutrition friendly" environment. Riding on the success of the campaign, DH launched the StartSmart@school.hk Campaign in January 2012 to promote healthy eating and physical activity among preschoolers across the territory with a view to preventing childhood obesity.

- (iii) The workplace is also an ideal setting for developing a healthy lifestyle. DH launched the Health@work.hk Pilot Project in 2010 and the Second Phase of the Health@work.hk Project in 2012 respectively. In August this year, DH launched the Joyful@Healthy Workplace Programme in collaboration with the Occupational Safety and Health Council. The programme enables employers and employees to create a healthy and joyful working environment together through a series of activities. It focuses on three main areas, namely healthy eating, physical activity and mental well-being.
- (iv) At the community level, DH launched the "I'm So Smart" Community Health Promotion Programme in June 2012 to mobilize community partners to promote healthy eating and physical activity in the community.

Apart from the above health promotion measures, the Student Health Service of DH checks enrolled students' body weight during annual health assessments, counsels students with sub-optimal weight, and makes referrals to specialists if further management is considered necessary. DH has also developed, updated and promoted the use of a reference framework for diabetes care to provide an evidence-based reference for health care professionals in primary care settings so that they are in a better position to provide continuous and comprehensive care for patients with diabetes. Given that the age of patients with diabetes is getting younger, DH will continue to review the effectiveness and directions of the measures to further enhance public awareness of prevention of diabetes.

- (2) In planning for its services, the Hospital Authority ("HA") will take into account a number of factors, including population growth, demographic changes, growth rate and projected demand for specialist services, as well as HA's long-term objectives and strategies for its overall service development. The aim is to work out the directions for the overall health care development in the future so as to meet the demand for health care services and manpower in the next 10 to 20 years. HA will not make assessment

of manpower and resource requirements regarding individual diseases. It will, however, continue to monitor the development of different disease areas and the service demand to ensure that the provision of services meets the needs of patients.

(3) and (5)

As regards the encouragement and promotion of healthy eating, one of the key policies of the Government is to encourage and facilitate the public to reduce the intake of salt and sugar in food on an ongoing basis. The Government has made reference to measures taken by different countries and regions in facilitating, encouraging healthy eating and preventing diabetes. These measures include enhancing public education, heightening health awareness, encouraging the industry to offer healthy food options, enhancing nutrition information for food items, and introducing fiscal or regulatory measures. The Government notes that there are divergent views held by various local and overseas stakeholders on the effectiveness of introducing fiscal measures as a means to reduce the intake of sugar from food among the general public.

The Government has been working closely with the Committee on Reduction of Salt and Sugar in Food ("CRSS") established last year. Considering the actual circumstances of Hong Kong, both the Government and CRSS are of the view that a step-by-step approach should be adopted, starting from aspects which are more achievable first before tackling the more difficult ones. We consider that, through the industry's voluntary participation to progressively lower the content of salt and sugar in food, the public will gradually adapt to the changes in flavour and be receptive to a relatively healthier diet. This will also allow time for the industry to make adjustment accordingly, thus reducing the impact of the measures on their actual operation.

After many meetings and focused discussions, and having regard to the views of relevant stakeholders (including food manufacturers and the catering industry), CRSS has made recommendations to the Government on pragmatic ways to build on existing measures and



policies, and implement further possible measures for salt and sugar reduction that are contextualized for and appropriate to Hong Kong's situation.

To draw up specific proposals for reducing salt and sugar intake, CRSS focuses on two main directions, namely "starting from an early age" and "starting from information transparency", with the view to building up a culture of low-salt-and-sugar diets, and making use of consumers' influence to expedite the pace of the industry in reducing the salt and sugar content in food.

On "starting from an early age", CRSS proposes to capitalize on DH's "StartSmart@school.hk" Campaign targeting at pre-primary institutions, to organize more training courses for chefs of the institutions to teach them ways to prepare tasty low-salt-and-sugar meals; to strengthen the understanding and training for teachers on salt and sugar; and to provide more low-salt-and-sugar recipes for the institutions, while encouraging them to share their recipes among themselves and encouraging parents and children to cook low-salt-and-sugar dishes or snacks together.

As regards "starting from information transparency", CRSS is considering a front-of-pack low-salt-and-sugar labelling scheme for pre-packaged food, which will help consumers identify low-salt-and-sugar products easily. It is also hoped that the scheme will serve as a catalyst for the industry to provide more varieties of low-salt-and-sugar products for consumers. CRSS and the Centre for Food Safety will liaise with the industry to work out the guidelines and details of the scheme, with a view to ensuring that the industry's concerns for operational and technical matters are taken into account.

Besides, in response to CRSS's recommendations and with the support and concerted efforts of HA, more than 80% of the staff canteens of public hospitals, i.e. 20 canteens, have implemented the "calorie" indication pilot scheme and indicated the calorie of selective dishes on their menus. Implementing the "calorie" indication scheme in the staff canteens of public

hospitals in the first place has the positive effect of encouraging other restaurants to join the scheme. Some operators of these canteens are leading restaurant chain groups. These restaurant chain groups may leverage on the experience from the staff canteens which they operate and implement similar measures in the other restaurants. This will lay the foundation for further expansion of the "calorie" indication pilot scheme.

The Government will continue to make reference to the recommendations of CRSS and WHO, as well as the relevant measures and experience relating to reduction of salt and sugar in food in other places (including the effectiveness of the measures, the response from the industry and consumers' receptiveness), and give full and thorough consideration to the local situation in order to explore and formulate salt and sugar reduction measures that are suitable for Hong Kong.

- (4) DH launched the EatSmart@restaurant.hk Campaign in April 2008 to encourage and assist restaurants to provide dishes with more fruit and vegetables or with less oil, salt and sugar. The Task Force on EatSmart@restaurant.hk Campaign comprises representatives from the catering industry, academia, professional groups and government departments. It reviews the directions, operation and promotional strategies of the campaign and provides recommendations accordingly. To enhance the effectiveness of the campaign, DH launched a free EatSmart Restaurant mobile application in 2015 to facilitate the public to locate the EatSmart Restaurants in Hong Kong. Moreover, the "EatSmart Restaurants" e-Coupon Promotional Activity was launched in June this year to allow the public to enjoy promotional offers when ordering EatSmart dishes at participating EatSmart Restaurants.

Each diabetic patient has his/her own dietary needs depending on the type of diabetes he/she suffers and his/her physical condition. It would be difficult for restaurants to provide dishes that cater for the needs of all patients with diabetes. We need to explore the feasibility of such an idea carefully.

**Marine refuse**

22. **MR KENNETH LAU** (in Chinese): *President, it has been reported that in recent months, large quantities of marine refuse have been washed up onto a number of local beaches, including Lung Kwu Tan in Tuen Mun. Quite a lot of such refuse was plastic bags and plastic bottles the packaging papers of which were printed with simplified Chinese characters, arousing the suspicion that such marine refuse came from the Pearl River Delta waters in the Mainland. Besides, some media have uncovered that some Mainland vessels have illegally dumped refuse in the waters of Wanshan Qundao, Zhuhai, which is just 40 kilometres away from Lantau Island. While the authorities have stepped up efforts to clear the refuse on a number of beaches, there are views that such a practice treats the symptoms only but not the root cause of the problem. In this connection, will the Government inform this Council:*

- (1) *of the number of refuse clearance operations conducted by the authorities on various beaches in the past five years, and the quantity of the refuse collected;*
- (2) *whether it has investigated from where the marine refuse found on Lung Kwu Tan, Tuen Mun came; if it has investigated, of the outcome and whether, in order to solve the problem of marine refuse drifting into Hong Kong waters, it has discussed with the relevant authorities of the place from where such refuse came; if it has not investigated, the reasons for that;*
- (3) *whether it has gained an understanding from the relevant Mainland authorities in respect of the aforesaid incident of illegal dumping by vessels, and requested them to take law enforcement actions vigorously; if it has, of the details; if not, the reasons for that; and*
- (4) *whether it has formulated measures to solve the marine refuse problem in the long run; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (1) Various government departments are responsible for collecting and cleaning up marine refuse (including floating refuse and shoreline refuse washed ashore) according to the locations where such refuse

is found. These departments include the Marine Department ("MD"), the Leisure and Cultural Services Department, the Agriculture, Fisheries and Conservation Department ("AFCD"), and the Food and Environmental Hygiene Department ("FEHD"). AFCD may conduct up to six marine refuse cleanup operations per week for marine parks while twice per month for marine reserve. Marine refuse cleanup operations are arranged by each of the rest of the above departments at least once a day, and are subject to adjustments according to actual situations of individual locations (e.g. after typhoons). From 2012 to October 2016, the total amount of marine refuse collected and cleaned up by each of the above departments at beaches all over Hong Kong<sup>(1)</sup> was 15 059, 14 903, 15 236, 15 510 and 14 245 tonnes respectively.

(2) and (3)

As pointed out in the Marine Refuse Study ("the Study") conducted by the Government in 2013-2014, the prevailing wind (i.e. south-westerly in wet season and north-easterly in dry season) has marked effect on refuse accumulation. In general, shorelines in Tuen Mun, Tsuen Wan, Southern and Islands Districts tend to accumulate more refuse in the wet season. Moreover, refuse accumulated at local storm water drains and shorelines would be washed to sea during the summer when rainfalls are high, and certain refuse would be carried by the outflow of the Pearl River into the waters and coasts of Hong Kong. The Study has identified 27 priority sites for enhanced cleanup of marine refuse (including Lung Kwu Tan in Tuen Mun) and the relevant departments have, since April 2015, strategically enhanced the cleaning frequency at these priority sites. In view of the significant increase in the amount of marine refuse found at Lung Kwu Tan in Tuen Mun, FEHD has arranged its contractors to enhance their cleaning services by deploying more manpower and increasing the cleaning frequency from once per week to four times per week.

(1) Including refuse collection bins on land at the marine parks at Hoi Ha Wan and Tung Ping Chau, and the refuse collected within the barbeque areas at Tung Ping Chau.

Regarding the suspected dumping of refuse by cargo ships in the waters of Wanshan Qundao of Zhuhai, the Environmental Protection Department ("EPD"), AFCD and MD promptly relayed the case to the Department of Environmental Protection of Guangdong Province ("GDEPD"), as well as other fisheries and marine authorities upon receipt of the report in August this year. According to GDEPD, Mainland law enforcement agencies had already commenced operations both at sea and on land to proactively track down the illegal dumping activities. Patrol was also stepped up to vigorously combat such activities. Later on, GDEPD advised that the operations had delivered results, with vessels and personnel suspected of illegal activities detained and illegal marine dumping curbed. In addition, MD has also stepped up patrol in Hong Kong waters, in particular the offshore waters near Hong Kong's boundary, to check on the situation concerning floating refuse. Over the past few months, no large quantity of floating refuse has been found. EPD will continue to enhance exchange and communication with relevant Mainland authorities on various regional marine environmental matters via the Hong Kong-Guangdong Marine Environmental Management Special Panel set up this October.

- (4) The Government established the Inter-departmental Working Group on Clean Shorelines ("Working Group") in November 2012 to enhance the collaboration among relevant government departments to address the marine refuse problem. Having considered the recommendations made under the Study, the Working Group has formulated long-term strategies to tackle the marine refuse problem in Hong Kong by adopting a three-pronged approach, namely reducing waste generation at source, reducing the amount of refuse entering the marine environment, and removing refuse from the marine environment. Apart from coordinating the efforts of relevant government departments, EPD has also endeavoured to educate our community in this aspect to enhance the public awareness of keeping our shorelines clean. Such efforts include broadcasting announcements of public interest and organizing various publicity and education activities (e.g. beach cleanup activities, roving exhibitions and design competitions), which all aim at helping members of the public better understand the marine refuse problem, thereby encouraging them to change their habits to reduce waste at source and prevent refuse from entering the sea.

**GOVERNMENT BILL****First Reading of Government Bill**

**PRESIDENT** (in Cantonese): Government Bill: First Reading.

**ARBITRATION (AMENDMENT) BILL 2016**

**CLERK** (in Cantonese): Arbitration (Amendment) Bill 2016.

*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 Government Bill**

**PRESIDENT** (in Cantonese): Government Bill: Second Reading.

**ARBITRATION (AMENDMENT) BILL 2016**

**SECRETARY FOR JUSTICE** (in Cantonese): President, I move that the Arbitration (Amendment) Bill 2016 ("the Bill") be read the Second time. The main objective of the Bill is to amend the Arbitration Ordinance (Cap. 609) so as to clarify that disputes over intellectual property rights ("IPRs") may be resolved by arbitration and that it is not contrary to the public policy of Hong Kong to enforce arbitral awards involving IPRs.

It has been the consistent policy of the Government to enhance Hong Kong's status as a leading centre for international legal and dispute resolution services and a premier hub for intellectual property ("IP") trading in the Asia Pacific Region. Both the Department of Justice and the Working Group on IP Trading have identified IP arbitration as one of the areas in which Hong Kong should develop and promote.

Arbitrability of the subject matter of a dispute is an important issue which ought to be clear before the commencement of arbitration. However, the Arbitration Ordinance (Cap. 609) presently does not have any specific provision dealing with the question of arbitrability of disputes over IPR disputes. There is

no authoritative judgment in Hong Kong concerning the arbitrability of IPR disputes either. Hence, the law as it now stands is not entirely clear in this respect. In fact, different jurisdictions have adopted different approaches on this issue.

In view of this, the Department of Justice set up a Working Group on Arbitrability of IPRs last year to, among others, consider and advise the Government on whether there is any need to introduce legislative amendments to address the issue of arbitrability of IPR disputes and, if so, the extent to which it is necessary to do so. The Working Group comprised representatives from the Department of Justice, Intellectual Property Department, Hong Kong International Arbitration Centre and legal practitioners with expertise in the area. Following the work of the Working Group and consultation with relevant stakeholders, the Government believes that specific statutory provisions on the issue of arbitrability of IPR disputes would serve to clarify the legal position and would facilitate more parties to resolve their IPR disputes through arbitration in Hong Kong. This would help promote Hong Kong as a leading international arbitration centre and give Hong Kong an edge over other jurisdictions in the Asia Pacific Region as a venue for resolving IPR disputes.

Currently, Part 10 of the Arbitration Ordinance provides, among other things, that enforcement of an arbitral award may be refused if (i) the award is in respect of a matter which is not capable of resolution by arbitration under the law of Hong Kong (arbitrability ground), or (ii) it would be contrary to public policy to enforce the award (public policy ground). Similarly, the courts may set aside an arbitral award under Part 9 of the Ordinance on either of these two grounds. There is some concern as to whether an arbitral award involving IPRs (particularly arbitral awards concerning the validity of registered IPRs) would be set aside or its enforcement refused in Hong Kong on either the arbitrability ground or the public policy ground.

To put the matter beyond doubt, the Bill proposes to clarify that IPR disputes, whether they arise as the main issue or an incidental issue, are capable of resolution by arbitration. The Bill also proposes to clarify that an arbitral award relating to an IPR dispute, and the enforcement of such an award, is not contrary to the public policy of Hong Kong. The effect is that the courts will not set aside an arbitral award or refuse to enforce it under Part 9 or 10 of the Arbitration Ordinance on ground of arbitrability or public policy solely because the award involves IPRs.

To facilitate the arbitration of international IPR disputes in Hong Kong, "IPRs" and "IPR disputes" under the Bill have a broad coverage and include an IPR whether or not it is protectable by registration and whether or not it is registered, or subsists, in Hong Kong.

The Bill also introduces other related technical amendments.

The Government believes that the proposed amendments to the Arbitration Ordinance would help (i) clarify any ambiguity in relation to the "arbitrability of IPR disputes"; (ii) make Hong Kong more appealing than other jurisdictions for conducting arbitration involving IPR disputes; and (iii) demonstrate to the international community that Hong Kong is committed to developing itself as an international centre for dispute resolution involving IPR matters as well as an IP trading hub in the region.

In addition, we take this opportunity to amend the Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) by adding Andorra and Comoros, two new parties to the New York Convention. We also propose to amend the spelling of "Faeroe Islands" in the Schedule to "Faroe Islands" so as to tally with the spelling used in other statutory provisions.

The Working Group on Arbitrability of IPRs supports the proposal to amend the Arbitration Ordinance so as to clarify that IPR disputes are capable of resolution by arbitration. The Government has also consulted stakeholders within the legal, arbitration and IP fields on the Bill. The consultees did not raise in-principle objection to the introduction of the Bill. Some comments on the Bill raised by the consultees have been carefully considered by the Government and taken on board where appropriate. In addition, the Panel on Administration of Justice and Legal Services was consulted early this year, and indicated support for the introduction of amendments to clarify the position.

President, in order to further enhance Hong Kong's position as a centre for international legal and dispute resolution services in the Asia Pacific Region, the Department of Justice has been reviewing the arbitration regime of Hong Kong from time to time and will also consider improvement to the Arbitration Ordinance as and when appropriate. We believe that the Bill, when enacted,



will make Hong Kong one of the first movers to clarify the arbitrability of IPR disputes by legislation, thereby enhancing Hong Kong's position as a leading international arbitration centre and an IP trading hub in the Asia Pacific Region.

With these remarks, I urge Members to support the Bill.

Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Arbitration (Amendment) Bill 2016 be read the Second time.

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Port Control (Cargo Working Areas) (Amendment) Regulation 2016, which was laid on the Table of this Council on 7 December 2016.

I now call upon Ms Starry LEE to speak and move the motion.

## **PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS STARRY LEE** (in Cantonese): President, at the House Committee meeting of 9 December 2016, Members decided to form a subcommittee to study the Port Control (Cargo Working Areas) (Amendment) Regulation 2016.

Members also agreed that I, in my capacity as Chairman of the House Committee, shall move a motion to extend the scrutiny period for the Regulation to 8 February 2017, so as to allow sufficient time for the Subcommittee's scrutiny.

President, the content of the motion is set out on the Agenda. I urge Members to support the motion.

**Ms Starry LEE moved the following motion:**

"RESOLVED that in relation to the Port Control (Cargo Working Areas) (Amendment) Regulation 2016, published in the Gazette as Legal Notice No. 180 of 2016, and laid on the table of the Legislative Council on 7 December 2016, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 8 February 2017."

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Starry LEE be passed.

Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Starry LEE be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Motion under Rule 49B(1A) of the Rules of Procedure to censure Dr CHENG Chung-tai.

I now call upon Mr Paul TSE to speak and move the motion.

(Mr CHAN Chi-chuen stood up)

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

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, what is your point?

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

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

(While the summoning bell was ringing, THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

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

### **MOTION UNDER RULE 49B(1A) OF THE RULES OF PROCEDURE**

**MR PAUL TSE** (in Cantonese): Deputy President, it is indisputable that under the Basic Law and domestic laws, Legislative Council Members have substantial powers and privileges. In addition to lawmaking, such powers also include monitoring the administration of the Government on various fronts, approving budgets and other privileges conferred by law. I think I need not go into the details. While being given such important powers and responsibilities, certainly, all Members are also expected by the community to have the necessary credibility and integrity, and be entrusted and committed to make all judgment relating to public interest.

Deputy President, I wish to quote the judgment of "the case of NG Kung Siu"—which is what we call the most critical case relating to desecration of the national flag—handed down by the Court of Final Appeal in 1999, in which the five Judges of the Court of Final Appeal unanimously agreed on how to deal with the balance between safeguarding the importance of the national flag and the regional flag and the freedom of speech, which may be regarded as an ultimate judgment. In gist, it will not violate "the freedom of speech" and "the freedom of expression" claimed by anyone.

Deputy President, allow me to quote the part relating to the importance of the national flag in the judgment handed by Justice Andrew LI back then. Let me read it out briefly and quickly: "A national flag is the symbol of a nation. It is a unique symbol ... The national flag is the symbol of the People's Republic of China. It is the symbol of the State and the sovereignty of the State. It represents the People's Republic of China, with her dignity, unity and territorial integrity ... The regional flag is the unique symbol of the Hong Kong Special Administrative Region as an inalienable part of the People's Republic of China under the principle of 'one country, two systems' ... The intrinsic importance of the national flag and the regional flag to the HKSAR as such unique symbols is demonstrated by the fact that at the historic moment on the stroke of midnight on 1 July 1997, the handover ceremony in Hong Kong to mark the People's Republic of China's resumption of the exercise of sovereignty over Hong Kong began by the raising of the national flag and the regional flag. And the speech, which the President of the People's Republic of China then delivered, began with the words: 'The national flag of the People's Republic of China and the regional flag of the Hong Kong Special Administrative Region of the People's Republic of China have now solemnly risen over this land.'" The importance of the national flag is beyond doubt.

Deputy President, coming back to the incident this time around, certainly, a similar motion has been proposed thrice in this Council in its history. Even without my reminder, Members will clearly remember the motion of impeachment proposed by former Member LEONG Che-hung in his capacity as Chairman of the House Committee in 1998 after CHIM Pui-chung had been convicted and sentenced to imprisonment for three years for conspiracy to forge; the motion of impeachment in respect of the incident in which KAM Nai-wai was suspected of sexually harassing his subordinate proposed by former Member Miriam LAU, also in her capacity as Chairman of the House Committee, on 9 October 2009, and the motion of impeachment also proposed by me on 18 April

2012 pinpointing the conviction of LEUNG Kwok-hung on four counts of criminal offences and the sentence of imprisonment for five weeks to two months to run concurrently imposed on him. Of all of these motions, the only one which was actually passed was the motion to censure CHIM Pui-chung proposed by former Member LEONG Che-hung in 1998, which was unanimously passed by this Council. The other two motions were not passed by two thirds of Members as required.

Deputy President, the motion this time around also warrants prudent consideration and should not be proposed casually. Why did I still propose this motion after prudent consideration? Deputy President, it has importance per se. Apart from the importance of the national flag to Hong Kong and the State, if we trace the course of events, Deputy President, this Council was in the middle of a meeting back then. As some Members were not present, someone requested a headcount. At that time, while the summoning bell was ringing, the whole proceedings were broadcast live on the television. Chinese people across the territory and around the world could see clearly what happened then. It so happened that the motion under discussion at that time was about the requests of the two persons, Mr LEUNG and Ms YAU, to take their oaths afresh as their oaths taken for the first time were ruled inconsistent with the rules, and it was right at the time when they were waiting to take their oaths. The most controversial issues back then concerned the solemnity of the relevant oaths, whether they contravened the Basic Law and whether they undermined allegiance to the Special Administrative Region ("SAR"). This incident took place against such a backdrop, and at that time, Dr CHENG Chung-tai passed by the national flags and regional flags displayed and placed before the seats of some 10 Members twice but not once. It was a deliberate act rather than an accidental act that occurred once. After Dr Hon CHIANG Lai-wan, on discovery of such an act, had made it a point to return to the Chamber to rearrange the flags, he again did the same act 10 times or so, which constituted a deliberate act.

In that case, we may ask what Dr CHENG Chung-tai intended to do at that time? Can we just brush aside this incident lightly by describing it as "puerile" or saying that he did it just to cause trouble or for fun? Or what he meant to express, but never dared and lacked the courage to do so, was his contempt of the national flag of China and the regional flag of Hong Kong, and the symbolic meaning behind these two flags representing "one country, two systems", the integrity of the country, and that Hong Kong is part of China? Granting the opportunity to examine what happened back then, we will make a

judgment on it, and by then, all Members present will have the opportunity to watch such acts broadcast on the television screen, not knowing whether luckily or not. It is actually an indisputable fact.

What is the underlying meaning of those acts? Should a Legislative Council Member conduct himself in such a way? Given the discussion among Legislative Council Members about safeguarding the dignity of oath-taking in this Council and the dignity of territorial integrity of the country and Hong Kong, should he act like that? Or even if the acts in question do not constitute any criminal offence in law, or even if it, after interpretation, does not necessarily underpin—I certainly do not see it this way—the concept of a breach of oath or a breach of allegiance to the Hong Kong Special Administrative Region, and even if all of these are unsubstantiated, are the acts in question misbehaviour we need to address squarely? Members should not forget that this Council, entrusted by the general public, has substantial powers and responsibilities and should uphold high standards of credibility. In that case, does the party concerned continue to upkeep and maintain his capacity and status as a Member properly? We should not forget that all the work we do as Members is not rewardless. As stated by former Member Margaret NG during the debate on the case of former Member KAM Nai-wai on 9 September 1998, office of a Member actually carries substantial interests—which we may discuss later—and is not that simple. While holding such powers and interest and shouldering people's expectation, should Members breach his oath lightly, and disregard the dignity of Hong Kong and the State? This is a question we should all ask.

(THE PRESIDENT resumed the Chair)

President, I notice that Dr CHENG Chung-tai still made some remarks in the public yesterday, and specially convened a press conference to criticize the motive or inappropriateness of this motion proposed by me. When I have the opportunity and time, I will refute them one by one. I notice that at the meeting of the House Committee held on 25 November, a number of Members expressed views on my motion. In general, they put forward about 10 arguments of defence or reasons why censure should not be made. When I have the opportunity and time, I will also refute them one by one. However, President, in short, this does not involve any political struggles because the provisions relating to oaths and allegiance are applicable to all Members of this Council. Anyone,

regardless of his political affiliation and background, as long as he is serving as a Member, must take up this responsibility to safeguard the dignity of this Council and the provisions in the Basic Law requiring allegiance to Hong Kong and the country, and to uphold the Basic Law. For this reason, if anyone should act in that manner, it will be incumbent upon me to propose this motion all the same.

President, it is also not an issue to be judged by voters as suggested by Dr CHENG Chung-tai. Voters certainly have the opportunity to make a judgment every four years. But it is precisely because of the mechanism under Article 79 of the Basic Law specifying that the relevant design is to deal with certain acts and records, including criminal records, of some of our Honourable colleagues through a stringent and prudent mechanism at any time as long as the endorsement of two thirds of Members of this Council has been secured, instead of solely relying on the punishment or scrutiny on the relevant Members by voters with their votes every four years, that this Council is obliged to make a well-considered judgment for protection of public interest. This mechanism itself has precisely refuted the statement that public scrutiny of Members with votes alone is already sufficient.

President, there has also been the view that we should leave it to the Court. At this stage, there is no need to be overly anxious about what is supposed to be dealt with by the Court, and we may deal with it after the Court has handed down a judgment or conviction. As in the previous case of Mr LEUNG Kwok-hung, if a sentence of imprisonment for more than one month is imposed upon conviction, by then, it may be dealt with by virtue of Article 79(6). Hence, now there is no need to deal with it by virtue of Article 79(7). President, regarding the case this time around, while I consider that the so-called defiling acts, according to the judgment of the Court of Final Appeal, do not just necessarily include burning, trampling on or mutilating them, but that any acts as long as they are defiling or insulting in nature may constitute the relevant criminal offences, this is a matter yet to be handled and dealt with by the Court. We may say that there are still grey areas now. As the acts in question are purely inverting the national flags and the regional flags openly and deliberately instead of damaging, scrawling on or trampling on them, will they constitute the relevant offences? This is open to debate. But in the case of the Bridge of Rehabilitation Company, we see that the Department of Justice was forced to drop the relevant charges against Mr CHEUNG Kin-wah as the intelligence quotient level of the victim rendered her unfit to give evidence, after which this Mr CHEUNG even shamelessly portrayed himself as the victim. What Dr CHENG Chung-tai suggesting now is

that given such loopholes, we can do nothing about him. What can we do to him? He is actually the victim, being persecuted by us. President, I believe anyone seeing the acts in question on the television screen will note that they were openly and deliberately done in a continued manner, which should absolutely not be lightly taken as some sort of "puerile" acts. Instead, we must deal with them in a serious, solemn and prudent manner.

There is the view that since the President already ordered Dr CHENG Chung-tai to withdraw from the meeting at that time, we may take it as treatment and punishment for the acts. In case anyone is unhappy with it, he should reason with the President instead of pursuing the matter afterwards. As far as I understand it, in fact, according to the relevant record of the judgment of the President at that time, he ordered Dr CHENG Chung-tai to withdraw from the Chamber only under the circumstances that he had left his seat at will and disturbed the objects displayed by other Members in their seats, refused to return to his seat upon repeated warnings and failed to heed the advice of the President. It did not deal with the more serious implications of his acts then, which were openly committing acts of humiliating the national flags and the regional flags, and openly breaching the requirements of upholding the Basic Law of Hong Kong and swearing allegiance to the Hong Kong SAR after taking the oath. Hence, the motion is proposed this time around precisely because our Rules of Procedures does not offer a more appropriate way to deal with it, leaving us with limited options. Either we act like nothing has happened, as Dr CHENG Chung-tai simply refused to comply with the order of removal given by the President, sitting there reluctant to leave, we may just act like nothing has happened; or we, left with no option, propose a motion in accordance with Article 79(7). Regardless of the outcome ultimately, I hope the motion proposed this time around will provide an appropriate platform for all parties to make comments and declare their positions so as to see whether such acts are proper and in keeping with the capacity, status, powers and conduct of Legislative Council Members, or connived at by some of us Members who preach one thing but practise quite another, brushing aside this incident lightly.

President, as I said earlier, there are still many ridiculous arguments against this motion. I wish to refute them one by one when I have the opportunity and time to do so.

President, I beg to move.



**Mr Paul TSE moved the following motion:**

"That this Council, in accordance with Article 79(7) of the Basic Law, censures Dr Hon CHENG Chung-tai for misbehaviour (details as particularized in the Schedule to this motion).

Schedule

Details of Dr Hon CHENG Chung-tai's misbehaviour are particularized as follows:

- (1) Sixtus LEUNG Chung-hang and YAU Wai-ching requested to take their oath/affirmation afresh at the Council meeting of 19 October 2016 as their so-called oath/affirmation taken for the first time at the Council meeting of 12 October 2016 had been ruled invalid by the President of the Legislative Council ("LegCo") on the grounds that both of them could not be serious about their oath and were unwilling to be bound by it. At the Council meeting of 19 October, some 10 Members of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") placed the mock-ups of the national flags of the People's Republic of China ("national flags") and the regional flags of the Hong Kong Special Administrative Region of the People's Republic of China ("regional flags") on their desks in the Chamber, so as to highlight the solemnity and pledge of taking oath to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.
- (2) At the Council meeting of 19 October 2016, when the President directed Members to be summoned for a quorum and all DAB Members were not present, Dr Hon CHENG Chung-tai deliberately inverted the mock-ups of the national flags and the regional flags placed on the desks of DAB Members. After Dr Hon CHIANG Lai-wan found out what happened and returned to the Chamber to rearrange the mock-ups of the national flags and the regional flags and place them in the same position and manner as before, Dr CHENG again deliberately inverted the mock-ups of the national flags and the regional flags. Eventually, the President reprimanded him for leaving his seat at will and disturbing other Members displaying objects, and ordered him to withdraw

immediately from the Council as his conduct was grossly disorderly, but he refused to leave all along. What was happening in the Chamber was broadcast live on the television throughout that period of time.

- (3) The aforesaid conduct of Dr Hon CHENG Chung-tai: (i) was in breach of the LegCo Oath taken by him at the Council meeting of 12 October 2016 under Article 104 of the Basic Law and the Oaths and Declarations Ordinance (Cap. 11) to 'uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China'; (ii) constitutes misbehaviour as he openly and deliberately humiliated the national flags and the regional flags in his capacity as a Member of LegCo."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Paul TSE be passed.

**MR CHAN CHI-CHUEN** (in Cantonese): President, in accordance with Rule 49B(2A) of the Rules of Procedure, I move the motion that "no further action shall be taken on Mr Paul TSE's censure motion".

**PRESIDENT** (in Cantonese): According to Rule 49B(2A) of the Rules of Procedure, upon the moving of the censure motion, debate shall be adjourned and the matter stated in the motion shall be referred to an investigation committee unless the Council, on a motion which may be moved without notice by any Member, otherwise orders. If Mr CHAN Chi-chuen's motion is agreed by the Council, no future action shall be taken on the censure motion.

As Mr CHAN Chi-chuen has moved the motion that no further action shall be taken on the censure motion, I must deal with this motion first.

Before I invite Mr CHAN Chi-chuen to speak, I must point out that the censure motion was moved in accordance with Article 79(7) of the Basic Law, and if the motion is passed, the Member concerned will no longer be qualified for

his office. It is stipulated in the Rules of Procedure that debate on the motion should be adjourned once the motion is moved in order to ensure that an investigation will be conducted into respective allegations before a specific debate on the censure motion is conducted.

According to the procedure in the Rules of Procedure, a motion may be moved without notice by any Member that no further action shall be taken on the censure motion, with the purpose of allowing this Council to consider cautiously whether an investigation into the relevant allegation is necessary.

Since the present debate is not on the censure motion but on the motion that "no further action shall be taken on the censure motion", I must remind Members that during the debate on this motion, Members should not discuss the content of the allegations stated in the motion in detail or whether the allegations are justified. Members should explain why they support or oppose that the matter stated in the censure motion be referred to an investigation committee.

I now call upon Mr CHAN Chi-chuen to speak on the motion moved by him.

**MR CHAN CHI-CHUEN** (in Cantonese): President, first of all, I have to clarify one point to the public and the media, and even Members present, for many people do not know clearly the procedure this Council is going to carry out. Even Dr CHENG Chung-tai, the Member being censured in the motion, does not know it either, for he urged Members to vote against Mr Paul TSE's motion at a press conference hosted by him yesterday. In fact, the President has stated clearly just now that Mr Paul TSE's motion will not be put to the vote in all circumstances today. If no Member moves a motion according to Rule 49B(2A), that is, the motion proposed by me today, an investigation committee will be established by this Council to proceed with the follow-up work. After a report is submitted by the investigation committee, Mr Paul TSE's motion will be put to the vote by this Council officially and Members may express their support for or opposition to the motion. Hence, today, Members should vote for the motion proposed by me, that is, "no further action shall be taken on the censure motion moved by Mr Paul TSE". If my motion is passed, it means nothing has ever happened and this Council will get back onto the right track to continue with the proceedings to discuss livelihood subjects.

Last week, Dr CHENG Chung-tai issued a letter to all Members of the Legislative Council, and I will quote an important part of the content of his letter. He pointed out, to the effect that, "While the Department of Justice applied for a judicial review against the qualification of a number of Members, Mr Paul TSE has outrageously taken the initiative to collaborate in the legislature to denounce his political enemies as an act to show loyalty to the Mainland, trampling on the dignity of the legislature. This practice will set a precedent and open a Pandora's box of endless troubles. If the motion is passed, you will all become sacrifices of political struggles one day, whereas electors will be unreasonably deprived of their political rights."

I definitely agree with the argument advanced by Dr CHENG Chung-tai in his letter, otherwise, I will not have proposed the motion that "no further action shall be taken on the censure motion moved by Mr Paul TSE" today. As for the motion proposed by Mr Paul TSE, I think he is making a mountain out of a molehill by escalating the issue to the political plane. I can only describe his action with three words, "fabrication, exaggeration and imagination". His allegation is a mere fabrication originating from his exaggeration of Dr CHENG Chung-tai's action and justified by his mere imagination. All of these are done to ensure that the motion moved under Article 79(7) of the Basic Law can be passed to disqualify Dr CHENG Chung-tai from his office of Member of the Legislative Council, which will push the legislature and society further apart. The pro-establishment camp, as well as the Government, and various sectors have expressed the hope to foster a consensus, to bring the legislature back onto the right track to continue with the work of the legislature, yet the present action is in no way conducive to the fulfilment of this target.

Mr Paul TSE's motion targets at Dr CHENG Chung-tai's acts at the Council meeting of 19 October 2016. When the many Members from the pro-establishment camp left the Chamber in an attempt to cause an abortion of the meeting on that day, Dr CHENG inverted the two little flags "discarded" by Dr CHIANG—they may considered that they have "placed" the flags—in the glass holders on the tables or desks. Mr Paul TSE considers Dr CHENG Chung-tai's act of inverting the little flags discarded in the glass holders grossly disorderly conduct that deliberately and openly humiliates the national flags and regional flags. For this reason, he has to propose the censure motion today, and even to disqualify this elected Member returned by 50 000 votes.

If we can look at the course of events on that day objectively, Members will know why I say Mr Paul TSE is making up a false proposition and false allegations. In fact, at the meeting of the House Committee, we did spend some time to discuss the motion today. As some of the Members pointed out at the House Committee meeting, the size of the little flags used on that day was not to the specifications stipulated in the law, so it was questionable whether those flags could be regarded as national flags. Mr Paul TSE later invoked section 8 of the National Flag and National Emblem Ordinance, stating that a copy "so closely resembles the national flag or national emblem as to lead to the belief that the copy in question is the national flag or national emblem" will be taken as the national flag or national emblem, and he concluded that a copy of the national flag or emblem did not have to comply with all the specifications. I will not go deep into this point for the time being, and if any Member speaks on this later, I will address the issue later in my reply.

The second point I have to raise is about the withdrawal en masse of the pro-establishment Members from the meeting on that day. Their move sought to set off an aborted meeting, which meant they would not return to the Chamber during the Council meeting. This is the fact. Why do I say that the flags were "discarded"? These two little flags, that is, the "objects displayed" according to Mr Paul TSE and the pro-establishment camp, are the "objects for protest" as I called them. In the past, many colleagues would place objects for display on their tables or desks, and the incumbent President would tell Members that the best practice was to place the object for protest or display on their desks when it was their turn to speak, and this is also the approach adopted by the current President. If Members agree that Members from the pro-establishment camp had discarded the two little flags or the objects displayed in the Chamber of the Legislative Council, it would not be of concern what Dr CHENG Chung-tai had done to those objects. It is a matter of interpretation whether the flags were inverted, recovered or lowered.

Thirdly, it is stipulated in the National Flag and National Emblem Ordinance that the national flag or national emblem shall not be burnt, mutilated, scrawled on, defiled or trampled on ...

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, I have made it clear just now that this Council should not go into a debate or detailed discussion about the relevant facts now. The subject of the present discussion is whether the motion

proposed by you should be supported, and whether the matter stated in the censure motion should be referred to an investigation committee. Please come back to the question and stop making a detailed discourse on the matter stated in the censure motion, lest it prejudices the investigation which may be conducted later.

**MR CHAN CHI-CHUEN** (in Cantonese): President, thanks for your reminder. I have been trying to make it as simple as possible. After all, I have to persuade Members to vote for the motion proposed by me today, that is, "no further action shall be taken on the censure motion moved by Mr Paul TSE". In other words, if this motion is passed, this Council will not establish the so-called investigation committee. Hence, I must tell Members that the matter involved is frivolous. It is all about exaggeration. He is making a mountain out of a molehill, using his own imagination to create the story line and the implication, and then adding meaning to it. Only if I can persuade Members to support me, this Council will not have to spend additional time to proceed with the subsequent procedures.

According to my understanding, the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") has reported the case to the Police. At the House Committee meeting on that day, Members said that the case would be left to the Police for investigation. Have the Police arrested or initiated charges against Dr CHENG Chung-tai? As far as I am aware, they have not. Have the Police requested his presence at a police station to assist in investigation? It seems that they have not. In other words, the Police may consider that there is no prima facie case. Certainly, Members of this Council may propose a motion under Rule 49B(1A) of the Rules of Procedure, as Mr Paul TSE has done now. Members definitely can do so, yet Members from the pro-establishment camp, including Mr Paul TSE, used to make frequent criticisms of us for filibustering in the past and blamed us for abusing procedures when we explained that our practices were allowed under the Rules of Procedure. Today, the motion proposed by Mr Paul TSE is exactly a practice abusing procedures, a criticism he levelled at others. Debates arising from the amendments proposed by us on the budget were beneficial, for they may exert pressure on the Government and allow the public to know the content of the motion clearly. However, I do not think the motion proposed by Mr Paul TSE today will bring any benefit.

I know that after Mr Paul TSE had proposed his motion, some of the Members from the pro-establishment camp were not eager to show their support. I do not know how many Members will speak later, yet I consider the following point somehow strange: Why is the allegation not initiated by DAB, the owners of those objects? Certainly, if an investigation committee is to be established, the owners of those objects will have to show up. I also hope that they will present the national flags, just present all the flags they used on that day.

Actually, according to their overstating presentation, it is a violation of the national flag law no matter the national flag is recovered or lowered. If that is the case, the national flag should not be placed in the rubbish bin, and once a national flag is produced, it should be kept cautiously until it decomposes naturally, for the disposal of the national flag in the incinerator will be regarded as an offence of burning the national flag. We worry that staff members of the Secretariat of the Legislative Council, who collected the national flags by stuffing or stacking them in a bag after those Members had left the Chamber, may have contravened the national flag law. If the staff members throw away those national flags, they may also contravene the national flag law. Hence, if an investigation committee is established, people who have been involved in the production and purchase of those national flags—those so-called national flags, as well as people who brought and distributed the national flags to other Members may be required to come before the investigation committee to give evidence. Yet if I continue to dwell on this point, the President will say my discussion is delving too deep into the details of the case.

I would like to point out here that I believe Dr CHENG Chung-tai's act is at most an attempt to insult those Members displaying the objects but not the objects per se. Certainly, I cannot answer any questions on his behalf. Honestly, some people may think differently about Dr CHENG Chung-tai. However, I would like to point out the fact that when he stood for the election of the Legislative Council, he had signed the confirmation form without any doubt to confirm he would uphold the Basic Law. And I wonder if it was Mr Paul TSE or Dr CHENG who had signed the confirmation earlier. Moreover, in the promotion materials for the election, Dr CHENG has stated clearly his support for sustaining the Basic Law, which is evident that he upholds and is loyal to the Basic Law. Has Mr Paul TSE stated in this manifesto that he would support the Basic Law forever? A person who has not stated his continued support for the Basic Law is now accusing a person who has been advocating the sustaining of the Basic Law for being disloyal to the Basic Law and the People's Republic of China and violating his oath. I think this is utterly ludicrous.

Certainly, each Member may have adopted a different approach to oath-taking. As far as I noticed, Dr CHENG Chung-tai had not added anything before and after his oath. In fact, he had been criticized by netizens for not having done so. Some may consider him conservative, yet this may also be regarded as having the foresight, or playing safe. No matter how, all this proves that he is faithful to his oath and loyal to the People's Republic of China and the SAR. It is utterly different from Mr WONG Ting-kwong's omission of two words from his oath. Moreover, Mr Paul TSE said that Dr CHENG Chung-tai's motive of inverting the little flags was to insult the national flag, yet it is merely his conjecture. From the very beginning till the end, Dr CHENG Chung-tai is loyal to the People's Republic of China and the SAR. To tell who is more loyal, they have to find an opportunity to draw a comparison.

At the present stage, I would like to say that if Members support my motion, it means nothing has ever happened. By then, Mr Paul TSE's motion will disappear automatically and this Council will be back on the right track. We will continue to spend the precious time of this Council on discussions about government policies and initiatives affecting people's livelihood. We will proceed with the Council's business, and there will be no more disputes and overstatement. They always claim to aspire to harmony and urge others not to provoke division and opposition, yet the mover of the censure motion and those supporters of it seem to be acting against this primary principle they claim to uphold.

With these remarks, I urge Members to support the motion that "no further action shall be taken on the censure motion moved by Mr Paul TSE" (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, your speaking time is up.

**PRESIDENT** (in Cantonese): Members who wish to speak in the motion debate will please press the "Request to speak" button.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Chi-chuen be passed.



**DR CHIANG LAI-WAN** (in Cantonese): President, I rise to speak against the motion moved by Mr CHAN Chi-chuen that no further action shall be taken on the motion moved by Mr Paul TSE to censure Dr CHENG Chung-tai.

As we all know, Dr CHENG Chung-tai is not 3 years old, not 13 years old, not even 23 years old, but a 33-year-old adult and a teacher, an university lecturer. This time, under the full gaze of the public, he did an act so very childish, disrespectful to Hong Kong, disrespectful to the country and disrespectful to colleagues, for which he can hardly absolve himself of the blame.

On that day, Dr CHENG Chung-tai, during the absence of pro-establishment Members, took the liberty to invert the national and regional flags placed on Members' desks. When we realized that on the television screen, we immediately dashed back into the Chamber to stop and warn him, telling him clearly that his behaviour was wrong. However, after I had left the Chamber, Dr CHENG Chung-tai once again inverted the national and regional flags that I had placed correctly. It thus showed that we did not mistake his behaviour. His behaviour was not a joke or a prank, but a deliberate, repeated, intentional and open insult to the national flag of the People's Republic of China and the regional flag of the Hong Kong Special Administrative Region to which he has pledged allegiance.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

In fact, apart from me who stopped his behaviour, the President also warned him a number of times, but he ignored all that by turning a deaf ear. Only when the President said he would be expelled did he return to his seat, still unwilling to leave.

I know that some of the Members present today are allies of Dr CHENG Chung-tai, so naturally they do not want their "buddy" to be investigated and censured. However, Dr CHENG Chung-tai's behaviour was broadcast live on television the whole course and caused a public uproar. Therefore, if the Legislative Council does not enforce its house rules this time around, the public will think that Members of the Legislative Council are covering up for each other and may act as they please, harming the already damaged image of the Council and setting a bad example to the next generation who takes Members as role models.

Mr CHAN Chi-chuen stated that Dr CHENG Chung-tai was elected by tens of thousands of voters. Does he mean that when a Member did something wrong, he may defend himself simply by claiming that he was elected by voters, thus he can do whatever he likes? Is a Member's every act authorized by the public? I believe voters who voted for Dr CHENG Chung-tai did not know he would do something this childish and nonsensical. Mr CHAN Chi-chuen also said just now that the Council should not establish an investigation committee, and that such a precedent should not be set. He even hinted that this is only a political move. According to this argument, does Mr CHAN Chi-chuen think that any Member elected may ignore the law and Council order? Is that the case? No. I believe even primary school pupils can tell him that "everyone is equal before the law".

If we believe in democracy, we should know that in a democratic country, any head of state who committed a mistake may be impeached and asked to step down. When we talk about democracy, we must also talk about the rule of law, so that a balance can be struck among the social institutions. Therefore, I sincerely call upon all Members to consider the issue from the perspective of the whole society and be impartial. Just as in the incident of Democratic Party's Mr KAM Nai-wai and his female assistant in 2009 that required the establishment of an investigation committee, comrades of Mr KAM Nai-wai wanted to defend him and did not want him to be censured, they finally decided to abstain at the vote nevertheless.

Some members of the public have told me that this incident of Dr CHENG Chung-tai is nothing significant, that it is just a trivial matter. As Mr CHAN Chi-chuen said, it was just a small flag. However, some other members of the public said the national flag represents the Chinese people, carrying thousands of years of culture and history. If it is acceptable to invert the national and regional flags, one day ... the people have prepared an ancestral tablet of Dr CHENG Chung-tai's ancestors for him to place upside down. Does Dr CHENG Chung-tai dare place the ancestral tablet of his ancestors upside down? I believe he does not dare and will not so do. The line of argument is the same here.

If everyone or his allies believe that there is nothing wrong with Dr CHENG Chung-tai's behaviour, then why are they afraid of the establishment of an investigation committee? If what he did was deliberate, purposeful and intentional, then it is all the more necessary to establish an investigation committee. Therefore, I have spoken to oppose Mr CHAN Chi-chuen's motion

that no further action shall be taken, but I support the censure motion moved by Mr Paul TSE against Dr CHENG Chung-tai and that the matter be referred to an investigation committee.

I so submit. Thank you, Deputy President.

**MR LAU KWOK-FAN** (in Cantonese): Let me state at the outset that I support Mr Paul TSE's motion but oppose the motion "that no further action shall be taken on the censure motion moved by Hon Paul TSE" proposed by Mr CHAN Chi-chuen. As mentioned by the President just now, I am not going to describe what happened on that day or the relevant laws in detail. I only wish to point out that having listened to the speech delivered by Mr CHAN Chi-chuen just now, I find that the opposition camp has moved the goalposts at will, confounding right with wrong in order to shield the faults of some Honourable colleagues and harbour them.

Today, we have proposed this motion, but they said that this incident which took place in the Legislative Council had already been reported to the Police, so we could just let the Police deal with it. However, when we reported the case to the Police or took it to court, they would say that the Legislative Council has an established procedure for dealing with the Council business, so these matters should be handled in the Legislative Council in accordance with the established procedure. They said different things at different times, depending on which argument was more advantageous to them. I have indeed reported this matter to the Police and made a statement, but in my opinion, the fact that I have reported it to the Police does not conflict with the censure motion proposed by Mr Paul TSE in respect of Dr CHENG Chung-tai's behaviour. The two approaches can proceed in parallel because when we discover that someone has done something wrong, whatever approach we take, we have got to condemn it, complain about it or report it to the Police. We will not tolerate or abet any wrongdoings.

Shielding Dr CHENG Chung-tai's fault, a number of Members of the non-establishment or opposition camp merely described him as "puerile", yet they harshly criticized Mr Paul TSE or Members of the pro-establishment camp for political persecution. Frankly, Dr CHENG Chung-tai did not come to our seats and invert the national and regional flags on our desks for no reason. In the past, he often emphasized the great political ideology and theories of the Civic Passion.

I believe everything he did had a political motive, which was to humiliate the country and desecrate the regional flag. Why did we display the national and regional flags on that day? Because two former Members—I do not know if they can be regarded as having served as Members—had used the term "Shina" and made humiliating remarks about the country during oath-taking. To tell them that the Basic Law clearly stipulates that the Hong Kong Special Administrative Region is a part of China, we displayed the national and regional flags to remind Members that we need to make and treat our pledge solemnly.

As mentioned by Dr CHIANG Lai-wan just now, many people would say that "both the emperor and the people are equal before the law". No matter whether the Member concerned was elected by the people or not, an offence remains an offence. That one is elected by the people cannot constitute a reason or excuse for total disregard for the law. I also believe that if Dr CHENG Chung-tai is punished ultimately, be it by the law or by the censure today, people who have voted for him will say that his "puerile" behaviour has failed to live up to their expectations on him.

As a matter of fact, recently in the international community, various presidents or members of parliament elected by the people have been subject to due punishment after breaking the law. This time we have simply proposed a censure based on strength of the power vested in us under the Basic Law. There is no question of political persecution. In the past, many Members disrupted order in the Legislative Council in different ways, such as "adding extra materials" during oath-taking, hurling bananas at the attending public officers, throwing a glass and even snatching papers. Nevertheless, most of such behaviour was handled with leniency by Members or the person chairing the meeting because we believed that being colleagues, if we took a step backward, we would have much greater leeway. However, it had never occurred to us that every time we took a step backward, they would just push forward. If we gave them an inch, they would take a mile with no consideration for our tolerance in the hope of reaching a consensus and working together. Hence, I think this time around we really cannot step back again.

If we step back again, what will happen in the end? We have already witnessed a tragic result—I actually feel sorry about it—in this term, two elected Members, having noted that some Members could "add extra materials" during oath-taking before, did similar acts. Moreover, they added something more,

using words offensive to the country and the nation in their oaths. What happened in the end? They had drawn fire on themselves. Since Members stopped harbouring them, a court judgment was handed down to disqualify them from office. Telling from this, sometimes it seems ...

**DEPUTY PRESIDENT** (in Cantonese): Mr LAU Kwok-fan, let me remind you that Council is not debating the censure motion now. Please focus your speech on whether or not you support the motion proposed by Mr CHAN Chi-chuen.

**MR LAU KWOK-FAN** (in Cantonese): I was trying to explain why I support Mr Paul TSE's censure motion but oppose the motion proposed by Mr CHAN Chi-chuen.

Sometimes excessive tolerance may do us harm.

As I said just now, although some Honourable colleagues do not think this is a serious issue, I believe Members must have heard of the following saying: "Do not think any vice trivial, and so practise it; do not think any virtue trivial, and so neglect it." What is wrong, is wrong. Big or small, a fault remains a fault. The censure motion proposed by us in this regard can simply be referred to an investigation committee. Members need not resist it so strongly or request that no further action shall be taken on the censure motion. Hence, I absolutely support the motion proposed by Mr Paul TSE but oppose the motion "that no further action shall be taken on the censure motion" proposed by Mr CHAN Chi-chuen.

I so submit. Thank you, Deputy President.

**DR KWOK KA-KI** (in Cantonese): Deputy President, we are not supposed to waste so much valuable time of the Legislative Council. According to the pro-establishment camp, the Council is very important and solemn, so we should not waste our time on discussing meaningless matters. However, on this occasion, the debate was initiated by Mr Paul TSE. He wishes to invoke Rule 49B of the Rules of Procedure ("RoP") and Article 79(7) of the Basic Law to censure a Member whom he considers as having misbehaved or breached the

oath in respect of an incident which he describes as "puerile". I consider it unreasonable. In my view, anything we do should be proportionate. He may by all means criticize Dr CHENG Chung-tai and express dislike of his behaviour or whatever. We must review what happened that day. As a matter of fact, on that day Members of the pro-establishment camp caused the abortion of the meeting, which was not an honourable act. I remember that the pro-establishment camp would often say that Members should not cause any meeting to be aborted. Nor should we waste any time of the Council. But even voters who support Members of the pro-establishment camp consider that their act on that day wasted the time of the Council. It is a pity that Mr WONG Kwok-hing is not here. Otherwise, he would again comment that we have wasted some 1 000 cans of luncheon meat. What a pity he is not here! Only he knows how to use luncheon meat to represent our time.

No matter what, that was not an honourable act. Moreover, I have noticed that if we greatly respect our regional and national flags, we would seldom display flags of a reduced size which are usually treated as mere toys. We will not hoist the flags or treat our national flag in that way. I also rarely see any regional or national flag placed in our Chamber without any reason. Strictly speaking, this has undermined the solemnity of the Legislative Council, but now that it was done, let it be. That I have risen to speak does not mean I approve of Dr CHENG Chung-tai touching other people's stuff. Simply put, he inverted other people's articles. We can say he was impolite. We can also say he did so without consent. But if we move a motion under Rule 49B(2A) in the Legislative Council at every turn, we will be rather busy. We often have different views and a lot of arguments in the Council. We may also display different props in the Chamber. If censure is inflicted on the grounds of misbehavior on each occasion ... although Mr Paul TSE kept saying that he does not have any political consideration, it is obviously a disproportionate approach. He described that incident as "puerile". I dare not deny it. It is also the view of many people. But why does he need to invoke the Rules of Procedure ("RoP")? Why does he have to censure this Member? Is he himself being "puerile" too in this matter? Is he telling us there is something wrong with his judgment? This is very important. I believe every Member has the freedom to do anything in the Council with the power vested in him under RoP, but if he chooses to use a "butcher's knife" to deal with such a trifle, we will have to assess his judgment afresh. In particular, I have noted that Mr TSE himself is a legal practitioner ...

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, I have to remind you that you should not debate at this stage whether you support Mr Paul TSE's censure motion or otherwise. Instead, you should wait to state your stance until this Council conducts a concrete debate on the censure motion upon completion of an investigation by an investigation committee.

**DR KWOK KA-KI** (in Cantonese): Deputy President, actually I am discussing Mr CHAN Chi-chuen's opposition ...

**DEPUTY PRESIDENT** (in Cantonese): Please focus your speech on whether or not you support the motion proposed by Mr CHAN Chi-chuen.

**DR KWOK KA-KI** (in Cantonese): ... since Mr CHAN Chi-chuen's opposition motion is based on the motion proposed by Mr Paul TSE, I cannot but mention this matter because the latter is the cause. Had Mr Paul TSE not proposed his motion, I believe Mr CHAN Chi-chuen would not have found it necessary to oppose something which did not exist. Hence, Deputy President, I am really sorry that I have to continue to explain why we cannot approve of this matter.

Respect is something that should be recognized by everyone. We certainly hope that all of us will attach great importance to the national and regional flags. This is entirely correct. Nevertheless, I have noticed that in recent years, people have different views on national flags not only in Hong Kong but also in many places around the world. In extremely democratic places such as the United States and the United Kingdom, some people will even burn their own national flags when their Government has acted unreasonably. Yet certainly, they will not be caught and executed by a firing squad. They will not be subject to such harsh punishment. In our Motherland, however, a relatively despotic government is rather sensitive about the national flag. I will not blame it, but how the people treat their government depends on the way the latter acts. This is quite obvious. The Government of our country can suppress unarmed democracy activists in the country and sentence Mr LIU Xiaobo, laureate of the Nobel Peace Prize, to imprisonment of more than 10 years. Although freedom of assembly, freedom of speech, freedom of association and freedom to participate in politics are explicitly provided for in the constitution of our country, actually there is no such freedom at all on the soil in the Mainland. When

workers are bullied, they do not even have the right to go on strike. Under such circumstances, it is kind of putting the cart before the horse to ask us to uphold respect for a certain regime. I very much hope that one day, I mean one day, we will really salute the national and regional flags. When we enjoy freedom and democracy, Hong Kong people can truly elect the Chief Executive by "one person, one vote", all Members of the Legislative Council are returned by direct elections, we do not have "birdcage" democracy, and the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong" are indeed free from any intervention by different government officials in China, how will we not give our highest respect to the national and regional flags? When every Chinese citizen in China has the right to choose their own political representatives, when the National People's Congress ("NPC") of China does not adopt the system of single-candidate election as it does now, when there is not so much corruption in China—even the people in China admit themselves that there are many corruption cases which have caused the disqualification of NPC deputies of certain provinces, why do we ...

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, let me remind you once again to focus on explaining why you support or do not support referring the matter stated in the censure motion to an investigation committee. Can you explain how the argument advanced by you just now is relevant to Mr CHAN Chi-chuen's motion?

**DR KWOK KA-KI** (in Cantonese): Deputy President, I am going to do that. Because now we are discussing why Dr CHENG Chung-tai's behaviour deserves the so-called ultimate punishment. Deputy President, censuring him in the Legislative Council and disqualifying him from office is tantamount to imposing the ultimate punishment.

Just now Mr Paul TSE mentioned that such an incident had occurred only once in the history of the Legislative Council. It was about a criminal case of a former Member, Mr CHIM Pui-chung. Now we are discussing on what basis we should endorse Mr Paul TSE's motion, or on what basis we should support Mr CHAN Chi-chuen's opposition motion or otherwise. I consider Mr CHAN Chi-chuen's motion reasonable. The reason is that if our heart is genuinely filled with admiration when we face the national and regional flags or symbols of our country, we certainly will not act in such a way. However, when many



compatriots in China ... I believe you will also agree that apart from discharging our duty to the best of our ability in the Legislative Council with a view to improving the administration of the Special Administrative Region, we have no reason, with our identity as Chinese people, to turn a blind eye to the suppression of unarmed people in China, as in the case of people being crushed to death by bulldozers owing to land resumption. Violation of human rights takes place in China every day. We will not accept such a situation. Otherwise, we would not have to conduct a debate on the national flag today—though the pronunciation of national flag in Chinese ("國旗" gwok3 kei4) is similar to that of my name.

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, this Council is now having a debate on Mr CHAN Chi-chuen's motion rather than a discussion about the national flag. Please focus your speech on the motion.

**DR KWOK KA-KI** (in Cantonese): Yes, Deputy President. Now I will come back to why I support Mr CHAN Chi-chuen. It is because Mr CHAN Chi-chuen has made it very clear that this incident is not worth invoking Rule 49B. It is a solemn decision, Deputy President. If we invoke this rule for such a trifle—other Members may consider that Mr Paul TSE does not aim at political suppression. Let us just listen to his words and observe his deeds in the meanwhile—but if someone does it deliberately, the Legislative Council will become very busy. Suppose I consider someone unpleasant to my eye. The clothes he wears are not pretty and not red enough. Our country has got to be red, but he did not appear in bright red in October. I think he is not loyal enough. In that case, could I also invoke Rule 49B and criticize that his clothes were not red enough, or his bow was not deep enough, and he did not make an obeisance when he saw the state leaders? Could I invoke this rule? The use of this "butcher's knife" (i.e. Rule 49B) is solemn and rare. When we use it, we must first ask ourselves whether such an approach is proportionate.

Common sense applies to everything. Maybe according to some people's common sense, this matter is greatly important, but in my view, under a Western democratic system, Council Members returned by elections and with a popular mandate are accountable to their voters. The decision is not up to us. I believe that when Dr CHENG acted in that manner, he had already expected that the voters will judge in the future elections whether he is capable of serving as a

Member. How are we qualified to determine whether he is capable of serving as a Member? People who have voted for him consider him qualified. Perhaps a few years later, his political opponents may use this incident to attack him. This decision should be left to the voters. In the Council, however, we attach paramount importance to the position of an elected Member. His position cannot be challenged because if we do so, basically the composition of the Legislative Council can no longer exist. Please do not forget that today, the Legislative Council is already full of injustice. Half of the seats are occupied by Members of functional constituencies. Who do they represent? Many Members of functional constituencies won their seats with zero vote without going through any election, and then they are going to determine Dr CHENG Chung-tai's fate? How ridiculous! To put it bluntly, what a shame!

None of us is qualified to determine on behalf of voters Dr CHENG Chung-tai's fate. We may disapprove of his act. We may laugh at him or whatsoever. I believe the online media, especially the pro-Beijing ones, have spared no effort in keeping condemning him, but please do not forget that this is the Legislative Council. We cannot draw the "imperial sword" to unseat a Member at every turn. This is unacceptable. If we allow this today, that means we have not honoured our duty in the Chamber. This is the most important reason why we should support Mr CHAN Chi-chuen.

It was unwise of Dr CHENG Chung-tai to act in that manner. Of course, he has the right to do so, but such an act will only reduce the legitimate rights which he may exercise in the Council. Think about it carefully. Such an act will only give rise to endless continued political suppression in the Legislative Council. When there is no democratic political system on our Motherland, when the Hong Kong Legislative Council is still immature with half of the seats occupied by functional constituencies, I consider it unacceptable for us to go so far as to suppress an elected Member here. Please do not blame some people for regarding everything as organized political suppression because all actions taken in this case, coupled with the oath-taking incident, seek to denigrate by every means the choice made by voters. Hence, in conclusion, it is impossible for us to accept Mr Paul TSE's motion. I can only support Mr CHAN Chi-chuen's motion.

I so submit.

**MS CLAUDIA MO** (in Cantonese): I support a hundred percent the motion moved by Mr CHAN Chi-chuen, which proposes that no further action shall be taken on the motion moved by Mr Paul TSE to censure Dr CHENG Chung-tai. I support Mr CHAN Chi-chuen but not Mr Paul TSE mainly because, based on my personal feeling and my personal view, someone has been thinking that he can use a small knife to fell a big tree, or as the Westerners put it, he is using a machine gun to kill bumble bees.

The whole issue is about love of the country or patriotism. The British have a saying which goes like this: "Patriotism is the last refuge of a scoundrel", and the Americans also have a saying which says, "The duty of a patriot is to protect his country against his government."

These sayings about patriotism generally have nothing to do with the constitution; nor does the Basic Law make special mention of patriotism or whatsoever. However, patriotism is mentioned in the Constitution of the People's Republic of China, and I wonder if you have read the Constitution carefully. Article 24 of the Constitution of the People's Republic of China stipulates that "[i]t conducts education among the people in patriotism". This is mentioned therein. Our feeling now is that somebody in Hong Kong, under "one country, two systems", very much wants to tell Beijing that he is so very patriotic towards the State and these people at the same time want to show more clearly that some people are unpatriotic, in order to make a comparison to demonstrate that they are so very patriotic towards the State. This is what the whole issue is all about.

Patriotism forms the main axle of politics in Hong Kong. This is all clear to us and indeed, this has all along been the same and upheld consistently. This has been spelt out clearly since June 2014 when Beijing published the White Paper on "one country, two systems", in which such expressions as "the great Chinese nation", "strong ties of blood", and so on, are repeated over and over again. But in the final analysis, love of one's country must come from the people spontaneously, and it is not about ties of blood. I mean this is not a must, and I do not mean to forbid people from making such claims. When the Americans talk about patriotism, it is difficult for them to connect it with ties of blood. What ties of blood are there? This man comes from Germany; that man comes from Scotland, and these cases simply abound. Their ties of blood are entirely like a "salad bowl". But if it comes from the people spontaneously, not inculcated by the "brainwashing" kind of education or as a constitutional requirement, that would be genuine love of one's country.

What I am saying now ... Do not say that we should avoid mentioning the contents of Mr Paul TSE's motion. Everything happens exactly because of him. He started it. It is because he proposed a motion first that Mr CHAN Chi-chuen has to raise opposition. When I support Mr CHAN Chi-chuen to raise opposition, I must come back to Mr Paul TSE's original motion. You people just do not have logic. Everyone who rises to speak has to come back to the motion to which Mr CHAN Chi-chuen raised opposition, and I am precisely speaking on the opposition voiced by him. The reason for him to raise opposition is that according to the censure motion, Dr CHENG Chung-tai had breached his oath and under Article 104 of the Basic Law, he had done something wrong. This actually boils down to the notion that he is unpatriotic because while he openly swore allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, he inverted the national flags and this goes to show that he is unpatriotic and that he had humiliated the national flag, though he really did not say anything about burning or defiling the national flag, so this is not the point at issue.

I am still talking about the question of oath. Strangely enough, if we purely look at the question of oath, I must say that Mr Paul TSE is unbecoming of a lawyer. You made all Members of the Legislative Council impose limits on ourselves and castrate our own functions. Whatever we say in future may invite troubles easily, and we may be accused any time of being unpatriotic or of breaching the oath in making a certain remark, or we will be told that the remarks made by us may amount to hurling insults at a certain person at the top.

When I was young I once heard a story about the Cultural Revolution which has been etched very deeply in my mind. The story happened in somebody's hometown where a man, when posting a letter, had glued upside down a stamp with Chairman MAO or MAO Zedong's portrait printed on it. Then someone tattled on him and he almost had his head chopped off, and he was paraded through the streets for his wrongdoing. You may say that this man did not do that intentionally and probably deserved our sympathy but the person in question was deliberate—I have no idea if he was deliberate or not—however, this is indeed reminiscent of the Cultural Revolution, especially when I heard Dr CHIANG Lai-wan's speech at the outset which really sent chills down my spine. That speech of hers was entirely reminiscent of "The Red Detachment of

Women"<sup>1</sup> during the Cultural Revolution. That was really scary. They can so easily accuse a Member of acting in breach of the oath-taking requirements under Article 104 of the Basic Law.

Just a fortnight ago I asked the Secretary for Constitutional and Mainland Affairs, Raymond TAM, what would happen to the lawful rights and obligations of Members in meetings in the light of the interpretation of the Basic Law in relation to the oath-taking controversy. He said that the interpretation of the Basic Law has not in the least made any changes to the legislative intent or provisions, and he even added that the lawful rights and duties of Members in speaking in the Legislative Council are completely unaffected. I went on to ask the Secretary this: In other words, on 4 June next year, Members can still say things such as "vindicate the 4 June incident" and "end one-party dictatorship" in this Chamber, right? I was standing right here when I asked him these questions. I said, "It will still be fine for someone to talk about "Hong Kong independence", "self-determination", and so on, right?" He was sitting on the opposite side and he did not take exception to my points.

However, according to the action taken by Mr Paul TSE now, his action is still compliant with the law, and if a person who said, for instance, "end one-party dictatorship", is in breach of the Constitution of China because in the Preamble of the Constitution it is expressly mentioned at least twice that the Chinese people of all nationalities will continue to be under the leadership of the Communist Party of China, and there is also mention of the system of multi-party cooperation led by the Communist Party of China, and so on, which all mean "one-party dictatorship", should the Legislative Council in Hong Kong be barred from making such remarks? However, Secretary Raymond TAM did not say that those remarks would be barred. If this is the logic and if this motion of Mr Paul TSE is passed, a Member who wishes to censure another Member in future will be able to do so by moving a motion to initiate the same procedures. That would be terrifying. What kind of a Legislative Council is this? No kidding me, please.

---

<sup>1</sup> The Red Detachment of Women (紅色娘子軍) is a popular Chinese ballet performed during the Cultural Revolution about a peasant woman who fled from slavery and with the assistance of the Red Army, became a leader in the revolution.

Some people said that this is not entirely firing aimless shots, for someone has indeed committed such an act and so, we have to punish him. Just now a Member, whoever it is, even said that the President of the last term was so lenient that people developed the impression that Members knew only to be tolerant and as a result, things have come to this sorry state now. They said that the incumbent President will rein you in and fix you. That sort of attitude has indeed spoken for itself. They are even comparing the President of the last term with the President of the current term. I think your mentor, namely, President TSANG of the last term, would be utterly saddened on hearing those remarks.

However, we really have to be careful because if you can easily allege others of breaching this and that article of the Basic Law, Members must bear in mind one thing. If my memory has not failed me, Article 48(2) of the Basic Law stipulates that the Chief Executive of the Hong Kong Special Administrative Region is responsible for the implementation of the Basic Law in Hong Kong. In other words, if anyone is in breach of the Basic Law, the Chief Executive has the power to take him to court. You said that this may not really happen, but this has happened in reality. The Government has precisely invoked this Article in the case of YAU Wai-ching and Sixtus LEUNG. If things go on like this, whether you were a judge at whatever levels of court, a Member of the representative assembly, a civil servant, a professor, or a television or radio programme host, technically you could really be taken to court if he said that you had breached the Basic Law.

You may argue that I am over-exaggerating and question if this ever happened before. I also thought that this definitely would not happen, but just look at the Judicial Review case of Mr LEUNG and Miss YAU, and then they were "DQ" or disqualified, though they are going to appeal all the way to the Court of Final Appeal and we will see what developments there will be in future. So this has happened before. Therefore, let us not connive at such behaviour in the Legislative Council. What are you trying to say?

**DEPUTY PRESIDENT** (in Cantonese): Ms Claudia MO, please point out how the remarks you made earlier are related to your support for the motion proposed by Mr CHAN Chi-chuen or otherwise.

**MS CLAUDIA MO** (in Cantonese): Then I have to repeat my points all over again ...

**DEPUTY PRESIDENT** (in Cantonese): You have spent a long time talking about the concept of patriotism and discussing the incident relating to the oath-taking by Mr LEUNG and Miss YAU.

**MS CLAUDIA MO** (in Cantonese): ... somebody is keen to tell Beijing that he is so very patriotic towards the State and to this end, he has to tell others that some people are unpatriotic in order to show more resolutely and highlight his love of the country, and I have been speaking along the main axle of patriotism.

Dr CHENG Chung-tai's behaviour may not be agreeable to all, and I am not too clear about what message he wished to strike home at the time, but the fact is that he has given somebody a handle. But never mind, and it is most important that we continue to protect the office of an elected Member. When you attack an elected Member, trying to disqualify him from office, you would be attacking the people. Thank you.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, we are now discussing Mr CHAN Chi-chuen's motion, moved to oppose Mr Paul TSE's motion moved under Rule 49B(1A) of the Rules of Procedure to censure Dr CHENG Chung-tai for violating Article 79(7) of the Basic Law, that no further action shall be taken on the censure motion.

Deputy President, just now many Members have mentioned the investigation regarding the censure on Mr KAM Nai-wai. I joined the investigation committee at the time. I remember that before the forming of the investigation committee, there had been heated debates on whether the accusation made of Mr KAM Nai-wai who dismissed his female assistant because of his unsuccessful expression of affection to her could substantiate setting up an investigation committee under Rule 49B(1A) of the Rules of Procedure. As regards the accusation made of Mr KAM Nai-wai, we noticed diverse responses made by different Members. At the time it seemed that many women had sent letters of complaint to the Legislative Council. Therefore, I believe we ought to adopt very stringent standards to determine whether or not the Legislative

Council should set up an investigation committee. In fact, given the experience of the previous investigation committee, my judgment is that an investigation committee will very likely be formed this time, because once Mr CHAN Chi-chuen's motion is negated, the investigation will be committed to a five-man committee.

I was personally involved in the investigation into the censure on Mr KAM Nai-wai. I supported the investigation back then but when the investigation committee was formed, but no one from the opposition camp joined it, meaning members of the investigation committee were all pro-establishment. I would not repeat the discussion held at the investigation committee but would like to point out that members involved in the investigation had all applied very rigorous standards, never daring to have the slightest thought of neglect. Though holding different political views, we unanimously considered that the standards could not be casually lowered. Also we followed the procedures to the letter to give sufficient opportunities to the party involved and conducted lengthy debates. What was the result? As the pan-democrats did not join the investigation committee, eventually the all-pro-establishment committee reached the only conclusion that the allegation of inconsistent remarks by Mr KAM Nai-wai was established. However, based on our rigorous standards, we found the allegation that Mr KAM Nai-wai had dismissed his female assistant because of unsuccessful expression of affection to her not established. With the investigation results available, the case then had to be voted upon in the Legislative Council in accordance with Article 79(7) which reads "When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present." These are very strict standards.

Therefore, we are now discussing whether we agree to Mr CHAN Chi-chuen's motion moved to oppose the censure motion, which is definitely the first step. Deputy President, I also agree with what Dr KWOK Ka-ki and Ms Claudia MO said, that the origin of the incident ought to be mentioned. I think that it is impossible not to consider the origin when we discuss this motion, for there are very strict standards. I hold that motions moved under Rule 49B(1A) of the Rules of Procedure cannot be handled casually.

Now we are talking about respect for the national flag. I think in the Legislative Council, Members of the pro-establishment camp, in particular, have received complaints from many citizens against Dr CHENG Chung-tai inverting the national flags here in the Chamber the other day. They have had very strong



reactions and given us many opinions, requesting us to at least seriously look at the incident and hold a discussion on it in the Legislative Council. Therefore, is it just a matter of being "puerile"? Similarly, that day Sixtus LEUNG and YAU Wai-ching referred to China with a word pronounced as "shina". Perhaps they genuinely did not consider it a problem. I remember that at the time some men had cast doubts on if Mr KAM Nai-wai's expression of affection to his female assistant would be a problem. They could hardly realize that those statements would arouse such strong reactions from women and his female assistant.

The national flag is a matter of national dignity. Reading the judgment by the Court of Final Appeal in 1999 on the case about NG Kung-siu scrawling on the national flag, we can see that it is indeed very clear. The Court made a comparison of practices around the world. It is true that different countries have different regulations and levels of strictness governing their national flags—some are more relaxed while some others stricter. Why does our country have stricter requirements? It is because as far as China is concerned, sovereignty is something secured after onerous efforts. China had been divided and occupied, and this explains why "shina" had created such strong reactions as the word reflects a painful episode in the history of our people, reminding us that China was a suffering country. Therefore, not just the Government, all the people cherish the national flag very much.

At the time of Hong Kong's reunification with the Motherland, China exercised great restraint in formulating Annex III of the Basic Law. Now many people ask why the National Security Law of the People's Republic of China is not included in Annex III. As a matter of fact, the State only had some humble requests when drafting the Basic Law, one of which was the hoisting of the national flag in Hong Kong as the national flag represents sovereignty. Before 1997, there was no Chinese national flag flying in Hong Kong. Different people (including Chinese in Hong Kong) have very strong feelings for the national flag.

Some people, such as Ms Claudia MO, may say it is indeed no big deal; or just as Dr KWOK Ka-ki said, the democratic system has to be properly put in place before anyone will show respect to this national flag. People can say so, but to other people, this national flag carries deep meanings, symbolizing the final unification of the country. The peace today is undoubtedly hard-earned.

Emotional factors aside, in terms of law, Annex III stipulates the Law of the People's Republic of China on the National Flag can be directly applied to Hong Kong or enforced by means of local legislation. Hong Kong opted for local legislation and enacted the National Flag and National Emblem Ordinance, in which section 7 ensures the national flag is respected in Hong Kong.

In the Legislative Council meeting today, some people said we can wait for the authorities to initiate criminal prosecution against Dr CHENG Chung-tai. In fact in the past Members had moved motions under Rule 49B(1A) of the Rules of Procedure regarding other Members' statements and behaviour, which were not passed. The reason was to wait for the judgment on relevant proceedings or some cases were pending appeal. We would adopt very strict standards and refrain from forming an investigation committee without adequate consideration.

However, today we really have to set rules and boundaries in the Chamber. We notice that many newly-elected Members may have watched too much television and think that these reckless acts are no big deal, including uttering such insulting and offensive words to Chinese. They still think they did nothing wrong, responding that it was just a matter of accent. I did not say those words; we can all see the aversion taken by overseas Chinese. The same goes for the inversion of the national flag. Some people, including Dr CHENG Chung-tai may wonder why some others would have such strong reactions. I believe Members must have received a lot of views from the public even outside the Council. Dr CHENG Chung-tai had studied in Beijing. I suppose he has some understanding of the national flag, which symbolizes not only the political regime they criticize, but also the ultimate unification of our country. Therefore, to many Chinese, the national flag signifies an end to bully and humiliation, carrying most profound significance.

Under such circumstances, I think that we cannot support the views of opposition voiced by Mr CHAN Chi-chuen. But I also predict that if Mr CHAN's motion is negated, meaning an investigation committee is to be set up, Members from both camps holding different political views should join it and uphold the most stringent standards. If, at that time, Members of the opposition camp want to make remarks to the effect that those did not truly represent the national flags, they can absolutely do so. However, I think the standard to admit them will be very high.

As a Member who has taken part in the relevant investigation committee, I wish to share my views here and tell Honourable colleagues why some people find it unacceptable for Dr CHENG Chung-tai to invert the national flags in the Council. If we undertake an investigation, we can demonstrate to the public our intention to answer a major demand of society, that we will handle this incident seriously and that the Legislative Council does not refuse to follow up. As to how the report will be penned after the follow-up and whether the censure on the Member concerned can be passed at the Legislative Council according to Article 79(7) of the Basic Law after the report is available, we will certainly all approach all these issues with a prudent attitude.

Deputy President, I oppose Mr CHAN Chi-chuen's motion. I so submit.

**DEPUTY PRESIDENT** (in Cantonese): I would like to make a brief clarification here. Will Members please note that according to Rule 73A(1) of the Rules of Procedure, the investigation committee consists of seven, not five people.

**MR LEUNG CHE-CHEUNG** (in Cantonese): Deputy President, today, we are debating the motion moved by Mr CHAN Chi-chuen according to Rule 49B(2A) of the Rules of Procedures, "that no further action shall be taken on the censure motion moved by Mr Paul TSE", and the motion moved by Mr Paul TSE according to Rule 49B(1A) of the Rules of Procedure to censure Dr CHENG Chung-tai. I think this is a very solemn debate but not a redundant discussion which the Council should skip and return to discussions about livelihood issues as Mr CHAN Chi-chuen said. His remarks are definitely showing disrespect to Members of the Legislative Council. Mr Paul TSE's motion seeks to censure Dr CHENG Chung-tai's conduct at the meeting held on 19 October, and I will not discuss the specific content here. However, the incident involves conduct in the legislature.

Members of the Legislative Council are protected by two provisions in law. First, it is Article 77 of the Basic Law, which stipulates that "Members of the Legislative Council of the Hong Kong Special Administrative Region shall be immune from legal action in respect of their statements at meetings of the Council." And the other provision is Article 78 of the Basic Law, which stipulates that "Members of the Legislative Council of the Hong Kong Special

Administrative Region shall not be subjected to arrest when attending or on their way to a meeting of the Council." Immunity is applied under these circumstances. However, I think both of the aforementioned provisions are not applicable to the acts of Dr CHENG Chung-tai. Hence, regarding Mr CHAN Chi-chuen's remark that this Council should cease the debate on the incident to spend the time on discussions about livelihood issues, I would like to raise two points in response.

First of all, in the past, Mr CHAN Chi-chuen often took actions against livelihood issues. These include the filibuster he engaged in near the end of the previous Legislative Council, which caused the death of the Medical Registration (Amendment) Bill 2016. The Bill is about people's livelihood, yet it was strangled by the filibuster. Yet, today, he dares take the moral high ground to lecture us on saving time for discussions about livelihood issues. He may sound noble initially, yet on second thought, we will note that it is rather ironic, for they have acted ambivalently.

Second, he called Mr Paul TSE's motion a political persecution. Mr Paul TSE has explained clearly that the overall behaviour of Dr CHENG Chung-tai was an infringement of the law. Why should an investigation committee be set up? For we all wish to know whether or not Dr CHENG Chung-tai refuses to uphold the Basic Law and the SAR Government from the bottom of his heart. It takes time to investigate the incident. This is neither child play nor political persecution. For the incident is about the upholding of the Basic Law and the SAR Government, which is included in the content of his oath, and whether his conduct manifests a breach of his oath. If this is regarded as political persecution, I would say law is no longer a concern in Hong Kong for there are only political struggles. Such remark about political persecution will give people the impression that someone is trying to cover up the fault.

There is yet another really ridiculous point. On 19 October, we displayed the national flags and regional flags on our desk to express our dissatisfaction with those people who had insulted the country and the nation and to show respect to our country and the SAR Government. How would these flags become rubbish once we left the Chamber? Mr CHAN Chi-chuen really needs to study the rules of the legislature all over again. Items on the desks of Members are personal belongings of Members, and other people should not take away or damage those items, as it contravenes the rules in doing so. This point is crystal clear. If Mr CHAN Chi-chuen considers that all items placed on the

desk of a Member will be regarded as rubbish once the Member has left the Chamber, it means the placards or props he used in the past could have been dumped? Only the President has the authority to rule whether or not the object displayed by a Member contravenes the rules. Hence, his argument is circumventing the rules frequently invoked by the Legislative Council. In this debate on the motion proposed by Mr CHAN Chi-chuen, his attempt to cover up another's fault and his hypocritical attitude are revealed.

Regarding the national flag and the regional flag, as a citizen, it is stipulated in the Basic Law that ... Unequivocal statutory requirements are stipulated in the National Flag and National Emblem Ordinance, prohibiting damage of the national flag, lest it constitutes an offence. Just now, Mr CHAN Chi-chuen—sorry, it should be Dr KWOK Ka-ki—said that the Americans could do whatever damage to their national flag due to the freedom of speech and the freedom of action. However, in the United States, it seems that the burning of the national flag is not regarded as illegal in any law. In the case of Hong Kong, the National Flag and National Emblem Ordinance stipulates unequivocally that it is an offence to insult, defile and desecrate the national flag. In my view, the conduct and behaviour of Members of the Legislative Council in the Chamber are watched by a vast audience, so the influence is great. Why did he have to do that? There must be a purpose.

Hence, I consider the present motion extremely important and a solemn matter. Dr CHENG Chung-tai may express his mind through the investigation committee. We do want to give a second chance to Dr CHENG Chung-tai this time around. Why does Mr CHAN Chi-chuen not want to do so? Does he worry Dr CHENG Chung-tai will say that he truly wants to insult the national flag and the SAR Government and they can no longer cover up his fault by then? I think Mr CHAN Chi-chuen seeks to absolve Dr CHENG Chung-tai of his blame by proposing the motion under Rule 49B(2A) of the Rules of Procedure. I think this approach is inappropriate. I hope Members will support Mr Paul TSE's motion but oppose Mr CHAN Chi-chuen's motion, and I will support the former motion, too. I so submit.

**MR ANDREW WAN** (in Cantonese): Deputy President, I rise to speak in support of Mr CHAN Chi-chuen's motion. Before making further remarks, I must clarify a few points. Especially after listening to the remarks made by several pro-establishment Members, I consider it all the more necessary to make

this clarification. First, please do not unjustifiably pin labels on others. I, at least, regard myself as Chinese and I have repeatedly stressed that I am Chinese born and raised in Hong Kong; second, I hope Honourable colleagues will make clear the focus of today's discussion and I ask them to adopt the same standard when they speak, otherwise it will be difficult for us to engage in a continued discussion.

Deputy President, there are three main reasons for my support of Mr CHAN Chi-chuen's motion. I here quote a passage to express my thoughts.

"First, the Legislative Council should have the authority to exercise self-control; second, the due process must be taken seriously; and third, the whole matter, procedure and motion will not produce the anticipated results.

"Deputy President, Rule 49B(1) of the Rules of Procedure clearly states that it could only be invoked when a Member was convicted of a criminal offence(s) and was sentenced to imprisonment for one month or more. Rule 49B(1A), that is, the provision invoked by us today, does not state under what circumstances it can be invoked, except for the general description of censuring a Member for breach of oath under the Basic Law or misbehaviour, as stated today. However, the definition of misbehavior can be very wide.

"Deputy President, the Legislative Council certainly possesses enormous powers and a mechanism in conducting investigations. However, my humble opinion is that the mechanism of the Legislative Council should not be activated casually. It must be activated only for the purpose of investigating matters of significant public interest. It is definitely inadvisable to invoke Rule 49B(1A) of the Rules of Procedure immediately to address the personal integrity or conduct of individual Members, or any illegal acts of transaction conducted by Members. This is because, in doing so, the Legislative Council will be turned into a court to try the integrity or conduct of the relevant Member, which is inappropriate. On the contrary, if there are any complaints, whether criminal or civil, an appropriate mechanism, including the Court and other statutory bodies, is definitely in place for investigations and trials to be conducted and decisions made. The Legislative Council will take follow-up actions and invoke Rule 49B(1) or Rule 49B(1A) of the Rules

of Procedure only if the decision so made is worthwhile for the Legislative Council to act accordingly. Rule 49B(1A) should not be invoked rashly and indiscriminately as a mechanism for conduct investigation. I consider this an abuse of process. Furthermore, Deputy President, I am afraid the precedent set today is not a question of pinpointing individual Members or the persons concerned, but things will simply see no end after the mechanism is activated."

(THE PRESIDENT resumed the Chair)

The aforementioned remarks were made by Mr Paul TSE previously against Mrs Miriam LAU's motion to investigate Mr KAM Nai-wai under Rule 49B(1A) of the Rules of Procedure which many Members have been citing earlier. In fact, I was shocked to find that these remarks are an apt quote for us to cite today. That is, I try to use yesterday's Mr Paul TSE to knock down today's Mr Paul TSE, and yesterday's Mr Paul TSE by today's Mr Paul TSE.

President, I have also mentioned the reason for supporting Mr CHAN Chi-chuen, which is, his course of action will cause endless disputes in the Council. A Member used the metaphor "shooting bumble bees with a machine gun" just now. I simply describe it with a Chinese saying: "using an imperial sword to pick sesame seeds". Public opinion will judge whether it is appropriate or making a mountain out of a molehill. President, as I have cited at an earlier meeting of the House Committee, under section 5 "Manufacture of national flag and national emblem regulated" of the National Flag and National Emblem Ordinance, the Department of Justice may prohibit and forfeit the flag and initiate prosecution if it is not manufactured by a designated manufacturer; and under Schedule 1, the measurements, colour and proportions of the national flag or an article declared as a national flag are all specified. For example, two of the specifications state that it must be rectangular; the proportions of its length and height shall be 3 to 2; in addition, there shall be only five measurements, the smallest being 96 cm in length, 64 cm in height; the largest being 288 cm in length, 192 cm in height. Obviously, what we saw displayed in the Chamber that day similar to the national flag should not be a national flag. I know Mr Paul TSE and some Members mentioned "closely resembles" in section 8, but its level of resemblance must lead to the belief that it is the national flag. Of course, first, it must be decided by the Court and is not something on which we

here have the final say; second, if the same principle is applied, I see a self-contradiction: if those items are recognized as national flags, have the specifications aforementioned already been violated? If so, should it be handled in a unified manner? Mr Paul TSE has invoked this rule today to question that all Members who placed the national flags or what was declared as a national flag have misconducted themselves.

I find that the pro-establishment Members often hold double standards. For example, Mr LAU Kwok-fan accused us of confounding right and wrong and holding wavering positions. In fact, he is a perfect demonstration of confounding right and wrong and wavering positions. If he seriously considered those as national flags, they had already broken the law. In addition, the way they placed the national flags was most undignified and inappropriate. I said on that day that they had placed the national flags horizontally here just like flying them at half-mast. Also, the measurements and colours were not right. I think the whole handling was quite inappropriate. If the same standard is applied to criticize Dr CHENG Chung-tai, then I believe everyone should ask themselves whether or not they actually respect the national flag so much?

I would also like to throw down the gauntlet here: where are now those what I consider props but they consider solemn national flags to be treasured? Please present them. I invite them to ask themselves this question. How many Members who displayed the national flags, which were not of the right measurements, colours and proportions, have stored them with great care in their office, in their car or are carrying them around? Can they tell us where they are now? According to the past record of the pro-establishment camp and the track record of the demonstrations mobilized by them, I am worried that we will see many articles similar to what they declared as national flags abandoned everywhere in the garbage bins, on the street or by the curb. Are they so brazen as to say those are national flags? I would like to ask them where are they now. And who can take one from the office to show that they are stored in the office with great care and properly placed? I think this discussion today is rather ridiculous.

President, the aforementioned is exactly the reason for my support of Mr CHAN Chi-chuen's motion. I think Mr Paul TSE's view today may be different from that back then, which is not surprising. This can indeed be the case sometimes. Or maybe his judgment is different this time around. However, according to his logic, if apportioning blame to Dr CHENG Chung-tai



is justifiable this time, similar incidents will really be incessant. I have already sounded a warning just now that if this incident is justifiable, the President may have to deal with the matter again in the meeting next week because there will again be Members who think the national flag is inappropriately placed and disrespected. Do Members wish to handle things this way?

Dr Priscilla LEUNG said just now that some countries have different views on their national flags, and China is more serious towards its national flag. Actually, many countries are serious about it. I have never heard of a country which says that it is not serious about that, but it does not matter. Their relevant laws may indeed be different. She said some countries are more stringent while others are more lenient. I think we are sometimes more stringent and other times more lenient when handling these matters in the Council; more stringent to some people and more lenient to others. This is a fact.

Mr LEUNG Che-cheung said his support for the country, the national flag and its sovereignty is spontaneous. I do not know how spontaneous it is as I am not a worm in his belly. But judging at least by the behaviour of some Members of the pro-establishment camp, I believe the democratic camp, or at least myself, have higher respect for the national sovereignty, the national flag, the national emblem and the national dignity than they do. At least I have never pledged allegiance to any foreign government or regime, while many among them have done so.

I really find it very strange that they can make comments with such standards? Their actions have said it all. They could pledge to another country then tell us that they absolutely support the sovereignty and dignity of the People's Republic of China. They said that a tiny flag is very important then placed a national flag of the wrong colour and proportions here horizontally, letting it dangle like at half-mast. What impropriety it is? I find it really strange that they have come up with this to blame others today.

President, just now Dr CHIANG Lai-wan asked Dr CHENG Chung-tai if he would place an ancestral tablet or a God of the Land tablet upside down. I find this metaphor inappropriate. I just wish to give a friendly reminder. The People's Republic of China is an atheistic country, so is the Communist Party of China. I am not sure whether her metaphor is a compliment or an embarrassment to herself. In any case, to summarize this matter today,

President, I support Mr CHAN Chi-chuen, as today's matter is absolutely unnecessary, and if a precedent is set, things will see no end in the future. I am worried that we will have to deal with this problem continuously in future.

Thank you, President. I so submit.

**MR HOLDEN CHOW** (in Cantonese): President, before making further remarks, I must say, I saw that all the national flags, which Members from the pan-democratic camp including Mr Andrew WAN said just now that they highly treasured, were kept well by my Honourable colleague, Mr LAU Kwok-fan. We have not handled them improperly as claimed by you people. We cherish the national flag greatly and will not handle it carelessly.

President, this motion proposed by Mr CHAN Chi-chuen today requires that no action shall be taken against the acts of Dr CHENG Chung-tai that day. In gist, I consider that this motion has simply confounded right and wrong, actually also serving to harbour Dr CHENG Chung-tai.

Earlier on, I listened to the speech of Mr CHAN Chi-chuen carefully. He said "No action shall be taken. We may act like nothing has happened", which is downright ridiculous. Can I tell you to act as if nothing has happened after slapping your face? He said "The acts of Dr CHENG Chung-tai that day may serve to insult those owners of the national flags rather than the mock-ups of the national flags", which is equally ridiculous. If I slap you and tell you not to hold me responsible as I actually mean to insult your father by slapping you, President, does it hold water?

President, the speeches of some Honourable colleagues that I heard made me feel that they had a skeleton in their closet and a guilty conscience, so they asked others simply not to pursue the matter and take enforcement actions. If we ask a thief whether the Police should catch thieves, the thief will certainly reply in the negative, saying that the Police should not catch thieves. The logic is as simple as that.

President, this Council will only continue to degenerate if it continues to connive at the wicked and let them run rampant. It will absolutely not get back onto the right track if we act as if nothing has happened as suggested by

Mr CHAN Chi-chuen. To set the record straight and strike home the message, we should strictly enforce the law, and the rules. We should also tell our next generation that the dignity of the country matters much.

President, let me talk about my personal experience. Back in my university days, I went on an exchange tour to the United States one summer and got a summer job at an amusement park. What left me with a deep impression was that at nine o'clock local time in the morning, the national flag of the United States would be hoisted and its national anthem played at the amusement park. Everyone must stand up straight as a gesture of respect. While we have to show basic respect for others' countries, we must not offend our own in the slightest way.

President, I also listened to the speech of Dr KWOK Ka-ki earlier on. He said "Why do we have to use the butcher's knife, seeking to disqualify Dr CHENG Chung-tai by a motion of censure?" President, he may consider it insignificant and fine precisely because he has never held the slightest respect for the country. The essence of the Basic Law is "one country, two systems". In fact, he has never had any respect for the country. How will he respect our "one country, two systems"? How can he say that he genuinely upholds the Basic Law? Honestly, was that actually a lie when he said that he would uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China when he took the oath?

From this motion, we can see that those Members, as long as they support the motion proposed by Mr CHAN Chi-chuen requiring that no action shall be taken, basically do not attach much importance to the dignity of the country. Hence, President, thanks to the motion proposed by Mr Paul TSE this time around, an investigation may ensue later on to censure or even disqualify Dr CHENG Chung-tai. I consider it an effective demon-revealing mirror to distinguish evil from good.

President, let me reiterate again that it is necessary for this Council of ours to properly enforce the rules that we need to enforce, and that we should no longer adopt a lenient approach that connives at the wicked running rampant.

President, I so submit.

**MR ALVIN YEUNG** (in Cantonese): President, I totally agree with the passionate remarks made by Mr Holden CHOW just now. I particularly consider that the Legislative Council should not condone the evil, yet I am referring to LEUNG Chun-ying. What kind of an attitude did Members of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") adopt in the past in respect of the UGL incident involving LEUNG Chun-ying? Throughout the previous term, the past four years, why did the DAB Members refuse to invoke the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance")? Why were all the motions proposed by us under the Ordinance vetoed? I will apply Mr Holden CHOW's colloquial phrases to them in return. What is condoning the evil? What is setting the record straight? What is enforcement of the rules? As to how to teach the next generation properly, I trust any Hongkongers who have heard the remarks of Members from the DAB, particularly the passionate speech of Mr Holden CHOW, must have a strange feeling at heart when they recap the remarks now.

President, please allow me to quote the excerpt of the remarks from a wise man, and I quote, "the mechanism of the Legislative Council should not be activated casually. It must be activated only for the purpose of investigating matters of significant public interest. It is definitely inadvisable to invoke 49B(1A) immediately to address the personal integrity or conduct of individual Members, or any illegal acts of transaction conducted by Members ... Rule 49B(1A) should not be invoked indiscriminately as a mechanism for conduct of investigations. I consider this an abuse of process. Furthermore ... I am afraid the precedent set today is not a question of pinpointing individual Members or the persons concerned, but things will simply see no end after the mechanism is activated." Mr Andrew WAN also quoted these remarks in his speech just now. Which wise man made those insightful remarks? It is the Member who has proposed the censure motion today. Of course, the motion now under discussion is proposed by Mr CHAN Chi-chuen, yet who is the target of the present motion? It is Mr Paul TSE who proposed the forming of an investigation committee.

President, I never think that it is a great concern for one to contradict his own remarks made in the past provided that the reason for doing so is correct. Certainly, I do not know what Mr Paul TSE thinks at heart, for I am not in a position to do so. However, I would like to point out that the wise remarks were made by Mr Paul TSE in 2009 when he opposed the censure motion. That

incident is now history. It has only been seven years, why would the same Mr Paul TSE brandished this moral banner today to try to target Dr CHENG Chung-tai?

President, I dislike applying the conspiracy theory readily in analysing problems. However, having been subject to government of the LEUNG Chun-ying Administration for the past few years, it is really hard for an average Hongkonger, as well as a Hongkonger with some logic and analytical power, not to consider the incident a conspiracy. Nonetheless, President, I think it is more appropriate to call this a "blatant plot" rather than a conspiracy. For since the non-establishment camp won 30 seats in the Legislative Council Election on 4 September, which enabled it to secure the power to veto in any division to exert critical influence, certain people engaging in politics in Hong Kong may have failed to present a satisfactory report to their masters—I am referring to masters in the North. These people have thus attempted by hook or by crook to breach certain gaps and pave the way for the future such that some seats could be won again. In fact, the pro-establishment camp has already had their wish granted. President, the two Members of the Legislative Council from the Youngspiration have been disqualified—for the time being.

Will this "blatant plot" succeed in the end? Certainly, we have to trust the wisdom of the voters in Hong Kong at large. However, I would like to raise one point. The current practice of Mr Paul TSE has created the objective fact that Members may be targeted anytime they are not acting obediently. The invoking of Rule 49B(1A) of the Rules of Procedure to propose the censure motion this time around, President, is unprecedented. I have to point out that the two severe allegations are made on the ground of a trivial, meaningless and mischievous act, yet it has set off the mechanism with the consequence of a Member "being disqualified from office". This practice runs totally against the approaches and conventions adopted by the Legislative Council all along.

A more interesting point is, that is, as I mentioned earlier, the motion is proposed by Mr Paul TSE this time around. What will be the consequence of this course of action eventually? I trust Mr Paul TSE must know it full well. Even if the motion proposed by Mr CHAN Chi-chuen today is vetoed and an investigation committee is set up, will the conclusion drawn by this committee eventually gain the support of this Council? Will they succeed with this censure on Dr CHENG Chung-tai? I trust Mr Paul TSE is extremely clear about this.

If that is the case, what does it mean then? It means that the action done this time around may be purely a political act and a political calculation. Certainly, we have pointed out more than once that it may not be the most effective approach to turn the Legislative Council into a court. On the other hand, if the Legislative Council is readily turned into a platform for condemning those people who disagree with us in politics, it will only set an extremely bad precedent and bring no benefit to the Legislative Council. President, regarding the motion proposed by Mr Paul TSE today which will lead to the forming of an investigation committee, I think no one knows what the investigation committee will find out. Yet the objective fact is that he will breach a gap that will intensify the suspicions among various political parties and groupings, causing their trust to wither further.

Let me recap some history. President, according to the information of the Legislative Council, the Committee on Rules of Procedure did discuss Rule 49B in the past. It also discussed the definition of misbehaviour, whether or not a definition should be laid down to define what conduct is misbehaviour, and the severity of misbehaviour that constitutes a breach of Article 79(7). However, after thorough deliberations, it was concluded that it was inappropriate and unnecessary to make such a definition, for other provisions in the Basic Law have provided the answers on the severity of such misbehaviour. What is said in other provisions? President, it is stipulated in Article 79(6) of the Basic Law that, and I quote, "When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region". This is the objective criterion. The behaviour in question must meet this objective criterion. Other behaviour falling short of this objective criterion should be regarded as a minor offence. We are only required to consider behaviour which is regarded as a non-minor offence and sentenced for imprisonment by the Court. In fact, these criteria are set before us, and these are the established rules.

President, if this rule is used to assess the conduct of Dr CHENG Chung-tai on that day, will the censure motion merit support? First, Dr CHENG's act of inverting the national flags is as childish as a primary pupil. I solemnly state that I totally disagree with his conduct and such conduct will not gain my respect. Yet, objectively speaking, could such conduct be lumped together with conduct that warrants imprisonment of one month or more? President, just now some colleagues pointed out emotionally and forcefully that the said act was an insult to the national flag and the national emblem, which may contravene the National

Flag and National Emblem Ordinance. What acts are regarded as desecration under the definition in the National Flag and National Emblem Ordinance? Only acts of desecration involving the wilful burning, mutilating, scrawling on, defiling or trampling on of national flags are within the legal definition of the National Flag and National Emblem Ordinance. If so, does the act of inverting the national flags come under the elements mentioned just now? I think even primary pupils would know that those are definitely inapplicable.

President, as I come to the close of my speech, I would like to cite an example to prove that Members of the Legislative Council from different political parties and groupings have exhibited profound wisdom, sufficient breadth of mind and impressive forbearance in interpreting Rule 49B in addressing the issue of disqualifying a Member. In April 2012, Mr LEUNG Kwok-hung was involved in certain criminal cases and the Council had to debate whether he should be relieved of his duties. Back then, a Member said, and I quote, "However, I also understand that to relieve a Member of his duties as a Member of the Legislative Council is a most solemn matter. It is also an act that overrides the original preference of the voters. Therefore, there must be full justifications for our decision ... Although I will never agree with such behaviour, I must admit that its severity does not suffice to support any decision to relieve him of his duties as a Member." Which Member had the wisdom to make such a remark? It was Mr CHAN Kin-por. By the time of voting today, I wonder if Mr CHAN will uphold this appropriate, open and forbearing remark and spirit he displayed that day. However, President, I would like to bring forth the point that unless a Member is convicted by the Court, we should not hastily activate our internal procedures against another Member. I think this is an issue which should be considered with extreme caution. Yet this purpose cannot be achieved by the forming of an investigation committee which is supported by the rising of a few Members at the meeting. Some Members who pretended to be open-minded and professional in the past are harsh and critical towards their colleagues today. I believe it is not because he has changed, only that he may be deliberately trying to please his supporters.

President, I would like to close my speech with this last sentence: The sun may not rise in the East as usual. I so submit.

(After the President had called upon Mr LEUNG Yiu-chung to speak, Mr CHAN Chi-chuen stood up)

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, what is your point?

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

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

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

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may speak now.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, I support the motion moved by Mr CHAN Chi-chuen, "that no further action shall be taken on the censure motion moved by Mr Paul TSE".

President, earlier on I heard Mr Holden CHOW's passionate speech. He said that Mr Paul TSE's motion is a demon-revealing mirror which can tell who are humans and who are demons. President, I certainly understand what Mr Holden CHOW meant. He meant that Members who support Mr Paul TSE's motion but oppose Mr CHAN Chi-chuen's motion are humans whereas the others are demons. President, I do not know what particular value and meaning there is in distinguishing between demons and humans. Except for the purpose of hurling abuses at others, I do not see any point or meaning in doing that.

In fact, if we follow this argument, since many motions in this Council are either supported or opposed by Members, such as the motion proposed to discuss whether a select committee should be set up to investigate the incident of corruption of LEUNG Chun-ying in receiving benefits from UGL which eventually had its supporters and critics, does it mean that Members who support the motion are humans whereas those who oppose it are demons? Actually this is meaningless. We are here to carry on with the debate, whether we are humans or demons. These debates are not meant to show whether we are humans or demons, but as an indication of a person's position and principle in handling an



incident or issue, which enables the public to subsequently make a judgment particularly on whether or not those people have acted against their conscience. This is conversely the most important point.

In this debate today, I am expressing my views from my conscience. Mr Paul TSE proposed a motion to censure Dr CHENG Chung-tai who, at the meeting in question, touched the objects displayed by other people without their consent. President, I actually share the views of many Members and even members of the public that it is indeed inappropriate of Dr CHENG Chung-tai to casually touch the objects (namely the mock-ups of the national flags and regional flags) of other Members the other day. It is because whatever those objects are, they are the belongings of other people, not his, and he should not have touched them as he liked without the consent of other people. I think this is the principle and attitude required of everyone and also the right thing to do, except in private places. However, Dr CHENG did not do that. I think his behaviour was improper, and neither do I support nor respect it.

Having said that, even though I do not support this behaviour of Dr CHENG Chung-tai, it does not mean that I support Mr Paul TSE's proposal for censuring him for his acts in this incident because I think this is no ordinary censure and no ordinary criticism. This motion, if passed, would disqualify a Member of the Legislative Council from office. Despite the impropriety of Dr CHENG Chung-tai, I really cannot see that his behaviour was so improper to the extent that he should be disqualified from office of a Member of the Legislative Council. Rather, I think this disorderly or improper behaviour should not be escalated to an ideological or political fight or struggle. Otherwise, what would this Council become? The Legislative Council would become an arena for political struggles and purges and worse still, white terror would reign in politics. I think this kind of practice should not happen in this Council again.

President, I think Mr Paul TSE has proposed a censure motion for two main reasons. First, he holds that Dr CHENG Chung-tai's behaviour was in breach of the oath taken by him in the Legislative Council, especially his pledges to swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China and uphold the Basic Law. President, it is a very serious allegation. Of course, President, I know that you may say this is not within the scope of our discussion today and if this really has to be discussed, we should leave it to the investigation committee to be set up in future. However,

as I oppose Mr Paul TSE's motion but support Mr CHAN Chi-chuen's motion, I must give an explanation in this connection. It is a very serious allegation which we cannot deal with rashly, especially as there is the view that the inversion of the national flags or regional flags by him is equivalent to a breach of the oath and this, I think, lacks sufficient justification. Moreover, the question of whether this amounted to a breach of the oath should not be judged by the Legislative Council, for only the Court is in a position to make a judgment.

I remember that a debate was held in the Legislative Council before on whether CHIM Pui-chung, a former Member of the Legislative Council, should be relieved of his duties. But Members must understand that in the case of former Member CHIM Pui-chung, he had been convicted of a criminal offence in court before the Legislative Council was to make a judgment. However, in the present case, the Legislative Council is to make a judgment prior to a court judgment on whether the behaviour concerned constituted a criminal offence. This, I think, is inappropriate. Therefore, on this point, I beg to differ.

Second, Mr Paul TSE alleged that Dr CHENG Chung-tai's behaviour was an insult to the national flag and regional flag. I think this is a very serious allegation that has to be handled carefully because it would be very serious if he considered that such behaviour truly constituted a breach of the National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance. First, we need to confirm whether the objects displayed on that day were indeed national flags and regional flags. If they were really national flags and regional flags, by whom were they displayed? Those people displaying them might be at fault, too. Did they also breach the National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance? The National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance provide for the measurements of the national flag and the regional flag, but did they meet such requirements? If not, who breached the ordinances in the first place? We should make a judgment on this question before all else. If the people displaying those objects had breached the ordinances in the first place, would another person touching the objects be considered to have breached the ordinances as well? I think this is "a-case-within-a-case" question that has to be handled in a serious manner.

Meanwhile, there is another question which is most important. Concerning the enforcement of these two ordinances, does the Legislative Council have the power to enforce them? We actually do not have this power

and obviously they should not be enforced by the Legislative Council. Then by whom should this be handled? Some Members said that they had reported the case to the Police, and that is the right thing to do. Since they have reported it to the Police, why do they not leave it to the Police but have to deal with it in the Legislative Council? We do not have the power to enforce these ordinances. Furthermore, on the question of whether or not he really broke the law, there is no way for us to tell, because this is not a court. We should wait until he is found guilty by the Court and then a debate can be conducted in the Legislative Council—as in the case of former Member CHIM Pui-chung—to discuss whether or not he should be disqualified from office. However, this is not the case now. Why do we have to handle it in such a way?

Therefore, President, I wish to reiterate here that I do not approve of the behaviour of Dr CHENG Chung-tai, and I am not making a defence for him; nor am I trying to shield his improper behaviour. This is not my intention. However, I hope that this Council will not become a venue for blind political struggles and suppression, because a Member is returned by the votes of many voters and this is how a Member is qualified from office. If, before the completion of the proper procedures, he is censured and disqualified from office or if he is even said to have insulted the country, this would be a very serious allegation.

Mr Paul TSE himself is a member of the legal profession. I hope that he can seriously think about the propriety of this action. I would like to tender a piece of advice to Mr Paul TSE. I hope that he can consider withdrawing this censure motion, so that it would be unnecessary to proceed with this motion moved by Mr CHAN Chi-chuen and we could then end this debate and proceed to the remaining items on the Agenda. This would be better. I think it is neither in accordance with the proper procedures nor reasonable from a legal point of view to further discuss this matter. When something is neither in line with the proper procedures nor reasonable from a legal point of view—Mr Paul TSE always stresses the need to meet the tests of sensibility, rationality and legality—When an issue is not in the least sensible, reasonable or lawful, why should we continue to discuss it? We actually should not carry on with this discussion. Therefore, in order to save Members' time, I hope Mr Paul TSE will seriously consider withdrawing his motion, so that we do not have to debate it anymore.

President, I so submit.

**MR KENNETH LEUNG** (in Cantonese): President, I speak in support of Mr CHAN Chi-chuen's motion, "that no further action shall be taken on the censure motion moved by Mr Paul TSE".

Rule 49B of the Rules of Procedure ("RoP") of the Legislative Council stipulates two mechanisms for disqualification of Member from office. The first is RoP 49B(1) which provides that a Member who was convicted of a criminal offence and sentenced to imprisonment for one month or more shall be relieved of his duties as a Member of the Legislative Council under Article 79(6) of the Basic Law. This is a very objective standard. Another mechanism is provided for in RoP 49B(1A) whereby a motion shall be moved under Article 79(7) of the Basic Law to censure a Member for misbehaviour or breach of oath under Article 104 of the Basic Law.

If Dr CHENG Chung-tai's conduct involved elements of criminality and he was sentenced to imprisonment for one month or more, this would meet the very objective standard and certainly actions should be taken by us to relieve him of his duties as a Member. However, if we initiate the second mechanism, holding that his conduct constituted misbehaviour or a breach of oath under Article 104 of the Basic Law, and use this as the legal basis for this censure motion, I would have great reservations about it. Let us take a look at RoP 49B(1A) and Article 104 of the Basic Law. Actually, as you may know, President, a number of judicial review cases revolving around Article 104 of the Basic Law in relation to the oath-taking requirements are underway, and we cannot, nor is it appropriate to, make an interpretation of Article 104 of the Basic Law in respect of the proceedings being conducted in court. If, in relation to Dr CHENG Chung-tai's conduct, the Department of Justice can provide a legal basis for bringing prosecution against Dr CHENG for breach of Article 104 of the Basic Law, they should already have done so and obviously we have yet seen any action taken by the Government against Dr CHENG Chung-tai so far. Therefore, for the time being I cannot accept that Dr CHENG Chung-tai's conduct is regarded as breach of oath according to the oath-taking requirements set out in Article 104 of the Basic Law. If we do not invoke Article 104 of the Basic Law, the other scenario would be misbehaviour on the part of Dr CHENG Chung-tai and such misbehaviour was so serious to the extent that we have to disqualify him from office. But is it justified to take this course of action?

Certainly, I consider Dr CHENG Chung-tai's behaviour very stupid, frivolous, childish, and absolutely unacceptable. But is it because of the stupid, frivolous and childish conduct of a Member that an investigation committee must

be set up to disqualify him from office? In terms of jurisprudence, I think this argument can hardly hold water because RoP 49B of the Legislative Council directly invokes the constitutional power of the Basic Law to disqualify a Member of the Legislative Council—an elected Member of the Legislative Council—from office. This is a matter of enormous import and decision of great significance. Therefore, we should implement this rule of RoP in a most stringent manner and we should adopt the highest standards for the protection of Members' rights. Otherwise, this rule may be exploited for political acts or political persecution, and in that event many acts and remarks may also be escalated to the political plane in an attempt to disqualify an elected Member from office.

In the schedule to his motion Mr Paul TSE pointed out that "... when the President directed Members to be summoned for a quorum and all DAB Members were not present, Dr Hon CHENG Chung-tai deliberately inverted the mock-ups of the national flags and the regional flags placed on the desks of DAB Members. After Dr Hon CHIANG Lai-wan found out what happened and returned to the Chamber to rearrange the mock-ups of the national flags and the regional flags and place them in the same position and manner as before, Dr CHENG again deliberately inverted the mock-ups of the national flags and the regional flags. Eventually, the President reprimanded him for leaving his seat at will and disturbing other Members displaying objects, and ordered him to withdraw immediately from the Council as his conduct was grossly disorderly ...". Regarding the act committed twice "deliberately" as stated by Mr Paul TSE in the schedule to his motion, was it actually committed deliberately? This, we will never know. Even if we played back the video recording for 10 or 20 times or even if an investigation committee is set up, how do we possibly know what was on the mind of Dr CHENG Chung-tai? To prove serious misbehaviour on his part, there must be the behaviour and intent or the thinking and ideology contributing to that behaviour. The question is, if a committee should be set up to investigate the thinking and ideology of this Member, what standards will be adopted? Should we use a lie detector or a knife to cut open Dr CHENG Chung-tai's heart to see if there is such an ideology?

How should this investigation committee operate? What conclusions can it draw? President, on that day you actually already reprimanded him for leaving his seat at will and disturbing other Members, and you ordered him to withdraw immediately from the Council, so you already punished Dr CHENG Chung-tai in accordance with RoP of this Council. Under RoP of this Council,

apart from ordering a Member to withdraw from the Council, the other extreme is to invoke RoP 49B to censure this Member and disqualify him from office. These are two extreme approaches and there is no other approach in between. Unlike some other parliamentary assemblies where this Member may be ordered to tender an apology openly or he may be prohibited from attending several meetings consecutively, we do not have these practices, but even though we do not have these practices, we still cannot easily impose on him the heaviest punishment of disqualifying him from office. This would be most unwise and most inappropriate.

I wish to talk about the provisions in Article 79(7) of the Basic Law and RoP 49B(1A). What does misbehaviour mean? Indeed, these provisions do not expressly provide for the definition of misbehaviour, but there can be varying types of misbehaviour of varying degrees of seriousness. Mr Paul TSE and I are the Chairman and Deputy Chairman of the Committee on Rules of Procedure respectively, and I wish to draw his attention to the Progress Report of the Committee on Rules of Procedure in 1999. Back then the term "misbehaviour" was discussed in the Committee and it is stated in the report that "[i]n none of the overseas legislatures has it been possible to draw up an exhaustive list of misconduct, or indeed the types of sanction which may be imposed. Each case is judged by the House according to the degree of seriousness involved. Two general features of these cases are, firstly, that such acts are related invariably to the conduct of MPs in the performance of their duties as Member of the legislature", in other words, his conduct in the performance of his duties as a Member of the Legislative Council or a Member of Parliament, "and, secondly, the sanctions applicable range from apology to denial of right, fine, reprimand, censure, suspension of service" and in most serious cases, expulsion. "The major consideration is whether the misbehaviour has brought about such serious disrepute to the House as to constitute a contempt. It is also noted that these overseas legislatures uphold the guiding principle that the House should exercise its penal jurisdiction as sparingly as possible and only when satisfied that it is essential to do so in order to provide reasonable protection for the House and its Members." This is the report of the Committee on Rules of Procedure of this Council in 1999. In line with this spirit, I hope that before there is any rule in RoP for punishing behaviour which may be stupid, frivolous and even offensive, we should not easily escalate them to the political plane and invoke the very harsh Article 79(7) of the Basic Law or RoP 49B to disqualify a Member from office.

If we look at the macro political ethics of the entire issue, we will find that the Members involved in a number of political storms in the three months of September, October and November are, from an objective point of view, all new Members of the Legislative Council, except Mr LEUNG Kwok-hung. Think about this: For Members involved in the oath-taking saga, including Sixtus LEUNG and YAU Wai-ching formerly, and incumbent Members such as Dr LAU Siu-lai, Mr Nathan LAW and Dr YIU Chung-yim, they are all new Members who joined the Legislative Council in this term. Another commonality of them is that they may often have a strong political ideological orientation towards localism or self-determination and such being the case, the prosecutions instituted against them are no coincidences. If we look at their groupings or characteristics, we can actually see a so-called political spectrum reflecting that if you champion for self-determination or if you are very localist, then you may be prosecuted. Now Dr CHENG Chung-tai, being precisely a fervent advocate of localism or self-determination, is also affected by this censure motion. It is indeed difficult for people not to believe that this is a declaration of political stance or a political show.

In fact, according to the provisions in the National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance, what kinds of act will constitute desecration of the national flag? A person who publicly and wilfully—Dr CHENG Chung-tai may have committed some acts publicly but did he do them wilfully?—So what acts have to be done wilfully? Under the relevant provisions, any person who desecrates the national and regional flags or emblems by burning, mutilating, scrawling on, defiling or trampling on them commits an offence and may be liable to imprisonment, but inverting the mock-ups of the national flags and the regional flags is not set out as a criminal offence in these ordinances. Certainly, this is my own interpretation of the two ordinances but I think we must treat a Member elected by the people of Hong Kong fairly and impartially. If the Legislative Council should set up an investigation committee when not even the Secretary for Justice can institute prosecution against Dr CHENG Chung-tai's conduct under the National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance, tell me what legal basis is there for us to do so? On what legal basis can we establish that the conduct of this Member was grossly disorderly to the extent of prejudicing the image of the entire Legislative Council?

Of course, I have heard the remarks made by many pro-establishment Members, particularly Dr Priscilla LEUNG who said that she has deep feelings towards the national flag and that our national flag represents the development of

our country into an independent, autonomous nation ultimately after being bullied by the great powers. These feelings are, of course, sentimental and absolutely cannot provide a legal basis for disqualifying a Member from office. Just now I heard Mr LEUNG Che-cheung say that the purpose of setting up an investigation committee is to look into whether this Member, after taking his oath, was genuine and sincere in upholding the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. So it turns out that while we have solemnly taken an oath, we can still be questioned what is on our mind. This may really become a political trial. A person can refrain from showing his emotions on his face. What objective criteria should be adopted to prove the thoughts of this Member deep down in his heart? What is it if it is not a political trial?

Therefore, President, I support Mr CHAN Chi-chuen's motion. I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, Mr Paul TSE has done a pretty good job today. He has demonstrated that the Government actually does not need to apply to the Court for judicial review of your decision and that of Kenneth CHEN in order to disqualify four Members, including me, from office. In fact, we already have a mechanism in place. He has done a demonstration. Being a Legislative Council Member, he has followed the internal procedures of the Council to enable 70 Members elected under the Basic Law and mandated by the people to deal with on their own the internal business of the Council, i.e. whether a Legislative Council Member should be disqualified from office.

In other words, the present application for judicial review filed by the Government with the Court is unnecessary. What is the reason? As I have said time and again, except for transforming a man into a woman or vice versa, a parliament is omnipotent. Such is the comment about the supremacy of the British Parliament.

Now Mr Paul TSE has done a demonstration. Rule 49B(1A) of the Rules of Procedure ("RoP") invoked by him bears great relevance. Part of it concerns breach of oath. Of course, this case is related to not only breach of oath but also whether an oath taken is valid. Yet the latter part is not mentioned in this rule. It is stipulated in the Oaths and Declarations Ordinance.



Hence, what happens in Hong Kong now is that every conceivable trick will be employed. Anything that can be grabbed, be it kitchenware or a folding chair, one of the top 10 weapons in the martial world, will be thrown out. If it does not hit the target, never mind. If it crashes, let it be. It will do as long as it can or may hurt the target.

I would very much like to seek Mr Paul TSE's advice. If Dr CHENG Chung-tai, like Dr Priscilla LEUNG said, has allegedly desecrated the national and regional flags in five ways, actually he can be prosecuted, and the Court will determine whether he has violated the law on the national flag and should be convicted. If he is convicted, then he will certainly be subjected to Article 79(6) of the Basic Law. If the Court holds that this person who committed such an act on such an occasion has indeed violated the law on the national flag, it will impose punishment. The sentence given by the Court will represent its view on the gravity of this crime. If the sentence is imprisonment of less than a month, that means its gravity is not worth invoking Article 79(6) to expel him.

Mr Paul TSE or our "minority" pro-Government camp are the "minority" in the Council—the "minority" pro-establishment camp, not pro-Government camp—the number of votes they won was small, but surprisingly, they can manipulate the voting results under a corrupt system. In such a distorted situation, they have decided not to employ legal means because the law on the national flag is a statute law. Written clearly, it cannot be twisted. Of course, under the present new circumstances, they can by all means seek an interpretation of the Basic Law, but it is not quite practicable to seek an interpretation again at the moment.

Hence, given that an invocation of Article 97(6) of the Basic Law is not an option, Mr Paul TSE simply invoked Article 79(7) and linked it with RoP 49B(1A). How smart! I would like to seek the advice of Members of the pro-establishment camp. Regarding misbehaviour or breach of oath, Mr Paul TSE alleged that Dr CHENG Chung-tai had moved, or in his own word, "inverted" the mock-ups of national flags, that means not actual national and regional flags but finished products of some people. Did such an act readily break their spirit, which was "to highlight the solemnity and pledge of taking oath to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China"? If it did, it should be referred to the Court because the interpretation of Article 104 is now at issue.

The most terrible point is, Article 79 of the Basic Law reads "[w]hen he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present", but what is meant by breach of oath? Buddy, just now I mentioned the supremacy of a parliament. If members of the parliament consider that there is a case, then there is the case. It cannot be challenged. Nevertheless, now that the Government has sought a judicial ruling to disqualify four Members, why do we now invoke Article 79(7) instead of taking it to court?

The answer is simple. Because there is actually no precedent, but regarding breach of oath and invalid oath-taking, the interpretation of the Basic Law has affected our Oaths and Declarations Ordinance, setting out four major points about oath-taking. What will happen if someone has breached the oath? He will be subsequently monitored for life. That means after a Member has taken the oath successfully, someone will check behind his back whether it is possible that he has so-called breached the oath before, or keep watch on such a possibility afterwards (i.e. after the age of 18).

President, as I have said many times before, CLINTON and Donald TRUMP certainly have breached their oaths. Being the President, CLINTON abused his power and made out with women in his office. The Americans would not file an application with the Court, accuse him of breach of oath and demand his disqualification. Now let us come back to Mr Paul TSE's motion which accuses someone of having breached his oath. I would like to reiterate, such a remark about breach of oath is a tactic of penalizing someone on the basis of motive alone. A Member who has violated the criminal law shall be subjected to Article 79(6) of the Basic Law. This is very clear. That means it is only when he does not abide by the law and the gravity of his crime causes him to be sentenced to imprisonment for more than one month that it is possible to relieve him of his duties with a two-thirds vote of the Members present. It is explicitly written. Hence, in my view, the action directed at Dr CHENG Chung-tai today is in fact condemning him with whatever pretext they like. When there is no way to fix him with the law, Mr Paul TSE has adopted this method in an attempt to accomplish his mission at one stroke, forcing his way through directly.

Actually it is very simple. If we can hold Dr CHENG Chung-tai accountable for his behaviour during the headcount (that means when the meeting was suspended) that day, then I have a simple question: Was his behaviour an expression of opinions? Was it a kind of presentation of arguments or

expression of opinions? If it was, he should not be held accountable for his speech or expression of opinions in the Chamber, right? Both speeches and behaviour seek to express one's opinions. For this reason, the adoption of this method to hold Dr CHENG Chung-tai accountable is actually exploitation of the loopholes in law. That is to say, Legislative Council Members are not protected in respect of their speeches in the Council.

I would like to tell Members that if such an approach can be adopted today, the same thing will definitely happen again in the future. That is to say, the Basic Law overrides everything. The constitution overrides everything. If I oppose legislating for Article 23 of the Basic Law here, I will immediately get into trouble because they will accuse me of not upholding the Basic Law. It is in fact our obligation to introduce local legislation for Article 23 of the Basic Law, but I oppose doing that. Does that mean I do not uphold the Basic Law? Come to think about it. This is a debatable case. Hence, actually the subject of discussion today is, first of all, speech crime. The pro-establishment camp will force their way through if they cannot invoke Article 79(6) of the Basic Law to punish a certain Member in accordance with the law, let the Court determine the penalty for the Member and then relieve him of his duties. Furthermore, there is absolutely no yardstick for "misbehaviour" which is not measurable at all.

For this reason, I must sing praises of Mr Paul TSE for his action today. He has slapped the Government in the face because the Government actually does not need to file an application with the Court. The matter could have been settled here. Worst of all, we are the majority opposition camp. We belong to the majority. We are not supposed to be the opposition. Even if we slack off, he will still be unable to get a two-thirds vote of the Members present to pass his motion. If it can be passed, the Government will have to go to court, will it? It can by all means work like having fresh seafood: catch the fish on the spot, steam it right away and eat it in 15 minutes. This is the political reality, right? May I ask Mr Paul TSE, will the Government take his motion to the Court of First Instance for judicial review if his approach does not work today? Hence, they can actually play it in whatever way they like. It is insane.

Despite my dislike of Mr Paul TSE's action today, I consider him somewhat reasonable, since we can deal with Dr CHENG inside the Legislative Council with no need to overreact. If it is said that he has breached the oath, so will Donald TRUMP as soon as he takes his oath. As I have said many times before, he is a womanizer who looks down on women, and he speaks terribly. He was once bankrupt and is absolutely unfaithful—if we go bankrupt, we will

have to leave office—moreover, he refused to make repayment for his loan, and he is a racist. When he says "May God bless America" in his oath, of course it is false. How will he be qualified to mention God? He must be unfaithful.

If it were our Government, it would demand the Court to rule that he has violated the Oaths and Declarations Ordinance, right? Because he knows very well that he is not a Protestant, or although he claims to be one, he has broken various rules among the Ten Commandments for Protestants. How will he be qualified to take the oath? If it were our Government, it would immediately expel him as long as it could provide the affidavit as evidence. This is preposterous.

Hence, in raising the matter of so-called misbehaviour and breach of oath today, Mr Paul TSE has in fact made a political choice to settle Dr CHENG Chung-tai's issue through a political wrestle in the Legislative Council. Yet regrettably, he has done it too early. Why is Mr Paul TSE so bad with his timing? If we have already been expelled, he will have enough votes. Does he actually do it out of good intentions? Frankly, sometimes I do admire him, but he has wasted this opportunity. Had he waited some more time and then the Government acted at top speed, after the four of us were expelled, he could have expected that his motion would be passed by a two-thirds vote, and they would be able to do whatever they see fit. Mr CHAN Chi-chuen would then feel frightened because trouble would come to him at any moment. Mr Paul TSE is really smart. Slapping the Government in the face, he has also blown this opportunity at one stroke, thus preventing this Legislative Council of ours from being disgraced and from writing the foulest and dirtiest page in the history of Hong Kong politics. Thank you, Mr Paul TSE. What a good fighter! Well done!

**MR CHEUNG KWOK-KWAN** (in Cantonese): President, we have to bear in mind that the current debate is not on the censure motion moved by Mr Paul TSE. I clearly understand that we are discussing the motion moved by Mr CHAN Chi-chuen, "that no further action shall be taken on the censure motion moved by Mr Paul TSE". Therefore, in the next 15 minutes I do not intend to discuss or judge whether the behaviour of the party concerned, Dr CHENG Chung-tai, should be censured, as well as how much of it was right or wrong. Judgment would be passed on such matters when Mr Paul TSE's censure motion is put to the vote in future.

As today we are discussing Mr CHAN Chi-chuen's motion "that no further action shall be taken on the censure motion moved by Mr Paul TSE", we should examine whether the incident should be committed to an investigation committee today, or, as Mr CHAN Chi-chuen has proposed, the incident should be concluded at this moment without any conclusion.

Just now I have noticed the views coincidentally presented by several Members of the opposition camp that it is inappropriate of this Council to make a decision on this incident, because the Court has not yet handed down a judgment. What standards can the Council apply to make a decision? Should we leave it to the Court? Several Members of the opposition camp have presented their viewpoints regarding the Court, and I think we should be clear about two of them.

First, it appeared that some Member mentioned a report had been made to the Police. As regards this incident, did Dr CHENG Chung-tai commit any insulting act to the national flag and break the criminal law? The Council and Members are in no position to pass any judgment on a criminal offence. Will the law enforcement agency and the Court handle this case after all? This matter is not for us to handle and we should leave it to the law enforcement agency and the Court to do so.

What we need to do right now is to examine if Dr CHENG's behaviour in the Chamber constitute misbehaviour as we referred to. Just as Mr LEUNG Yiu-chung has said, the Court has not yet handed down any judgment, so it is not in line with procedure or jurisprudence for Mr Paul TSE to move such a motion. Hence, he requested Mr Paul TSE to withdraw the motion so that we can stop spending time discussing this matter.

I would like to point out here that the Rules of Procedure and Basic Law carry clear stipulations and Article 79(6) also provides for criminal offences committed by Members. If we are not talking about committing a criminal offence but misbehaviour or breach of oath, it is the provision in paragraph (7), not paragraph (6) of Article 79. The Basic Law already makes a clear distinction between the two circumstances. Thus, I hope Mr LEUNG Yiu-chung can sort out his understanding of the provisions of the Rules of Procedure and the Basic Law. In this regard, I think that Mr Paul TSE's censure motion is in line with the provisions of the Basic Law and Rules of Procedure, unlike the claim made by Mr LEUNG Yiu-chung that it is not in line with procedures and jurisprudence. I wish to make this point clear.

Some Members said the incident should be left to the Court for judgment because it is difficult for Members to apply a standard in making such a decision. In this connection, I have heard various views. Some Members described the behaviour of Dr CHENG Chung-tai as puerile and childish. Why should we spend so much efforts to handle it by invoking the Rules of Procedure in relation to censure? However, I have also heard the voices of some Members and in society which clearly tell me they cannot accept the behaviour and conduct of Dr CHENG Chung-tai, as they consider it tantamount to insults to the national flag and the country. We have come across different interpretations of the same kind of behaviour, with perhaps different standards applied by different people. Yet according to the Basic Law and the Rules of Procedure, all Members are the representatives of society, representing the views and voices of society. After the investigation committee has announced the results of investigation in the future, honourable colleagues of the Legislative Council should then make a judgment to determine if such a Member's behaviour constitutes misbehaviour as stated in Article 79 of the Basic Law.

Members of the opposition camp have just queried whether it would be unreasonable of us to make a judgment before the Court does so. If so, let us take a look at the recent incident in South Korea: the South Korean President has just been impeached by the parliament, but the local law enforcement agency has yet to initiate prosecution and the Court has also yet to judge that the President has committed a criminal offence. However, the judgment made by members of the South Korean parliament exactly represents the voices of society and thus passed the impeachment motion. In other words, other than restraining Members' speech and conduct by provisions relating to impeachment and misbehaviour, such as a Member can be convicted of a criminal offence, members of a parliament are obliged to apply conscience, moral values and social norms of conduct to determine if such behaviour is misbehaviour or not. Certainly, such standards cannot be too lax. Therefore, as we can see in the provisions of the Basic Law and the Rules of Procedure that for any censure motion against misbehavior to be passed, a vote of two thirds of the members present is required. Accordingly, the provisions have prescribed very stringent standards. Society also assigns such a duty to all Honourable colleagues in the Council. We ought to bear the responsibility for our actions in the Council.

In the debate today, I have heard the repeated claims by many Honourable colleagues, that Members represent voters who lent them support in the election, just as Dr CHENG Chung-tai has won the support of over 50 000 voters, the

Council should not impose any censure on him or rule that his conduct is misbehaviour. However, I would like to say that even for Members returned by popular elections and protected by the Legislative Council (Powers and Privileges) Ordinance, our behaviour and discussions inside the Council should be subject to self-restraint. Such are the rules in the Rules of Procedure and it is up to the President to rule if we have committed acts in breach of the Rules of Procedure. Otherwise, the Council can never become a venue where we can freely speak our mind, hold discussions and exchange views in an orderly manner.

Let alone Members who have received tens of thousands of votes, the South Korean President whom I have just mentioned certainly received more than 50 000 votes in the year she was elected. But even she has to face impeachment and is asked to step down because the behaviour of representatives elected by people are subject to restraint.

According to the existing Rules of Procedure, for us to handle a dispute over Dr CHENG Chung-tai's behaviour this time, there are two methods, or there can only be two methods. First, according to the existing provisions, under the current mechanism, we can pretend nothing has happened and sit on it. Even if Dr CHENG has not shown any sense of guilt or made any response, we can sit on the incident. This is the first method.

If we do not adopt such a method, what else can we do? It would be to propose a censure motion under Rule 49B(2A) of the Rules of Procedure. Other than these two methods, we do not have other options. Of course, some Members may wonder if it would be too harsh for us to move a censure motion so readily. Yet there is no other way. Currently there are only these two methods at our disposal under the Rules of Procedure. Certainly, whether or not we can amend the Rules of Procedure in the future to include some additional options between "pretending nothing has happened" and "a censure motion", I believe it is definitely possible to leave it up to the Committee on Rules of Procedure to discuss and come up with some middle ground options. Nonetheless, under the existing mechanism, we really do not have other choices.

Today I also have taken note of some reasons advanced by Mr CHAN Chi-chuen for opposing the forming of an investigation committee, and among which, he stated that—which I did not agree with—he considered those national flags and regional flags placed on the desk that day discarded articles and so

Dr CHENG Chung-tai's behaviour was not improper. Moreover, Mr CHAN Chi-chuen mentioned that indeed Dr CHENG Chung-tai was not insulting the national and regional flags; he was insulting those Members who had placed those national flags and regional flags, i.e. us members of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"). I do not know if such defence put up by Mr CHAN Chi-chuen will be used by Dr CHENG Chung-tai in the future but I believe only through forming an investigation committee can we conduct a thorough investigation into whether the defence presented by Mr CHAN Chi-chuen is valid; whether Dr CHENG Chung-tai considered those national and regional flags discarded articles; and whether he intended to insult us Members from DAB, just as Mr CHAN Chi-chuen suggested.

Therefore, I believe the setting up of an investigation committee can do justice to Dr CHENG Chung-tai, as well as clearing up the doubts surrounding this incident such that all Members in the Council can make an impartial and fair decision on the censure motion moved by Mr Paul TSE. For this reason, President, I oppose the motion moved by Mr CHAN Chi-chuen under Rule 49B(2A) of the Rules of Procedure, "that no further action shall be taken on the censure motion moved by Mr Paul TSE".

I so submit.

**MR ABRAHAM SHEK:** President, I stand to reject the motion moved by Mr CHAN Chi-chuen under Rule 49B(2A) of the Rules of Procedure that "No further action shall be taken on the censure motion moved by Mr Paul TSE".

President, freedom of speech and freedom of expression are two of Hong Kong's core values and protected by Article 27 of the Basic Law and the Hong Kong Bill of Rights Ordinance. Hong Kong is a free, pluralistic and open society—anybody can give their opinion on any topic.

On the other hand, respect for ethnic, national and religious identities also constitutes part of our universal values, by which all are bound regardless of where any individual was born or what an individual may personally believe. Respect for these values is also outside any political affiliation.



President, the existence of the Legislative Council's powers, privileges or immunities does not provide Legislative Council Members with justification to pierce the boundaries of our core values and universal values, as I have stated earlier. Nevertheless, these boundaries have been tested time and time again in recent years, as the Legislative Council has become highly politicized and divided. The line between acceptable and unacceptable behaviour for a Legislative Council Member discharging his or her duties has become increasingly blurred. This exacts a high price: The lack of decorum shown by some Members during Council, committee and panel meetings has made the Legislative Council a laughing stock, and sometimes, a disgrace in the eyes of the public, to the detriment of the Legislative Council's reputation and credibility.

If my memory serves me right, this is the second time a censure motion has been moved against a Legislative Council Member, following the motion moved against former Legislative Council Member, KAM Nai-wai, in 2009, consequent to an allegation that Mr KAM had unfairly dismissed a female assistant after she rejected his advances. In KAM's case, Rule 49B(2A) of the Rules of Procedure was followed. The debate on the censure motion was adjourned and the matter stated in the motion was referred to an investigation committee. This time, CHAN Chi-chuen moved the motion that is on the table.

President, the decision to support or reject Mr CHAN Chi-chuen's motion in that he rejected Paul TSE's motion to censure CHENG depends primarily on whether CHENG's deliberate act of inverting the mock-ups of the national and regional flags that were placed on the desks of the DAB Members at the Council meeting on 19 October constituted "misbehaviour" under Article 79(9) of the Basic Law. According to the Report of the Legislative Council Investigative Committee established in respect of the motion to censure KAM, the Committee on Rules of Procedure ("CRoP") learnt that overseas legislatures had not drawn up an exhaustive list of misconduct and each case was judged individually according to its gravity; and the acts involved in those cases were invariably related to the discharge of duties in the legislatures by their members. I will elaborate on this later. The major consideration was whether the misbehaviour caused some serious disrepute to the legislature as to constitute contempt. CRoP concluded that it would be more appropriate for the Legislative Council to determine whether the Basic Law, Article 79(7) mechanism should be activated by the specific conduct, instead of prescribing beforehand what constitutes "misbehaviour".

To put CHENG's case into perspective, a civilized society must strike a proper balance between the competing rights of those who may be insulted by a particular course of conduct and those who wish to exercise their legitimate right to freedom of expression to express their beliefs and protest on a matter of public interest. Some Members said that it is very difficult to know the intention of that Member who caused the disrepute but the action of that Member caused discomfort and displeasure on those people to whom it was being directed.

Granted, that the law does not stipulate that inverting the national or regional flags incurs strict liability, and CHENG argued that what he had done was aimed at expressing injustice at the composition of Legislative Council Members like myself, and his discontent with pro-establishment lawmakers whom he said only toed the Government's line, but prima facie evidence suggests that CHENG's act could constitute a symbolic act, as it is generally accepted that improperly displaying national flags is an insult to the respective nation and its people. That is the reason why I rejected Mr CHAN Chi-chuen's motion and support the original one by Mr Paul TSE.

The question of one's political beliefs and freedom of expression are irrelevant here. President, what CHENG's political beliefs are and whether CHENG bears a grudge against DAB Members, the pro-establishment camp, the SAR Government, the PRC and its people are very personal matters and are irrelevant. Everyone has the right to freedom of expression and to embrace any political belief they wish, and CHENG is no exception. However, what is relevant here are the facts that, firstly, he was discharging his duties as a legislator on 19 October, during the Legislative Council meeting when he carried out such act; secondly, that his conduct has damaged the Legislative Council's reputation and thirdly, the fact that the concept of freedom of expression is not, I repeat, is not limitless.

President, it is up to each of the Legislative Council Members present to judge and cast his vote on this motion, but the following questions should also be taken into account when determining the overall reasonableness and proportionality of CHENG's behaviour: Was the inversion of the mock-ups of national flags and regional flags socially acceptable behaviour? It was not unlawful, but clearly was not generally acceptable. Would CHENG's behaviour be viewed differently if the act had been performed by an ordinary citizen rather than a lawmaker? Arguably, we set a higher moral standard on the behaviour of

lawmakers, especially that he has been voted in by over 50 000 people, because the Legislative Council's dignity and reputation is at stake. Did CHENG's stated aims have any bearing on promoting public interest and hence justifying his inverting of the mock-ups flags? Hardly, because if the public interest explanation were accepted, it would give too much weight to the concept of public interest at the expense of the consideration we must give to universal values of freedom of speech and expression. Did CHENG intend to deliver a gratuitous and calculated insult through the act? I think so. CHENG explained that his act was targeted at pro-establishment lawmakers. Did CHENG's conduct cause insult and humiliation to any particular group of people? Judged objectively, the answer is also yes. Dr Ann CHIANG Lai-wan was infuriated and complained immediately to the President about CHENG's behaviour, and your goodself actually cautioned CHENG. Another DAB Member later filed a complaint with the Police, and some members of the public and some media later condemned CHENG for his improper conduct. Could CHENG have expressed his views in a way which did not involve the inversion of the mock-ups of the national and regional flags? Yes, he could have and he has the ability to do that and express his political views in various ways without inverting the mock-up flags. Was CHENG's behaviour so gross in nature that he deserves to be censured and stripped of office? It is not just a simple yes-or-no question, but the existing mechanism forces us to give a yes-or-no answer.

President, concerning the mechanism for handling misconduct of varying gravity, it is clear—however unpalatable—that the way to handle any cases of misconduct, including CHENG's, case is to activate the mechanism for the disqualification of the Member from office under Basic Law Article 79(7). In dealing with a Member who has committed misconduct, the Legislative Council may only choose between disqualifying the Member from office and not imposing any sanction at all; there is no other form of sanction. Thus, the Legislative Council faces a dilemma: if the disqualification of a Member from office, which is the ultimate and only sanction, is imposed regardless of the gravity of his misconduct, as some of my colleagues, like LEUNG Kwok-hung, said, it may be excessively severe; on the contrary; if no sanction at all is imposed on account of the fact that the gravity of the misconduct in question does not warrant the disqualification of the Member from office, it could give rise to a public perception that the Legislative Council is shielding the Member in question, thus undermining the credibility of the Legislative Council.

There was a case with KAM Nai-wai that the Legislative Council opted for Article 79(7) of the Basic Law without any attachment to political party affiliation. In both 1995 and 1996, the Legislative Council debated a resolution to authorize the Committee on Members' Interest to monitor the conduct of Members, but both resolutions were dismissed. The Investigation Committee in KAM's case considers that with the passage of time, the Legislative Council should consider afresh the need to review the current mechanism in order to ensure that there are appropriate mechanisms and proportionate sanctions for dealing with complaints against Members' conduct of varying gravity, so as to safeguard the credibility and reputation of the Legislative Council.

Against this backdrop, no matter what the voting outcome of the motion is, the Legislative Council's credibility is bound to be adversely affected, if not undermined, as CHENG's case has exposed once again the inadequacies of the current mechanism, but at least we are doing what the process bounds us to do, which forces the Legislative Council to make an over-simplified choice in deciding the fate of a Legislative Council Member involved in an alleged misconduct case, and which disregards the varying nature and gravity of individual cases. This inevitably gives the impression that the Legislative Council is making a politicized decision based on partisan interests and a political agenda. In this case, I think we know very well that CHENG and also his colleagues defending him, consider his act unacceptable and has caused disrepute among Legislative Council Members and an insult to the Legislative Council as an institution.

Thank you, President.

**MR CHUNG KWOK-PAN** (in Cantonese): President, I know, and I can also foresee, that this motion of censure moved by Mr Paul TSE will most likely not be passed. Nevertheless, even though this motion will not be passed, why are we still having this discussion here and considering giving support to Mr Paul TSE's motion of censure but opposing the motion moved by Mr CHAN Chi-chuen?

If we look back at the past, after Mr Paul TSE had introduced this motion in the House Committee, what did Dr CHENG Chung-tai say on that day at the meeting of the House Committee? I will quote his comments on that day. One passage in his speech reads to this effect: "I believe that after looking at Mr Paul TSE's motion today, the great majority of the Hong Kong public will feel deeply

disappointed because given their expectation for Members, the Hong Kong public feel that our behaviour over the past two months in the Legislative Council or the solemn Chamber has let them down greatly." Look, he also thinks that the Chamber is solemn. However, if it is solemn, he should not have inverted the national flags, and time and again for that matter. Such behaviour is absolutely improper. Now, he also knows the proper thing to say, claiming that the Chamber is a solemn venue, but why does he know the proper thing to say now? Because this motion moved by Mr Paul TSE has changed his thinking by putting it back onto the right track. Therefore, this motion moved by Mr Paul TSE is actually waking up those Members who are new to the legislature and do not know the rules. For this reason, this motion is useful.

Moreover, in the second paragraph of his speech, he accused Mr TSE of seizing upon his personal behaviour and blowing it out of proportions to wage political struggles by resorting to high-handed executive ploys and political prosecution. Dr CHENG is a member of the Civic Passion, and who is its founder? It is Mr WONG Yuk-man, a former Member. What did Mr WONG Yuk-man say all the time in his seat? He said that we had to wage struggles and put up resistance in the legislature. Therefore, if Dr CHENG Chung-tai thinks that this motion moved by Mr Paul TSE represents a kind of resistance or struggle, I ask him to go back and learn about what his forerunner or his master did in the legislature. For this reason, when new Members initially join the legislature, they should behave themselves, make observations carefully and do a little learning while sitting squarely in their seats. After they have learnt the true ropes, they can then do what they personally think can be done.

In addition, we certainly oppose inverting the national flags and regional flags. This is absolutely disrespectful and a somewhat insulting act. Although Dr CHENG Chung-tai is a university lecturer, he went so far as to display such behaviour. Worse still, as it turns out, Dr CHENG Chung-tai actually studied for his postgraduate and doctorate degrees in Peking University and graduated from it. He lived in Beijing for such a long time—I do not know why he chose Beijing but if he chose Beijing, it was probably because he thought that the education standard in Beijing was high and he could acquire high-level knowledge there—he was so highly educated, yet after coming back, he went so far as to invert the national flag of his own country. In doing that, did he mean he is not going to care about matters related to China, our country, anymore? He might as well burn the certificates issued to him by Peking University. In that event, it can really explain why he inverted the national flags ... yet at the

same time, he obtained his doctorate from Peking University. Therefore, I really do not understand why he could display this kind of behaviour. He can explain this later on.

Of course, there are other Members of the pan-democratic camp who gave him protection while chiding him and calling him puerile. However, had he not displayed such behaviour on the first day, there would not have been any problem, would there? Why did he leave his seat? Dr CHIANG Lai-wan had already scolded him once but he still went on to leave his seat and displayed such behaviour. Is it because such behaviour is fun? In this Chamber, it is necessary to assume responsibility for having fun. All Members must bear the responsibility for their behaviour. For this reason, the responsibility that he has to bear today is to have a motion of censure directed against him.

For this reason, today, I oppose Mr CHAN Chi-chuen's motion, which seeks to oppose Mr Paul TSE's motion. In fact, after Mr TSE had introduced this motion, if we look at Dr CHENG Chung-tai's comments, we will find that such a move has really achieved some deterrent effect and it can also send a message to some new Members, or immature Members if you like, that their behaviour in the legislature is being monitored and scrutinized, so it is hoped that they will not take actions that are pointless and nonsensical. Rather, they have to sit here properly and behave like a dignified Member to safeguard the dignity of the legislature. It was because Mr Paul TSE had introduced this motion of censure that Dr CHENG Chung-tai changed his behaviour. For this reason, we will oppose Mr CHAN Chi-chuen's motion but support the present motion moved by Mr Paul TSE. Thank you, President.

**DR JUNIUS HO** (in Cantonese): President, I fully support the motion proposed by Mr Paul TSE today because the acts of Dr CHENG Chung-tai on 19 October were done not just with an intention obvious to all, but that the whole world could see what Dr CHENG Chung-tai did clearly.

As to the question of whether it is misbehaviour, the answer is in the affirmative with no room for sophistry. Hence, I support the motion of Mr Paul TSE, but I certainly oppose the motion moved by Mr CHAN Chi-chuen under Rule 49B(2A) of the Rules of Procedure "that no further action shall be taken on the censure motion moved by Mr Paul TSE". In fact, the two can be mentioned in the same breath. Since I support the motion of Mr Paul TSE, I definitely oppose the motion of dissent of Mr CHAN Chi-chuen.

Regarding Mr CHAN Chi-chuen's reasons for moving the motion, I can only describe them as "hollow" without any substance. Why does he give full support to Dr CHENG Chung-tai under such circumstances, thinking that his acts that day only served to dispose of others' discarded articles? Should he be the one to define discarded articles? What are the justifications? Can he tamper with others' articles without authorization? The only reason I can think of is that he supports Dr CHENG Chung-tai out of the spirit of great love. Other than that, I cannot think of any reason for his condoning the acts of Dr CHENG Chung-tai.

As to the question of whether his acts are misbehaviour, like I said just now, his acts are seen by all. Rule 49B of the Rules of Procedure deals with "Disqualification of Member from Office", setting out the avenues of disqualifying Members from office, and precisely serves to handle the misbehaviour of Members in the Council, and another situation in which Members have been sentenced to imprisonment for one month or more, that is, two situations in total. And Members sentenced to a substantial imprisonment term will even be disqualified from office direct. Hence, this is not a conviction for expression of views. Instead, it precisely serves to regulate Members' behaviour in the Council. Misbehaviour may also include whether Members honour the two ultimate spirits of the oath after taking it, which are upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China. I do not consider this case a conviction completely for expression of views because what we saw that day was gross misbehaviour instead of expression of opinions.

Speaking of the solemnity of the Council, his acts have precisely destroyed our solemnity completely. Even if the Legislative Council cannot take any decisive action at this juncture, and I do not care if we can secure the support of two thirds of the Members present eventually, we cannot condone and turn a blind eye to such reckless acts and misconduct here. I also do not consider what Dr CHENG Chung-tai did back then were some childish acts as suggested by other Honourable colleagues from the pan-democratic camp. I absolutely agree that firstly, he is already an adult; secondly, he teaches at a university and works in the education sector. As a teacher, he should know what he is supposed to do in terms of basic integrity and conduct without guidance from others.

Nevertheless, we just cannot believe that at such a critical juncture, he could have behaved like that. I do not consider them purely childish acts. Instead, they reflect his political ideas, that is, localist self-determination advocated by him. Localist self-determination is supposed to be fine. It is totally fine for him to do some acts of self-determination in the Hong Kong Special Administrative Region with a "high degree of autonomy" under such an established framework. But when we consider his relevant opinions and acts as a whole, what we need to discuss is not whether the national flags meet the specifications, or the measurements that make them genuine national flags. Anyone with a normal frame of mind can recognize that they are mock-ups of the national flags. And when he inverted the national flags while proposing self-determination and the localist spirit, such an ideology was reflected. In other words, his acts have not only insulted the national flag itself, but also demonstrated his opposition to the "five-star red flag" and the regional flag of SAR itself. In that case, he has precisely undermined and contradicted the two spirits set out in Article 104 of the Basic Law in relation to the oath taken by him, that is, upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China. Hence, we can say that his acts have seriously demonstrated his political ideas, showing me an ideology of overturning the People's Republic of China.

This also does not just concern solemnity. He did such acts in the Legislative Council, one of the highest authorities among the three powers in Hong Kong, so the impact of them should not be overlooked. I recall that in the 1980s or 1990s, an American athlete won the gold medal in the men's 4x100 m event in the arena. But when he was standing on the prize presentation pedestal, he did a grossly improper act. When the national anthem was played, he clenched his fist to his chest. Such an act alone already provoked a massive outcry. The disrespect for the national flag of the country on the sports ground or arena can already arouse such strong repercussions. Just imagine how unbelievable it is for some in the Legislative Council to turn a blind eye and a deaf ear to such acts, describing the issue as having been escalated to the political plane, deliberately averting the issue or dismissing it as childish, and even more or less claiming in a radio programme that we might just laugh off such acts. Just think about whether this is a play area, a children's playground or a place where people can walk around freely doing whatever they please?



When Members act improperly in a discussion about many cardinal issues of right and wrong, we will also raise a point of order. What we are discussing now is precisely a point of order. I do not consider it political oppression. Rather, we are acting in accordance with our codes and rules. Can we secure the support of two thirds of Members for the motion of Mr Paul TSE eventually? I surely have a glimmer of hope. As to the question of whether my hope will fall through, I do not mind. But when we discuss and debate this issue in a serious manner today, we must voice our opinions. We cannot talk black into white and sidestep the truth. For this reason, I do not support the motion of dissent of Mr CHAN Chi-chuen, but in fact, I fully support the original motion of Mr Paul TSE.

I so submit.

**MS STARRY LEE** (in Cantonese): President, the question of our discussion today is whether or not to support the motion proposed by Mr CHAN Chi-chuen, "that no further action shall be taken on the censure motion moved by Mr Paul TSE". As the debate has been going on for several hours, people who are listening to the live broadcast may find it a bit confusing. To put it in simple terms, should Mr CHAN Chi-chuen's motion be supported and passed, the censure motion moved by Mr Paul TSE will be forced adjourned. In short, this Council will no longer be able to follow up on behaviour possibly contravening the Basic Law, in particular Article 104. This definitely does not meet the expectation of the general public, especially those who hate "Hong Kong independence".

President, listeners should also be aware that, even if we oppose Mr CHAN Chi-chuen's motion today, it does not necessarily mean we support Mr Paul TSE's censure motion. Matters are now just entering a procedure and need to be referred to an investigation committee which will investigate a series of allegations made against Dr CHENG Chung-tai. According to the Rules of Procedure and the past practice, once the investigation is completed, a report will be submitted to this Council. Members of this Council will then vote whether or not to support the censure based on the content or judgment of the report. So, if people got confused just now and thought we are already supporting the censure, that is not the case. Of course, I believe Members each have their own opinion, but at this moment, the procedure is being discussed up to this point.

I speak, of course, in support of Mr Paul TSE's motion but against the motion proposed by Mr CHAN Chi-chuen "that no further action shall be taken on the censure motion". Many Members said inverting the national flag is a trivial matter, that although it was a wrong, puerile and unreasonable act, it should not be dealt with by "sledgehammer", that this Council should do more practical things. In fact, I do not agree that it is a trivial matter. I do not wish to recount the whole course of his inverting the national flag. It is my understanding that Dr CHENG Chung-tai is a key member of the Civic Passion. Their indistinct behaviour of most probably promoting "Hong Kong independence" can be seen in the media. Therefore, it is hard for me to believe this incident of inverting the national flag is a trivial matter, or simply about playing around with some so-called decoration items placed by Members here. This is absolutely not the case, especially since Dr CHENG Chung-tai continued his act that day without remorse even after being stopped by Dr CHIANG Lai-wan, making it impossible for one to believe that it was unintentional or a so-called trivial matter. What matters more is whether such behaviour was an expression of political stance held in his mind; whether he wanted to express his attitude towards the Central Government and the SAR Government through inverting the national flag; and whether it was a sign of promoting "Hong Kong independence". I believe, through the forming of an investigation committee, he will be able to give evidence in person, and when the report is submitted to this Council, the public and this Council will gain certain understanding of the matter.

President, Dr CHENG Chung-tai took and inverted the national flags belonging to DAB Members without their consent. Such behaviour is unacceptable and mostly likely constitutes grossly disorderly conduct. On top of the behaviour itself, various signs showed that the underlying conviction of his behaviour might have been a breach of oath. I have looked up relevant information and it confirmed my decision to support the referral of this matter to an investigation committee.

President, although Dr CHENG Chung-tai read out from beginning to end the content of the oath when he took it in the Legislative Council, he did make "additions" during the process by shouting "devising constitution by all people, making new covenant; Hong Kong people predominate, all hail Hong Kong". Is this message not promoting "Hong Kong independence" and in breach of Article 104 of the Basic Law? If an investigation committee is formed, Dr CHENG Chung-tai will then be able to give an explanation for inclusion in the report.

President, I have also found some other information. It was reported that, when attending the "Struggle between unification and independence" forum organized by the Politics and Public Administration Association of the University of Hong Kong in the middle of last month, Dr CHENG Chung-tai claimed that as those in power now are ruling in a dictatorial manner, Hong Kong people can only choose—"Hong Kong independence" was not mentioned here, but I think if an investigation committee is formed, he will then be able to confirm whether he has been promoting "Hong Kong Independence"—this is an interpretation of the newspaper, saying that it is the only way out. He even stated that interpretations of the Basic Law will happen successively, and Hong Kong will become "one country, one system". To preserve Hong Kong's culture, one must go into exile overseas.

President, according to another report, in April this year, when attending a forum on "Hong Kong independence" and "Taiwan independence" organized by the Hong Kong University Students' Union, Dr CHENG Chung-tai claimed that Hong Kong's independence is not at all an issue but an inevitable process in history, and that the people have the power to defy their superiors. He also "spread independenism" to students there, stating that if they enter the Legislative Council, they would set up a People's Constitutional Committee and devise a constitution from Hong Kong people's perspective, reiterating that this could brook no delay, and that a Hong Kong with so-called self-determination and autonomy needed to be pursued immediately.

Therefore, if Members consider these statements to be substantive and suspicious materials of "Hong Kong independence", then whether a Member has breached Article 104 of the Basic Law and promotes "Hong Kong independence" in a real sense is worth an investigation by us?

In addition, I have also found some information to aid Members' determination of whether it is worth an examination or necessary to invite Dr CHENG, who is listening now, to give a response or do so through an investigation committee. I noticed that Dr CHENG Chung-tai has recently published a book titled *Civic Nationalism and State Formation*, which was written in a franker and more direct manner. In the author's preface, he wrote: "using 'Hong Kong people have no homeland, formation of a Hong Kong nation is the only way' as a subject". Perhaps I can read out the last paragraph of this article, so that Members can have a better grasp of Dr CHENG Chung-tai's thoughts I found in publicly available information, to this effects: "We are a

different ethnic group from the Chinese. We used to think that autonomy could be achieved through universal suffrage, but actually we were just deceiving ourselves, thinking sovereignty and the power of governance could be separated. After 2014, the Communist Party of China and the Hong Kong communist regime proclaimed China's colonization of Hong Kong in various ways. Now, more and more Hong Kong people have begun to understand that what we have been fighting for in the past decades was not a mode of election, but the independence and autonomy of Hong Kong. But I think this is not enough. Yes, at least in this way Hong Kong's current civilization can be preserved, but after a hundred years, Hong Kong must have its own history and future, and Hong Kong people must have their own country. The country that Hong Kong people need to love is not China in their fantasies and delusion, but their very own county—Hong Kong. In fact, after 1989, if we can see it clearly, a line should be written on Hong Kong's sky: 'Hong Kong people have no homeland, formation of a Hong Kong nation is the only way'."

President, this passage is very clearly written, so I have reasons to believe that Dr CHENG Chung-tai's behaviour of inverting the national flag is a reflection of his political objective, that is, promoting Hong Kong's independence and autonomy and his so-called "formation of a Hong Kong nation". Therefore, I definitely think that this incident cannot be regarded as a trivial matter, nor can this information be disregarded. This matter must be referred to an investigation committee which will proceed with its work in a fair and impartial manner in accordance with the procedure, so that Hong Kong society, the Legislative Council and Dr CHENG Chung-tai will all have a chance to expound on their views. In fact, according to the information I have collected, before serving as a Legislative Council Member, Dr CHENG Chung-tai has repeatedly taken the lead in demonstrations charging at State officials; supported Occupy Central, Occupy Mongkok and rallied a crowd to insult Mainland visitors in Sheung Shui; allegedly led a crowd to shout "Hong Kong does not belong to China" and display the "Dragon and Lion flag" and the "Hong Kong independence" slogan outside the Golden Bauhinia Square during the Government's national flag-raising ceremony; and also made remarks in an online media programme advocating constitution by citizens and formation of a nation.

President, Dr CHENG Chung-tai's past behaviour and remarks already bear testimony to the fact that his act of inverting the national flag is by no means a trivial matter and may well constitute a breach of Article 104 of the Basic Law. Therefore, it is a must to investigate and let Mr Paul TSE's motion continue.

For these reasons, President, I have spoken today against the motion proposed by Mr CHAN Chi-chuen "that no further action shall be taken on the censure motion moved by Mr Paul TSE".

In addition, I would like to respond to the remarks made by some Members. Some Members said we often make such kind of political gestures. I would like to respond to this allegation. In fact ...

(Mr CHU Hoi-dick raised his hand in indication)

**PRESIDENT** (in Cantonese): Mr CHU Hoi-dick, what is your point?

**MR CHU HOI-DICK** (in Cantonese): President, a quorum is not present. I request a headcount.

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

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

**PRESIDENT** (in Cantonese): Ms Starry LEE, please continue with your speech.

**MS STARRY LEE** (in Cantonese): President, based on my quotes of Dr CHENG Chung-tai's past remarks regarding "formation of a Hong Kong nation", and under the "anti-China-insulting, anti-independence" macro-environment, I do not believe his act of inverting the national flag is a trivial matter. There are reasonable grounds for me to believe that a Member might have breached Article 104 of the Basic Law. Therefore, I oppose the motion proposed by Mr CHAN Chi-chuen but support the censure motion moved by Mr Paul TSE.

**MR JEFFREY LAM** (in Cantonese): President, I think it is already regrettable that we have to discuss this very motion. To uphold the Basic Law, bear allegiance to the Hong Kong Special Administrative Region ("HKSAR") of the People's Republic of China and act in full accordance with the law are the solemn oath taken by Members and also the way in which we should most naturally conduct ourselves. That a Member of the Legislative Council did deliberate acts to desecrate the national flag and the regional flag has provoked a public outcry. People around me could not help stating that it was totally outrageous and they hope that all sectors of the community can condemn these acts.

President, first of all, we must understand what kind of a venue the Legislative Council is and what status we have. The HKSAR was established by the National People's Congress ("NPC") in accordance with Article 31 of the Constitution of the People's Republic of China, and the systems of HKSAR are prescribed by the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China adopted by NPC and promulgated for implementation by a decree of the President of the People's Republic of China.

Hong Kong is a local administrative region that comes directly under the Central People's Government. The Basic Law provides that the Legislative Council shall be the legislature of HKSAR and has the power to enact laws. It also empowers Members of the Legislative Council to perform specified powers and functions. The laws enacted by the Legislative Council shall be reported to the Standing Committee of NPC for record. These are our systems and the legal basis for society to operate. We have a close relationship with the State in all aspects. We must not think that we can do as we like because we enjoy "a high degree of autonomy" conferred on us by NPC. Therefore, we must be clear that the Legislative Council is a venue that belongs to the People's Republic of China, and the status of a Member is premised on the Basic Law formulated by the State. As long as we are clear about the relationship between the Legislative Council and the State, we can better understand how improper Dr CHENG Chung-tai's conduct was on that day.

President, the national flag represents the sovereign and dignity of a country. It is a symbol of the country. The national and regional flag raising ceremony is conducted every day at the Legislative Council Square. The national flag of every place carries an underlying meaning. It symbolizes the culture and history of the place, and also represents the people of the place. I

remember that back in those years when I studied and lived overseas, some people called us "Chinamen" and some others called us "Chink". These are really insulting words and we felt very bad hearing them. This is why we overseas Chinese students and the Chinese community were very united at the time in defending our dignity.

I also remember the time when I worked in the Mainland during the early days of the reform and opening up of our country. Back then the conditions were difficult and resources were lacking, and people faced severe hardships in their living. The place where I lived in the Mainland was not a five-star hotel but a commune. There was only cold water for shower however cold the weather was and yet, everyone worked very hard for building the country. Every morning when we got up, we went to the square to attend the flag raising ceremony and from this we could see the respect and love for the national flag among the people. Whenever I see the flying of the national flag and think about our country becoming more and more powerful day after day, I do have strong feelings welling up in me.

President, I understand that some people may have views on certain national policies, or they do not feel anything special about the country, and this is understandable. Having said that, we must have basic respect for the country. Even if it is not our own national flag and when the national flags of other countries are desecrated, their people will likewise feel offended and indignant. This is all the more so when we, being Chinese ourselves, saw that in a place of our own country and in this solemn Council, Dr CHENG Chung-tai had gone so far as to deliberately invert the national flags and regional flags to insult the country and to insult all Chinese people including Dr CHENG Chung-tai himself. This is indeed outrageous.

We also understand that politicians may resort to various means to draw people's attention to their views, such as cheating people to get "likes" from them or exerting themselves to gain exposure in front of camera. In order to "put up a show" and play to the gallery, some new Members of this Council have come up with ways to achieve their purposes, just as we always see a lot of brilliant handicraft works in the Legislative Council. However, Dr CHENG Chung-tai should not have inverted the national flags and regional flags time and again to insult the country and to insult all Chinese people and Hongkongers.

Moreover, these are the personal belongings of other Members. They were placed in this Chamber not for him to mess up with wantonly. This is basic respect and to put it bluntly, did his parents not teach him good manners? Can he take away things that belong to other people as he likes? Dr CHENG, being a teacher himself, has indeed set a bad example for students.

President, when a clown puts up a performance, we can ignore it; but deliberate desecration of the national flag and the regional flag is absolutely unacceptable. I think Dr CHENG Chung-tai should be censured for his behaviour on that day.

President, I so submit.

**MR CHAN HAK-KAN** (in Cantonese): President, it is inevitable that political parties have different views and Members engage in heated exchanges in the Council. We can see that national flags are placed in the councils of many places or countries, be it the parliament or city council. Even if the local council members have fierce debates and angry exchanges on various issues, they will never do insulting acts to the national flags placed inside the councils because it is the same as trampling on their own countries and peoples—only when a person does not identify with his own country and people that he commits such insulting acts to the national flag.

While I was preparing for today's speech, it came to my attention that a place often seeks independence, that is, an autonomous community of Spain, Catalonia. Many members of the local council desire independence. Even though they hoist the Catalonian flag in the council, still they would not insult their own country, that is, the Spanish national flag, because they know doing so means they are insulting themselves. Today we are having a debate on Dr CHENG Chung-tai's behaviour of inverting the national flags. He has insulted not only himself and the Council, but also Hong Kong people and Chinese at large.

The Council belongs to all Hong Kong people; Members here represent the totality of Hong Kong people, not just a handful. A responsible Member certainly expresses his views and those of his voters who support him but must also take into account the sentiments of society at large. Now Dr CHENG Chung-tai only cares about expressing his own views to please his supporters at



the expense of the entire society and country. Even though Dr CHENG Chung-tai has termed such acts as the so-called "resistance", but to us these are nothing but acts committed to capture the limelight and attract media attention. I found his behaviour utterly despicable if he insulted the national flag for the sake of capturing the limelight and attracting media attention, while also in fact violating the Basic Law. In the eyes of an ordinary man in the street, Dr CHENG Chung-tai's behaviour is already in breach of his own oath. Putting the law aside, his actions of twice inverting the national flags placed on the desks of Members from the Democratic Alliance for the Betterment and Progress of Hong Kong constituted grossly disorderly conduct. I remembered well that the President had ordered him to leave the Chamber and he blatantly defied the President's ruling. It was definitely not the behaviour expected of a Legislative Council Member.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Unfortunately, despite his dishonourable behaviour, just now many pan-democrat Members have covered up for him by employing much sophistry. Mr CHAN Chi-chuen denied that those were national flags or regional flags placed on the desks of Members that day; he referred to them as exhibits. Dr KWOK Ka-ki's remark was even more comical; he said that those flags were not of the standard specifications so they were not national or regional flags. In fact, they are deliberately downplaying the incident to defend Dr CHENG Chung-tai. I hope when the motion is put to the vote later, Honourable colleagues from the pan-democratic camp will stop covering up for Dr CHENG Chung-tai's behaviour. I recall that at a House Committee meeting a few weeks ago, Dr CHENG Chung-tai covered up his behaviour by pointing out that he did not insult the national flag as according to the international practice, inverting a national flag means calling for someone's help. Deputy President, it is absolutely preposterous. I will not comment on such a meaning but it is obvious that Dr CHENG had the guts to do what he did but none to admit it. Facing widespread criticisms, he resorted to specious arguments of every sense.

Deputy President, just now you have quoted a book by Dr CHENG entitled *Civic Nationalism and State Formation*. I need only read out the title of the preface to show if Dr CHENG has the concept of "country" and why he inverted the national flags. (I quote to this effect) "Hong Kong people have no

homeland, formation of a Hong Kong nation is the only way", with "CHENG Chung-tai" as the undersigned. It is the preface of his book, from which we can tell that he has no country in his mind. Did he invert the national flags to ask for someone's help, or does he have no regard for his country and wants to insult it? It is crystal clear without any room for sophistry.

As a matter of fact, if Members say or do things wrong in the Council, it is all right because the most important point is to admit the mistake and take the responsibility. However, as we can see in the Council today, Sixtus LEUNG, YAU Wai-ching and Dr CHENG Chung-tai have all been unwilling to admit their mistakes and resorted to sophistry by all crooked means. It has not only tarnished the Council's reputation, but also caused public disappointment with the Council. Just now I noted that there were secondary school students in the public gallery observing the meeting. Sitting in the Chamber, I often think about how the behaviour and conduct of me, as a Member, and the 70 people engaging in a debate here will influence them. Do we want to teach young people to admit their mistakes and take responsibilities, or teach them to insult their country and never admit their wrongdoings? I understand that we all have our own judgment but I still hope to see responses to the question I just asked. Therefore, I support Mr Paul TSE's motion but oppose Mr CHAN Chi-chuen's motion.

Thank you, Deputy President.

**MR CHU HOI-DICK** (in Cantonese): Deputy President, first of all, I express my support for this motion "That no further action shall be taken on the censure motion moved by Mr Paul TSE" moved by Mr CHAN Chi-chuen under Rule 49B(2A) of the Rules of Procedure ("RoP").

Frankly, I consider Mr Paul TSE's approach appropriate in itself. Of course, here I need to make it clear what I mean by "appropriate". It refers to the fact that Mr Paul TSE has chosen to let the Legislative Council deal with its own internal business. We have RoP as well as the stipulations in Article 79 of the Basic Law in place, so we are having this debate today. For this reason, I do not agree with the point made by some Honourable colleagues, that today's debate is a waste of time. This debate has exactly manifested that the Legislative Council can apply its internal mechanism to address the problems which we think

exist. Issues of individual Members, regardless of our support or opposition, should be referred to the Council in accordance with the existing RoP and statutory stipulations.

Hence, now that Mr Paul TSE has set this good example, I hope Members of the pro-establishment camp will do some thinking. Will they do any thinking now? From the oath-taking row to the interpretation of the Basic Law and then the present attempt by the executive to disqualify elected Members by way of judicial review, can Members of the pro-establishment camp really do something to protect the Legislative Council from the angle of maintaining the healthy systems of the Council? As LEUNG Chun-ying no longer seeks a re-election now, those political needs have gone. Can Members of the pro-establishment camp request the executive to withdraw such cases which waste public money in using judicial review to challenge the qualification of Legislative Council Members? We can cite the example set by Mr TSE today. If any Member holds that there are problems with the oath-taking of four or six Members, he can similarly deal with the matter by invoking RoP 49B. This is a very clear direction which can uphold the dignity of the Legislative Council and its systems. I hope Mr Paul TSE will discuss this question with the other Honourable colleagues after the completion of this debate today.

However, as far as this motion is concerned, why do I support Mr CHAN Chi-chuen rather than Mr Paul TSE? Actually, I think many of the decisions made by Mr Andrew LEUNG in his capacity as President are questionable, but I find the judgment made by him after Dr CHENG Chung-tai had committed that act on that day appropriate. It was a proper decision. What was the problem with Dr CHENG Chung-tai that day? His problem was that he left his seat and then went on to touch the articles placed by other Members on their desks. After Dr CHIANG Lai-wan had rearranged them back to their original position, he messed with them again. For this reason, that day Mr Andrew LEUNG held that there was a serious problem with his behaviour and demanded him to leave the Chamber. That day he did not question Dr CHENG Chung-tai for his reason for desecrating the national flag or suspect him of contravening the National Flag and National Emblem Ordinance, or indicate that he would disqualify him under RoP 49B. Mr Andrew LEUNG did not do that. It is because, I believe, if any normal person witnessed Dr CHENG Chung-tai's behaviour and he did not say anything himself, actually the most appropriate approach is to deal with the matter in the way Mr Andrew LEUNG did on that day.

After all, when Dr CHENG Chung-tai committed such an act that day, he was certainly delivering his political message—I will spend some time on this part in a while—we need to protect the right of Legislative Council Members to voice their opinions, that means protecting the right of their voters to voice their opinions. Why is that important? Because if we do not have the right to express our political views, the Legislative Council will be unable to shoulder its mission as an organization representing public opinion. If it cannot shoulder this mission, what will be the result? The result is that a lot of discontent with the administration or political line of the Government cannot be expressed through the proceedings in the Council. This is very dangerous. Hence, our most fundamental principle is that Legislative Council Members should have the right to make political expressions on behalf of their voters. Since Mr Andrew LEUNG did not make such a judgment that day, it is all the more unreasonable to employ various fabricated accusations today to claim that the behaviour exhibited by Dr CHENG Chung-tai that day was so grossly disorderly that he should be disqualified from office. This is absolutely disproportionate. Although I consider it right to discuss this direction raised by Mr Paul TSE in the Legislative Council, I also hope that Hong Kong people will watch out and stay alert. We must beware that the pro-establishment camp has been exploiting a series of political storms such as the oath-taking incident, the interpretation of the Basic Law and the judicial review. Now they have used Dr CHENG Chung-tai's behaviour on this occasion as a pretext to further make a mountain out of a molehill. Of course, perhaps I should put it in another way. To the pro-establishment camp, this may be a big question rather than a trifle. This big question on their mind or that of Beijing is the need to not only prohibit the idea of "Hong Kong independence" but also further forbid other comments. "Those with a harelip are wary of broken bowls." Beijing's greatest taboo is its responsibility for the massacre on 4 June 1989 and its responsibility for suppressing human rights and sentencing innocent people to political imprisonment in Mainland China. Now the pro-establishment camp wishes to make use of these different labels, be it "Hong Kong independence" or desecration of the national flag. Its true agenda is to bring all political stances against Beijing under the label of "Hong Kong independence". In this way, it can substantially reduce the freedom of political expression of Hong Kong people and Honourable colleagues in the democratic camp in the Legislative Council. We must beware of this. When I held political forums in different communities and my own constituency, I also kept warning members of the public that they must stay alert. Now the political mission which the pro-establishment camp wishes to accomplish in the Hong Kong Legislative Council is to find an extreme

example. Its true agenda is to make all the anti-communist political stances and oppositions to the inhumane brutalities of the People's Republic of China disappear in Hong Kong.

One last point is, to my knowledge, Dr CHENG Chung-tai did not clearly explain the purpose of his action or the ideology behind his taking such an action. So I actually have no idea about his purpose or ideology. However, I know that there is absolutely more than one type of political stance among the people who wish to make political expressions in respect of the national flag or national emblem. Just now the Deputy President and Mr CHAN Hak-kan seemed to place an equal sign between the two issues, claiming that Dr CHENG Chung-tai's act or the like—I would like to emphasize again that I do not know why he did it—they said that his act amounted to "Hong Kong independence" and claimed that the advocacy of "Hong Kong independence" had emerged again.

In this connection, I would like to quote the case in 1998 in which LEE Kin-yun and NG Kung-siu were prosecuted for desecrating the national and regional flags. I am not going to cite the judgment of the Court of Final Appeal like Mr Paul TSE did. Instead, I would like Members to listen to what LEE Kin-yun, who desecrated the national flag back then, was actually thinking at that time. This is actually what was on his mind: "May I ask, how will a despotic political regime which spares no effort to enslave its people, like the People's Republic of China, be qualified to ask the masses to respect its flag? How can a shameless political regime which makes the most vigorous effort to back-pedal on democracy and the rule of law and works extensively on a bogus Chief Executive election, like the Hong Kong Special Administrative Region ("HKSAR") Government, ask the people to respect the regional flag? If we still have the slightest candour of the adorable child in the story of The Emperor's New Clothes, we will undoubtedly agree that the five-star red flag of the Communist Party of China and the regional flag of HKSAR represent nothing but the bankruptcy of morality, reversal of right and wrong, victory of the logic that "he who steals a hook is killed as a crook; he who steals a kingdom is made a duke", and the regression and degeneration of human civilization." Let me emphasize again that I have no idea what was on Dr CHENG Chung-tai's mind. In the new term of the Council, we will face many such political presentations. In my view, a better approach is one which allows us to make political expressions, spelling out our stance clearly and forcefully, like LEE Kin-yun did in 1999. I think this is in fact a good method of enabling Hong Kong people to understand the existing different political ideologies in Hong Kong. I hope that

the democratic camp or non-establishment camp will stay united in the coming days and take every step towards democracy prudently. Do not ever give the pro-establishment camp this kind of excuse to casually pin the label of "Hong Kong independence" (*The buzzer sounded*) ... on ...

**DEPUTY PRESIDENT** (in Cantonese): Mr CHU Hoi-dick, your speaking time is up.

**MR CHU HOI-DICK** (in Cantonese): ... all the anti-communist thoughts ...

**DEPUTY PRESIDENT** (in Cantonese): Please stop speaking.

**MR MARTIN LIAO** (in Cantonese): Deputy President, regarding Dr CHENG Chung-tai's acts of inverting the national flags and regional flags in the Chamber on 19 October this year, the President already ruled that his acts were misbehaviour and ordered that he be removed from the Chamber that day. Although the non-establishment Members try to evade describing it as "misbehaviour" when commenting on this issue, I have heard that most of the Members, be it establishment or non-establishment, do not approve of such acts. The reason is explicit, that is, we all know that the national flag represents our country and people, while the regional flag represents the Hong Kong Special Administrative Region ("SAR") and members of the public. Deliberately inverting the flags is tantamount to intentionally insulting and smearing the country and SAR.

As the passage of the censure motion this time around may lead to the serious consequence of causing Dr CHENG Chung-tai to lose his seat, Dr CHENG and some non-establishment Members questioned whether the censure motion has gone overboard, making a mountain out of a molehill and using it as a means of political oppression. Members may as well reason things out.

Deputy President, at the meeting of the House Committee on the 25<sup>th</sup> of last month, Mr Paul TSE solicited support from the House Committee for proposing this motion today. At that time, Members already had an intense debate. That day, I paid special attention to Dr CHENG Chung-tai's speech. In his speech,

Dr CHENG only reiterated that the President had already made the ruling that him be removed from the Chamber that day, which was already a punishment to him. He certainly made no mention of the ruling of the President that his acts were misbehaviour that day, and avoided commenting on whether his acts in question were proper and decent. Instead, he kept diverting attention, alleging that others were escalating the matter to the political plane to subject him to a political trial and initiate a political struggle, and that the censure motion proposed against him had gone overboard. Instead of showing the slightest remorse or an attitude of self-reflection, Dr CHENG applied sophistry and made slanderous accusations of others. If Dr CHENG could reflect on himself and extend his apology, I would be more than willing to consider the issue afresh.

Deputy President, regarding the potential legal issues arising from Dr CHENG's inverting the national flags, as they are now under investigation by law enforcement agencies, I will not comment on them. What we need to discuss now is that if a Member, having taken his oath in accordance with law, has done acts to insult and smear the country and SAR in the solemn Chamber during a Legislative Council meeting, do Members think that this Member has lived up to the oath taken by him upon assumption of office? Can we say that he upholds the Basic Law and bears allegiance to SAR? This has no direct link with patriotism as suggested by Ms Claudia MO.

Although Dr CHENG has not presented any detailed grounds of defence for his acts in question in the Legislative Council, he has left a message on Facebook, defaming the act of the pro-establishment camp of placing the national flags of China and the regional flags of SAR on the desks that day as pandering to the communists, and indicating that he "expressed deep regret at such despicable and low-cost patriotic acts, so he inverted the regional flag during a quorum call on behalf of Hong Kong people to air grievances". Such hostile remarks and acts which serve to smear the pro-establishment camp arbitrarily are extremely regrettable indeed, showing that Dr CHENG has not only viciously degraded the normal practice of hoisting the national and regional flags, but also arbitrarily treated inverting the national and regional flags as a political performance and a tool for airing grievances.

As seen by the general public, the insulting acts of inverting the national flags and the regional flags repeatedly done by Dr CHENG have shown that his inverting the national and regional flags is deliberate. Over the past two months since 19 October, Dr CHENG has never shown any remorse or regret for his acts.

According to Dr CHENG, a Member elected by members of the public should be subject to the scrutiny of voters. Under the mechanism of public elections, if voters consider him incompetent, they may punish him in the next election. But does he notice that there is also a mechanism under Article 79(7) of the Basic Law, which he has sworn to uphold, that "the President of the Legislative Council shall declare that a member of the Council is no longer qualified for the office" "when he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present"? Deputy President, I recall that some 20 years ago when I handled a case, the defendant said to the Judge that only God, not Judges, was in a position to try or punish him. The essence of that argument falls in the same vein as that of Dr CHENG's, attempting to pass off something false as genuine and deceive the public.

Worse still, at a meeting of the House Committee on the last occasion, Dr CHENG suddenly put forward a so-called argument which was hardly cogent, citing the code on the national flag of the United States and pointing out that the inverted national flag signalled a call for help or attention. Deputy President, in fact, different countries around the world have different requirements for their own national flags. In recent years, Barrack OBAMA, President of the United States, once had to apologize for wrongfully inverting the national flag of the Philippines when meeting leaders of the Association of Southeast Asian Nations because in the Philippines, an inverted flag signals a state at war. Why did Dr CHENG, as a Legislative Council Member of the Hong Kong Special Administrative Region, only quote the example of the United States, but neglect the Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China as applied in the Hong Kong Special Administrative Region as stated in Annex III to the Basic Law, which he had sworn to uphold, and the National Flag and National Emblem Ordinance already in place in Hong Kong? While claiming "Hongkongers are the highest", on this issue, why does Dr CHENG of the localists pay no heed to the fact that inverting the national and regional flags is perceived in Hong Kong as an insulting act? To put it bluntly, Dr CHENG just cannot wait to find a seemingly noble excuse to muddle through after the incident.

Deputy President, if non-establishment Members have committed mistakes in a row that involve cardinal issues of right and wrong and run against the principles but lack the moral courage to admit them, it will definitely lead to public queries about their ethics, probity and integrity, questioning their



qualification as Members. Be that as it may, I firmly support referring the matter to an investigation committee, but oppose the relevant motion of Mr CHAN Chi-chuen.

Deputy President, I so submit.

**DR ELIZABETH QUAT** (in Cantonese): Deputy President, one who denies his Chinese identity, disrespects his own country—China, and disrespects the solemn Legislative Council of Hong Kong should not hold office as a Member of the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China. This, I think, is a consensus shared by many people of Hong Kong.

On 19 October this year, Dr CHENG Chung-tai twice inverted a number of national flags and regional flags placed on the desks of a number of Members in this Chamber. Such behaviour precisely amounted to disrespect for the country, disrespect for Hong Kong, disrespect for the Legislative Council, and misbehaviour. One who insults the country and the Legislative Council should not hold the office of a Member of the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China. Therefore, Deputy President, I oppose Mr CHAN Chi-chuen's motion that no further action shall be taken on the censure motion moved by Mr Paul TSE but support the motion proposed by Mr Paul TSE to censure Dr CHENG Chung-tai.

In his speech Mr CHAN Chi-chuen used a series of expressions to describe Mr Paul TSE's motion. He said that it is making a mountain out of a molehill, that it is a storm in a teacup and escalating the issue to the political plane, and that it is "false, big and empty", adding that the motion has exaggerated Dr CHENG Chung-tai's behaviour. Deputy President, I think only people who disrespect the country would consider the national flag a trivial issue. As we all know, the national flag represents national dignity, so how can it be a trivial issue? Insulting the country is a matter involving major principles, so how can it be a storm in a teacup? Insulting national dignity is a matter of enormous import. How can our work in the Legislative Council be taken as a game? So, Mr CHAN Chi-chuen said that it is a false proposition and a false allegation, but I think what he said is a false proposition and a false allegation. It is because concerning this motion proposed by Mr Paul TSE for our discussion today, it is insensible and unreasonable of Mr CHAN Chi-chuen to raise objection to it, whereas Mr Paul TSE's motion is sensible and reasonable.

Deputy President, one should walk his talk. Since Dr CHENG Chung-tai often makes these remarks and he did put his words into action in the Legislative Council, why should he be afraid of admitting to it? He is a grown-up and he must bear the consequences of his own actions. Mr Eddie CHU said earlier that he did not know Dr CHENG Chung-tai's beliefs and if Mr Eddie CHU does not know Dr CHENG's beliefs, which means that he does not know why Dr CHENG did such a thing, then why should he blindly support him here? Like many pan-democrat Members, we have yet heard Dr CHENG Chung-tai explain his motive, or what his behaviour meant and why he had to do it. Such being the case, why do they not support Mr Paul TSE's motion, so that an investigation committee can be set up for Dr CHENG Chung-tai to explain his case clearly?

But never mind. Before Dr CHENG Chung-tai gives a clear explanation, we can still find out about his beliefs from his behaviour and deeds in the past. Some Members said that Dr CHENG Chung-tai was only joking around by turning the things of other people upside down, and even at a previous meeting of the House Committee, many pan-democrat Members described him with such words as naughty, and so on. They no longer described him as naughty today because even they themselves do not find such a defence convincing. Yet, we wish to reiterate once again that Dr CHENG Chung-tai is not a kid. He is 33 years old and what is more, a university lecturer and certainly a long-time ardent street fighter. Not only did he initiate the liberation protests against Mainland visitors, he also took part in the unlawful Occupy Central movement and the riots in Mong Kok. He often publicly advocates "Hong Kong independence", so he does not champion it only now. He also once said that Hong Kong does not belong to China, that he is not Chinese and that Hong Kong should become a nation.

In fact, many members of the public have, in this period of time, conveyed to me their worries that if people behaving in such a way are teachers, they would only do harm to the young generation. If people with this kind of behaviour and way of thinking take up office as Members of the Legislative Council, would they not also do harm to Hong Kong? After being elected a Member of this Council Dr CHENG Chung-tai threatened to propose a motion on the separation of Hong Kong and China in the Legislative Council. Even though he did read out the full version of the oath at the swearing-in ceremony of the Legislative Council, he actually added such slogans as "devising constitution by all people, making new covenant". We all know that these slogans actually serve to promote "Hong Kong independence" and are indeed the actual operation of "Hong Kong

independence". Before his election Dr CHENG Chung-tai had time and again admitted that he is an advocate for "Hong Kong independence". He inverted the national and regional flags only to manifest his political position, and comparing that to his usual behaviour and past remarks, it is, in fact, not difficult to appreciate why he acted in such a way.

Therefore, I think the remarks made by Members in the opposition pan-democratic camp in an attempt to blindly shield Dr CHENG Chung-tai at this meeting or a previous meeting of the House Committee are all far-fetched arguments that could hardly hold water. As Mr Holden CHOW said, this motion debate is, in fact, a real demon-revealing mirror which can identify Members who disrespect the country and disrespect this Council. It is not true that the motion has, as some Members have said, breached a gap for this Council to be stripped of all its dignity in future. On the contrary, it is a good opportunity to set things right. We actually need to have this debate and the taking of a vote in order to try to once again defend the dignity of this Council.

Deputy President, people who do not genuinely uphold the Basic Law and who do not sincerely swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China really should not hold office as Members of the Legislative Council of Hong Kong. I believe many members of the public will share this view. Therefore, I hope that Members in the opposition pan-democratic camp will cease to blindly shield Dr CHENG Chung-tai because if they continue to blindly shield him, it is actually tantamount to approving of his behaviour and identifying with his beliefs, though they do not know what his beliefs are or they claim that they do not know what his beliefs are.

With these remarks, Deputy President, I oppose Mr CHAN Chi-chuen's motion.

**DEPUTY PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(Mr Paul TSE indicated his wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr Paul TSE, you have already moved your motion and spoken.

**MR PAUL TSE** (in Cantonese): This motion is proposed by Mr CHAN Chi-chuen, and I have not spoken on it yet.

**DEPUTY PRESIDENT** (in Cantonese): Mr Paul TSE, you may speak.

**MR PAUL TSE** (in Cantonese): Deputy President, this Council is now dealing with the motion proposed by Mr CHAN Chi-chuen, and I do not have the opportunity to speak on it yet.

Deputy President, I have listened attentively to the speeches of 23 Members, including Mr CHAN Chi-chuen, who have spoken on the motion earlier. At the present stage, I will only focus on this motion which proposes that this Council shall take no further action on the motion proposed by me. In other words, the matter will come to a close here. I will try to avoid repeating the issues already mentioned by me earlier on. However, if I consider it necessary to respond to the remarks of certain Honourable colleagues at the present stage and if the Deputy President allows, I will still talk about those issues.

Deputy President, the first point I would like to raise is: Do we have a better option? Mr Kenneth LEUNG and Mr CHEUNG Kwok-kwan made a very good statement about this earlier. In fact, we are presented a Hobson's choice now, so to speak. On the one hand, the incident may be left unsettled. On the other hand, in the absence of a more appropriate, interim and intermediate option in the legislature, we cannot but adopt the present approach, that is, proposing a motion to provide a platform for Members to conduct an open debate on the incident. To outsiders, particularly the public who are concerned about and those who are infuriated by the incident, the present approach will give them an opportunity to listen to the views of Members of the Legislative Council.

Have they overreacted? I do not know the experience of the Deputy President in this respect, yet I have received a lot of opinions from the public, particularly at the gatherings of residents. They are infuriated with the "LEUNG-YAU" incident. The third incident which made them angry is the one concerning "Siu-lai the Teacher". As for the incident involving Dr CHENG Chung-tai, it is the fourth incident that made them furious. Their reactions to these incidents are consistent when tested on different occasions. The result

proves that the incident is not merely puerile behaviour as many Members said. Actually, this comment comes not from me. Though some colleagues claim that I have said so, I have not made that comment in actuality. In fact, the comment is made by certain Members from the non-establishment camp. On the surface, this is condemnation, yet in actuality, they are supporting such behaviour of Dr CHENG Chung-tai.

Deputy President, the incident prompted me to reflect deeply on and ponder this question: Is a reform of the Rules of Procedure desperately needed? The proposal of the censure motion is worthwhile even from this perspective alone, for it has at least aroused concern about the vast vacuum that exists in the Rules of Procedure, that is, a more appropriate mechanism for this Council to flexibly address illegal behaviour or behaviour in violation of the Rules of Procedure at various levels, stages and degrees is lacking. The current debate has at least brought about this effect.

Many colleagues from the non-establishment camp said that the incident was no big deal and I was making a mountain out of a molehill. I would like to quote the remarks made by the admirable "sect leader" or "grandmaster" of Dr CHENG Chung-tai, and I quote to this effect, "All Members from the non-establishment camp have no spine"—these Members used to be called pan-democrat Members, and then he criticized these Members for only making general comments but lacking the courage to take any follow-up action. The former Member, Mr WONG Yuk-man, even pointed out that they should have handled the incident according to Rule 49B but since they have no spine, they would only make a few remarks of condemnation and no one would be willing to shoulder the responsibility when action was required. I hope they will reflect on this deeply.

Deputy President, the second point I would like to talk about is whether the incident has been taken too lightly. Regarding the behaviour of Members, the legislature had glossed over the matters or sat on them in the past. Yet the behaviour this time around involved desecration of the national flag and the regional flag, and I am afraid the pro-establishment camp and the non-establishment camp may have overlooked the severity of the incident initially. This is particularly so for the incident took place in the legislature at a time when the Member was discharging his duties. Worse still, the incident was watched worldwide through live television broadcast and occurred amid the

controversy over the effectiveness of oath-taking and allegiance of certain Members. Against this background, the behaviour in question in the incident is not a trivial matter.

Certainly, we may benefit from hindsight with the interpretation of the Basic Law by the Standing Committee of the National People's Congress in respect of the incident, as well as the understanding of the relevant legislation presented by Mr Justice Thomas AU of the Court of Appeal of the High Court. Members now have a better understanding that a breach of oath by Members is not a trivial matter. This should not be taken lightly as in the cases involving several Members in the previous terms, where the Members had to bear no consequence despite the various kinds of damage or parodies they had made. I hope this is a good timing to right the wrong and to make it known to all that there is a bottom line in the legislature which should not be ignored casually. As former Governor of Hong Kong Chris PATTEN, whom Members of the non-establishment camp may accord great respect, said, "Taking oaths isn't something of a lark." By the same token, the national flag of no country should be made a subject of parody.

I will quickly talk about another aspect, that is, some people have criticized me for making a keen attempt to show loyalty. Though they have not named who they are referring to in their remarks, they are obviously blaming me for making a keen attempt to show loyalty. I would like to point out, though many countries may tolerate their citizens desecrating their national flags or may apply extremely lenient standards in this respect, such as Norway, these countries do not tolerate their citizens desecrating the national flags of other countries in public. Hence, there is no question of attempting to show loyalty. It is purely a matter of according due respect. As Members, they should at least have the experience, knowledge and common sense that the national flag should not be messed around with casually.

Hence, I urge friends and colleagues who have looked at the incident through tinted glasses to realize clearly that the incident is neither a matter of showing loyalty nor a matter about freedom of speech. If Members have time and are willing to spend some effort to read the conclusion of the "desecration of national flag case", the NG Kung-siu case—I am not asking Members to go through the whole judgment, but just by reading the headlines, they will know that the relevant claim is unjustified and shows a lack of common sense. Besides, the behaviour contravenes the existing laws of Hong Kong.

Deputy President, if Dr CHENG Chung-tai had the chance to listen to and watch the entire incident once again, I wonder if he would do the same acts. Though he is a lecturer in the university, with the remarks he made to the reporters yesterday, I am convinced that he desperately lacks any knowledge of the Rules of Procedure for he is unwilling to spend time reading the papers. Had he done so, he would not have made the frantic cry for help, claiming that he would not be able to remain in office as a Member if the motion was passed by two thirds of Members today. He does not understand the entire process at all. He has only spent time doing things he considers more important but paid no attention to the relevant papers which include a lot of knowledge he should have known as common sense. Hence, he has failed to grasp the severity of the whole incident. I hope he will stop being disloyal and dishonest to knowledge, in other words, stop being intellectually dishonest. Since he is a lecturer, I implore him to act properly in this respect. As Mr CHU Hoi-dick said earlier, he has not yet stated his intention clearly by now. Had he had the courage, he should have acted like LEE Kin-yun, one of the key parties in the "desecration of the national flag case", to explain his ideas. But he has not done so. To date, he still lacks the courage to talk about his conduct or admit it. He has simply hidden behind the scene to attack his critiques. He does not dare declare what his conduct meant to say. If he dared act that way, he should dare speak out. He should behave like his "sect leader", at least presenting one tenth of his courage. How can he act so poorly as a lecturer, it is really... I meant to use some harsher words, but I decided to hold back. No matter how, it is totally unacceptable.

Deputy President, there is this view that we should handle the case after the Court has handed down a ruling, where prosecution will be initiated through official procedures. This is exactly the difference between Article 79(6) and Article 79(7) of the Basic Law. In this connection, I would like to thank Mr Abraham SHEK and Mr CHEUNG Kwok-kwan for their clear explanations earlier on. In fact, we have two options. That means we do not necessarily have to handle the case according to Article 79(6) where the procedure of censure, or disqualifying a Member, will be started when a Member is sentenced for imprisonment for over one month for a criminal offence. The two procedures involved are different. The procedure under Article 79(6) is relatively straightforward, under which the process can be activated once a Member is convicted and sentenced for imprisonment of over one month. The case of CHIM Pui-chung back then is an example. At that time, the forming of an investigation committee and other procedures were not required.

As for the procedure under Article 79(7), it is laid down to cater for situations where there is no court judgment. For this reason, a lot of safeguards, that is, the check and balance mechanism, have been built into the procedures, and the motion debate now is one such example. According to Rule 49B(2A) of the Rules of Procedure, any Member may move a motion without notice to thwart the procedure, which is the public debate we are now conducting to allow the public to judge the case. If we cannot stop the procedure from proceeding further, an investigation committee is to be set up, yet extremely stringent procedures have been laid down for the investigation of facts, course of events and interpretation. Eventually, an open debate has to be conducted by this Council to allow the public to assess the case again. Besides, an extremely high threshold is set for the official passage of the relevant motion, that is, it should be passed by a two-thirds majority of Members of this Council. The entire incident will go through a due process, where the procedure is conducted in an amply reasonable and fair manner, ensuring that the Member concerned will not be disqualified casually when he has not yet been convicted by the Court. In other words, the scenario where a Member will be censured for attire of extreme red will not occur. Such comment is an excessive exaggeration and escalation to the political plane, which is indeed holding the entire procedure in contempt.

Mr Alvin YEUNG pointed out earlier that even primary school pupils would know that the behaviour in question was not in violation of the National Flag and National Emblem Ordinance ("the Ordinance"). I am afraid my experience in practice of law, both as a barrister and as a solicitor, is much richer than Mr Alvin YEUNG. I am not a primary school pupil, yet I disagree that the offence in question is totally non-provable, for wording of the relevant provision includes the word "等" (meaning "etc") in the Chinese text, it means the provision may not refer merely to the behaviour specified therein. In other words, not only the acts of "burning, mutilating, scrawling on, defiling or trampling on" the national flag will be regarded as desecration of the national flag, and I believe the word "等" in the provision includes other acts. Though I consider prosecution is not totally unjustified, due to the relatively high requirements in criminal law, the authorities may not initiate persecution if there is considerable doubt in the case. Hence, he should not say that a primary school pupil would know the behaviour in question is not in violation of the provision.



Moreover, some colleagues said that the flags placed did not conform to the required specifications and should not be displayed. They considered that the display of those flags had already violated the law, yet we only blamed others but not ourselves. I would like to tell those colleagues that though section 4 of the Ordinance stipulates that, "[a] national flag or a national emblem which is damaged, defiled, faded or substandard must not be displayed or used", the violation of this provision is not a criminal offence, and there is no criminal liability or consequence regarding this. This point is stated clearly by the Judge in the 32<sup>nd</sup> paragraph of the judgment on the NG Kung-siu case.

Deputy President, many colleagues, including Mr Alvin YEUNG and another Member, have quoted the remarks I made on KAM Nai-wai incident. I very much appreciate the effort made by those colleagues in studying the content of my speech. In fact, I am proud of the speech I made on that occasion. However, that was then, this is now. It is not that I have changed, only that the situations are totally different. The key in the KAM Nai-wai incident is that there was only the defendant but no plaintiff—for the plaintiff had refused to give evidence, which would render the investigation a mere process without any conclusion. It was a known fact before adjudication. Moreover, the conduct in question took place on a private occasion when KAM Nai-wai was an incumbent Member. As for the present case, the acts took place during a meeting when the Member was discharging his duties, where the incident was put on record clearly and recorded on video. As such, it will be relatively easy to conduct the investigation and confirm the facts. Eventually, I think Members will make a judgment according to their conscience on whether the behaviour in question meets with the expectations of the public and society. It is just that simple. By the way, the former Member, Mr KAM, welcomed the investigation.

I mentioned another Member just now and he should be Mr Andrew WAN—sorry that I forgot his name just now. He has also quoted that speech I made in the past in detail. I hope these Members will understand that as a solicitor and barrister, I have given extremely cautious consideration to these procedures, which included checking all the judgments and speeches, before proposing the motion. More importantly, Deputy President, I had been subjected to the prosecution initiated by The Law Society of Hong Kong in past years, so I have been extremely cautious in examining the appropriateness of the process in this respect. Therefore, when Members criticize the present measure initiated by me as having gone overboard, I hope they would give regard to my

painful experience, as well as my grave concern about and active participation in debates addressing behaviour specified in Rule 49 of the Rules of Procedures and Article 79 of the Basic Law all along.

Deputy President, this is definitely not an attempt to show loyalty or make a mountain out of a molehill but an opportunity to right the wrong and allow this Council to return to the right track. I believe this is the solemn promise made by many colleagues to their electors in the last election. I hope they will not let the opportunity slip away easily (*The buzzer sounded*) ...

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Mr Paul TSE, your speaking time is up.

**MR WILSON OR** (in Cantonese): Deputy President, I oppose Mr CHAN Chi-chuen's motion.

Deputy President, the national flag is the symbol and mark of a country. Be it on occasions of national celebration, in highly-charged sports arenas or in times of national calamities, the presence of the national flag can be seen. It perpetually symbolizes the inalienable relationship between the country and its people.

Each citizen has the responsibility to respect and love the national flag. Countries worldwide attach great importance to their own national flags and many countries have enacted clear laws and regulations. In the United States, the Flag Protection Act was enacted in the late 1960s of the last century. Sweden followed suit by passing the Law on the National Flag in the 1980s. New Zealand also passed a law on this to confirm the statutory status of the national flag of New Zealand and bring it under the protection of law.

If we look at the situation in Hong Kong, it is stipulated in Annex III to the Basic Law that the Law of the People's Republic of China on the National Flag is added to the Basic Law as a national law to be applied locally. It is stated clearly in the Law of the People's Republic of China on the National Flag that "Whoever desecrates the National Flag of the People's Republic of China by

publicly and willfully ... shall be investigated for criminal responsibilities according to law". Not only that, section 7 of the National Flag and National Emblem Ordinance (Cap. 2401) and section 7 of the Regional Flag and Regional Emblem Ordinance (Cap. 2602) also state clearly that "A person who desecrates the national flag or national emblem ... publicly and wilfully ... is liable on conviction to a fine at level 5 and to imprisonment for 3 years."

If we sum up the actual legal situations in various countries and Hong Kong, what do they tell us? They tell us that insulting the national flag is illegal and I think Dr CHENG Chung-tai, who is a university lecturer, could not possibly be unaware of that. In addition, as a Legislative Council Member, he moved other people's articles without their permission and under the watchful eyes of so many people, so it is also a violation of the moral bottom line and I think Dr CHENG Chung-tai could not possibly have no idea of that. After being warned by other people, he still acted wilfully by inverting the national flags twice more, so it can be described as a breach of law and order and doing one wrong after another, and I think Dr CHENG Chung-tai could not possibly be unaware of that. He disregarded the Rules of Procedure and openly defied the withdrawal order of the President, so this amounted to illegal, immature and disgraceful behaviour and I think Dr CHENG Chung-tai could not possibly be unaware of that either.

In fact, one's attitude towards the national flag shows one's sentiment towards one's country and is a manifestation of one's relationship with the country. The acts done by Dr CHENG Chung-tai showed clearly that he has no concept of the country in his heart and he has no love whatsoever for his country. One cannot help but question whether or not he was sincere when he took the oath. How should we interpret such inconsistent behaviour? I believe the Hong Kong public and people with a discerning eye have all formed their own judgment.

Deputy President, the Legislative Council is a solemn venue for debates on public affairs but it has now become a place where some Members will laugh and frolic at will, dashing out of their seats when they want to and if they do not want to sit in their seats, they can just sink to the ground and refuse to leave, hanging on doggedly. Worse still, as we could see just now, many Members quietly turned the facts...made specious arguments sound like truths, thus depriving the legislature of its dignity completely. Before this incident, two people, Regine

YAU Wai-ching and Sixtus LEUNG, spoke about their "shina-ron" and the acts of inverting the national flags that followed looked even more like intended gestures to cheer them on.

(THE PRESIDENT resumed the Chair)

President, in recent years, Hong Kong's international image has been injured continually. In the past, its international name card used to carry such descriptions as "The Pearl of the Orient, the safest place with the best economy in Asia" but they have now been replaced by such descriptions as riots, arson and insults to the country. The city of hospitality has begun to give the impression of xenophobia and stagnation. Coupled with the continual drop in the number of visitors, as we can all see, what do all these signs tell us? According to figures, the number of Mainland tour groups visiting Hong Kong from January to early December this year, as registered by the Travel Industry Council, decreased by some 40% to 50% year on year, that is, almost by half. Surrounding countries, such as Japan, Korea, Singapore, Malaysia and Thailand, have replaced Hong Kong as the destinations of choice for Mainland visitors. Obviously, the acts of insult to the country have made the relationship between Hong Kong and the Mainland more strained, so what impression does Hong Kong give? Be it the from words of visitors or the views of local residents, we have learnt that the impression that Hong Kong gives is that of a "city of chaos" and such an impression is being etched ever deeper on a daily basis.

President, I think that the behaviour of Dr CHENG Chung-tai has set the worst possible precedent. The acts of insult to the country committed by Regine YAU Wai-ching and Sixtus LEUNG aroused public anger and they were held in contempt by the public. Now, it can be said that the act of inverting the national flags is tantamount to not knowing what is propriety. It is said that "doing good is like a hard climb, doing evil is like an easy fall", so in the face of wrongdoing, we must put a stop to it immediately and to people who did wrong or even set despicable examples, we should condemn them severely in the legislature. Only by doing so can the most appropriate warning be given to young people and it is also a response that we are duty-bound to make on behalf of people who love the country and Hong Kong. Not only is insulting the country an illegal act; dealing with this improperly can even mislead young people.

President, I strongly condemn the behaviour of Dr CHENG Chung-tai. He insulted the country, insulted Hong Kong people, and many members of the public have told us that we must deal with this issue in earnest.

Yesterday was the Nanjing Massacre National Memorial Day and it is a piece of history that no Chinese will forget. The humiliation of our country by Japan often arouses great indignation when we think of it. As a citizen, being patriotic and law-abiding is arguably a fundamental principle. As Legislative Council Members, we should all the more lead by example. Not only should we be law-abiding, we should even propagate the concept of abiding by the law. At present, there is always a small bunch of people with ulterior motives who act in exactly the opposite way by stressing "two systems" and opposing "one country" all the time, and they even hold "one country" in contempt and disregard the Basic Law, trying to divide Hong Kong society. Right now, we must nip "Hong Kong independence" in the bud, prevent poor-quality democracy from undermining Hong Kong and restore reason in society. This is the major way of putting Hong Kong back on the right track.

President, I support Mr Paul TSE's motion but oppose Mr CHAN Chi-chuen's motion. I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MR STEVEN HO** (in Cantonese): President, first of all I must sing praises of Mr Wilson OR for his righteous presentation of the truth, which is the importance of abiding by the law and the rule of law. But nowadays in society and in the Legislative Council, what are more people doing? They are exploiting the loopholes in law and manipulating the rules of the game, leading to the incident in which Dr CHENG Chung-tai inverted the national flags. Afterwards he advanced a series of specious arguments while a number of non-establishment Members around him hurried to cover up for him with such excuses as he was childish and his behaviour was disorderly.

Mr CHU Hoi-dick has just mentioned a man called LEE Kin-yun, who explained in court the reasons and rationale for him scrawling on the national flag. Yet what Mr CHU Hoi-dick fell short of saying is this man was eventually found guilty and convicted. The Court of Final Appeal stated in its judgment that such limitation on the freedom of speech is legitimate on the grounds that the

protection of the national flag is conducive to upholding national unity and territorial integrity. It is only to impose limitation on such a manner of expression but does not interfere with the same message expressed in other manners of expression. In other words, it is a reasonable limitation on the freedom of speech. I hope all Honourable colleagues will stop using the case of LEE Kin-yun as a valid defence for Dr CHENG Chung-tai's behaviour. There is no valid defence for his behaviour as the entire world knows his actions were wrong.

Second, Dr CHENG Chung-tai once said he had already been requested to leave the Chamber due to his act of inverting the national flags and thus already given due punishment. I found such a statement utterly baffling. Not long ago a consultancy hired by the Government was banned from taking part in any tender for three months as punishment for appropriating some information for private use. A band of Members jumped at the point and said that it was unacceptable as such punishment meant nothing but a scratch on the surface. Today some Members cited this reason to tell people: "the President has punished me". It is truly a typical case of being harsh to others while lenient to oneself. Honourable colleagues must be aware that we keep mentioning fairness, justice and not treating others harshly but ourselves leniently. I wish, in this respect, Members do exercise some self-restraint and ask more of themselves than others. It is my personal belief. I do not know what other Members think but I am just pointing out the principle. Therefore, I found his argument pretty laughable in that he considered him being requested by the President to leave the Chamber a punishment.

Perhaps the pro-establishment camp, the SAR Government or some members of the public in society have really been too tolerant, giving rise to such big chaos in the Council today. Hence, given the opportunity, we do need to right the wrong, just as Mr Paul TSE or seniors of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") have suggested. Granting the opportunity, we would do so, instead of questioning why we did not do so in the past but do so now and whether it is done only to show allegiance. If I have Chinese blood in me, what is wrong with me pledging allegiance to my country? As Chinese, I must do so.

Mr CHU Hoi-dick has another way of putting it. He said he did not know the motive behind Dr CHENG Chung-tai's inverting the national flags that day. I found such a statement very much laughable because all Hongkongers know the

intention represented by Dr CHENG's actions, which was not only to toy with the exhibits in order to express dissatisfaction at DAB Members. Dr CHIANG Lai-wan had shouted at him loudly to tell him to stop and then reversed the national flags back to their original positions. Afterwards Dr CHENG came back to invert them again. Any sensible person can see the motive behind such behaviour. Why did Mr CHU not see it? Therefore, I only have one point to make: he knows it well but pretends not, because if he knows and states clearly Dr CHENG's motive, he will lose his excuse to convince other people. Then how can he protect Dr CHENG? Can he say: "I know you insulted the national flags but I protect you"? It does not add up. Therefore, he can only say: I do not know the motive so I am not going to make a judgment. Indeed many non-establishment Members are using the same logic, often employing it as a pretext. However, in my eyes, I consider it not a pretext but indeed a fig leaf. It is a laughable thought. Mr CHAN Han-pan, you can talk about your views on this matter later.

Coming back to a more serious topic, the newly-elected President of the United States, Donald TRUMP, made some remarks a few days ago: "if China does not reform its trade framework, we may have to readjust the 'one-China' policy". The same evening—not sure if it was until that evening—the Ministry of Foreign Affairs of China made an immediate response, stating that such a matter is not open to negotiation. "One China" is not exchangeable. Do not even think about it.

As a matter of fact, to me, it is the same. Such behaviour of Dr CHENG Chung-tai: insult to the country; some comments made earlier: independence of Hong Kong. Are these open for exchange? No. Can there be any compromise? There cannot be any compromise neither. Why have we proposed this motion today? So many pro-establishment Members are keen on this matter, only to be labelled in a slogan-like fashion as pledging allegiance to and serving Beijing. If you do not want to be Chinese, I still want to; you have failed your ancestors but I still need to honour my parents. If I do not make a speech today, my mother would blame me back at home and I do know how to face her. This is true. Last night over dinner my mother scolded me for not making more speeches. I answered her that there is a procedure. Not every speech will be reported by the media. It depends on the platform and opportunity.

I would like to thank Mr Paul TSE for giving me the opportunity to speak for a few minutes so as to express our rage and discontent as Chinese. I hope Hong Kong people will clearly appreciate the reason for us making our speeches today.

Mr CHAN Chi-chuen, I know that we are discussing the motion proposed by you. Yet I also hope you can learn not to often combine several different kinds of logic. Yesterday Dr CHENG Chung-tai said if non-establishment Members should support Mr Paul TSE's motion (that is to censure him), they would be approving of the system. I hope you would not be bound by his notion; this is "political kidnapping". Such an insult to the country and the core of such comments cannot conceal your other political ideology. If you equate the two—you often say we bundle up things, indeed not—if you tie the two together, what ends up happening will be your roles becoming blurred.

Yesterday while reading a book I stumbled upon Hamas, which I also heard about in a discussion with a senior. The enemy launched a missile to attack Hamas. A rocket was fired at the second floor, underneath which civilians lived. How could they only attack the insurgents while avoiding the civilians? It was impossible. If you ...

**PRESIDENT** (in Cantonese): Mr Steven HO, your speech has strayed from the question. Please speak on the motion.

**MR STEVEN HO** (in Cantonese): I have not strayed from the question. I am talking about Mr CHAN Chi-chuen.

**PRESIDENT** (in Cantonese): Council is now debating Mr CHAN Chi-chuen's motion, not Mr CHAN Chi-chuen.

**MR STEVEN HO** (in Cantonese): Correct, we are discussing Mr CHAN Chi-chuen's motion. I ought to elaborate on the reasons behind his viewpoints, by means of the metaphor of rocket that I have just made. If Hamas is to attack the insurgents and launches rockets at the second floor while civilians live on the ground floor, what should they do? Similarly, as Mr CHAN defends



Dr CHENG Chung-tai's behaviour, how would the Central Government or we look at him? Dr CHENG Chung-tai is the one who launched the rockets but these relatively moderate non-establishment Members living on the ground floor want to protect him. How do we avoid them while hitting the target, Dr CHENG Chung-tai? Therefore, I hope the non-establishment Members can separate the logic so that we can maintain our relationship of communication and cooperation.

With these remarks, President, I oppose Mr CHAN Chi-chuen's motion but support Mr Paul TSE's motion. Thank you.

**MR CHAN HAN-PAN** (in Cantonese): President, just now Mr Steven HO mentioned allegiance. Actually every Member has pledged allegiance to the Hong Kong Special Administrative Region of the People's Republic of China. Every Member here, including Mr CHAN Chi-chuen, has pledged allegiance to the national and regional flags. Therefore, when someone insults our national and regional flags, we must severely reprimand him. Is this not our due responsibility? So, I do not understand why when Mr Paul TSE moved a censure motion against Dr CHENG Chung-tai, Mr CHAN Chi-chuen would come forth to "protect" Dr CHENG Chung-tai? I find this move very strange.

In fact, it seems that improper behaviour in the Chamber will become a common practice if it is not stopped promptly. Making "additions" to the oath in the past is an example. In the past, some Members kept making "additions" when taking the oath and were let alone. As a result, Members made "additions" to the oath every term and it became a common practice. When the common practice is tightened suddenly, some will ask why it was allowed in the past but not now? Therefore, we must severely reprimand the person who inverted the national and regional flags. Any breach of laws and regulations should be dealt with immediately. This is a very serious matter, why does Mr CHAN Chi-chuen oppose it?

Another example is senseless filibusters and incessant delivery of speeches. In the past, we tried to tolerate that when it came to some proposals or amendments. As a result, filibusters became a common practice. Hence, a motion should be moved to handle improper behaviour promptly. I reckon Mr Paul TSE has done the right thing this time. However, as Mr Steven HO said just now, Dr CHENG Chung-tai previously hinted that those of the

non-establishment camp (former pan-democrats) who help the pro-establishment camp to fix him this time are dissidents, because he felt different from everyone else. People who do so are helping the evil-doer to do evil. Hence, what he said came true. Mr CHAN Chi-chuen immediately helped him, moving a motion to "cover him up", and the whole non-establishment camp has thus immediately sided with him.

This issue was originally rather neutral. Why can we not punish someone who insulted the national and regional flags? Why is it necessary to "protect" him? All friends of the pan-democratic camp, in the past, former Member WONG Yuk-man dragged the entire pan-democratic camp along, and the pan-democrats became very passive as a result. The same applies this time around, for Dr CHENG Chung-tai is dragging the entire pan-democratic camp along. So when we vote later, I hope Members will either leave the Chamber or vote against Mr CHAN Chi-chuen's motion, so as to show to whom we pledged allegiance, that the pledge is truthful and not false.

Besides, Dr CHENG Chung-tai criticized Mr Paul TSE, saying that this motion is meant as political censorship and that since he lost the presidency of the Legislative Council, he now shows his dissatisfaction to Mr Andrew LEUNG. Please do not forget, Members have sworn to respect the national and regional flags and to uphold the Basic Law. What he said about Mr Paul TSE is in fact sheer fabrication which shifts attention and deliberately incites contradictions within the pro-establishment camp, attempting to discredit justice-seeking as avenging a personal grudge and to make it seem like there are a lot of grudges within the pro-establishment camp. Therefore, I think this behaviour is the most puerile of the puerile. This idea of his is completely unwise.

I strongly believe that the pro-establishment camp, the people of Hong Kong and all the people in China respect the national flag, so should the people of Hong Kong to the regional flag. Therefore, what is wrong about severely reprimanding Dr CHENG Chung-tai who inverted the national and regional flags and even having him handled according to our rules? Mr CHAN Chi-chuen said in his speech this morning that we had discarded the flags on our desk, that we had left the flags there and left the Chamber. Did we say that we did not want them anymore? We still wanted them. And then another Member asked how we handled those national and regional flags. Mr LAU Kwok-fan immediately took those flags out, showing that those flags still exist and we are very respectful to them.

If items placed on the desk are considered discarded, would Mr CHAN Chi-chuen please remember that items placed on the desk are considered discarded and abandoned. Every Member of the Legislative Council please remember that, from now on, when Mr CHAN Chi-chuen is invited to leave the Chamber, what is left on his desk is considered discarded that he does not want it anymore. Does it work this way? I think he is distorting the facts, just like setting snooker, twisting some obvious facts and placing them in a position that suits him. Hence, I find such remarks most inappropriate.

In addition, Mr CHU Hoi-dick described this situation as suppression of freedom of speech. It is true that Members are elected by voters ... it should be put this way: Members are elected in accordance with the laws and regulations. It is also true that Members should behave in accordance with the laws, regulations and Rules of Procedure once they entered the Chamber. If someone violates the Rules of Procedure, we should deal with it. Why can a Member not move a motion to deal with it? I think this is a complete distortion of the whole logic. Voters voted him in to represent them, that is true. But voters did not authorize him to come in to insult the country. It is forbidden to insult the country, the national flag or the regional flag. This should not be considered as common freedom of speech. There are stringent requirements and regulations regarding the national and regional flags. Everyone knows those are national and regional flags when we see them, hence it is definitely impossible to exculpate oneself by saying that this is suppression of freedom of speech. This is completely unrealistic. Therefore, we hope to promptly put an end to such behaviour, otherwise, I am worried that others will follow suit. Besides, not only are the national and regional flags protected by law, they also represent our identity as the people of China. Hong Kong is a part of China, so the national and regional flags should be respected. This has nothing to do with political stances.

Some Members said it is remarkable to pledge allegiance to so and so, but actually everyone's position is the same here. Members all entered the Legislative Council, did they not pledge allegiance? Later Members can respond if they do not bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China or to the Basic Law? If Members do bear allegiance to those, and if someone insulted a target to which Members bear allegiance, why can we not pursue it?

Moreover, is inverting the national flag twice something that can be resolved simply by saying that it was a puerile act? He trampled on the dignity of Hong Kong and the country, so can he get away by calling himself puerile? I think it would be somehow insulting if one can absolve himself from such an offence simply with the word "puerile". I think the word "puerile" is not a shield, neither is the popular mandate. I hope to tell the whole world through this incident that the national flag of China must not be insulted arbitrarily.

It was reported in the newspapers yesterday that, in an international competition, all national flags of the participating countries were hoisted, except that of China. The participating Chinese delegates asked why the national flag of China was not there. The reply was that the flagpole was out of order, and that the national flag would be put back once it got fixed the next day. The next day, the national flag was still not hoisted in the venue, so the Chinese delegates raised the question again but ended in vain. The Chinese team ended up leaving and did not participate in the competition. This is what we call dignity. If someone insults the national flag, if someone insults our country, we must severely reprimand him and subject him to statutory sanctions.

President, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, do you wish to reply?

**MR CHAN CHI-CHUEN** (in Cantonese): President, I am grateful that 26 Members in total have spoken on the motion proposed by me today. Eighteen of them are Members of the pro-establishment camp. Actually, I wish to respond to a number of their speeches, but since I have only 15 minutes, I may not be able to respond to them one by one. Let me first briefly respond to those Members who spoke at the final stage.

Mr CHAN Han-pan asked whether Members leaving their stuff on the desks meant that they no longer wanted it. Certainly, if Members leave their stuff on the desks, it does not necessarily mean that they no longer want it, but

what happened on that day was that a Member had requested a headcount to cause an abortion of the meeting. That is to say, they would not return to the meeting. If I decided not to return to a meeting, I will certainly take away my stuff.

In Mr Steven HO's speech, he criticized, among others, the logic put forward by some Members that since the President already imposed a punishment or ruling on Dr CHENG Chung-tai that day, no more punishment should be inflicted. He did not agree to such logic. He further illustrated that in the case of the Wang Chau development, when the consultancy was banned from participating in government tenders for three months as penalty for it using the Government's research information without authorization, we voiced a scathing outcry that the penalty was too lenient. That is right. If Mr Steven HO proposes invoking the Legislative Council (Powers and Privileges) Ordinance ("the Ordinance") to conduct an investigation, I will definitely render it my support in order to examine whether the penalty for this consultancy firm is too lenient.

Actually, I hope Members will appreciate one point. The motion proposed by Mr Paul TSE today seeks to censure Dr CHENG Chung-tai for his behaviour on 19 October and requests referral of the matter to an investigation committee under Rule 49B(1A) of the Rules of Procedure ("RoP"). A possible consequence is his disqualification. Here I am not debating the right or wrong of what Dr CHENG Chung-tai did on that day. That day, he left his seat and touched the things placed by Members of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") and the pro-establishment camp on the desks. It is a factual statement. No one will dispute it. What is arguable is whether such an act of Dr CHENG Chung-tai warrants invoking the procedure under RoP 49(1A). Since I do not approve of this approach, I have proposed under RoP 49B(2A) that no further action shall be taken on this censure motion.

What I wish to talk about the most is the analogy of shooting a bee with a machine gun, which was first mentioned by Ms Claudia MO today. As I heard just now, Members of the pro-establishment camp like Mr Paul TSE and Mr CHEUNG Kwok-kwan actually also think in this way. The conclusion drawn by them is that this may indeed be a machine gun, but we really have no other options now. They may consider that a slap on the palm or a spanking will suffice as the punishment for this misdeed, but in reality, such approaches are not

available, so they cannot but use a machine gun. I think this is entirely illogical. Moreover, they said that if we did not use a machine gun, the matter would fizzle out. How would it fizzle out? Do we not have other means to deal with it? For example, some members of the public have already applied for a judicial review of Dr CHENG Chung-tai's oath-taking. Members of the public may also complain about Dr CHENG's behaviour to the Court anytime to accuse him of a subsequent breach of oath.

Mr CHEUNG Kwok-kwan even drew an analogy between the impeachment of the President of South Korea and the incident of Dr CHENG Chung-tai inverting the props or flags displayed by them. It was an absolutely improper analogy. In fact, their nature and gravity were totally different. His analogy will suit LEUNG Chun-ying's UGL incident better. We should apply this analogy to Members of the pro-establishment camp because even though hundreds of thousand people have taken to the streets, they still do not support invoking the Ordinance to investigate LEUNG Chun-ying's UGL incident.

Here I do not call those things national flags. I only call them mock-ups or protest props so as to maintain neutrality. If they are national flags, Members who displayed them might have actually broken the law. I thank Mr Paul TSE for pointing out that according to section 4 of the National Flag and National Emblem Ordinance, "A national flag or a national emblem which is damaged, defiled, faded or substandard must not be displayed or used." He mentioned that the Ordinance contained this rule but did not provide for the criminal consequences, and thus the relevant act should not be regarded as a criminal offence. Just now Mr Steven HO also said that we should abide by the law, but are we allowed not to abide by a law if it does not state the criminal consequences? By the same logic, so far Dr CHENG Chung-tai's behaviour has not entailed any criminal consequences and has not been followed up, yet Mr Paul TSE can invoke the procedure under RoP and Article 79(7) of the Basic Law to refer the matter to an investigation committee. President, as such, please be prepared to face more challenges. Next week other Members or Dr CHENG Chung-tai himself may point out that Members of the pro-establishment camp have displayed substandard national flags, thus contravening section 4 of the National Flag and National Emblem Ordinance. Although that section does not provide for any penalty, they have indeed violated the Ordinance. For this reason, other people may similarly propose referring this matter to an investigation committee under RoP 49B(1A) while it is being simultaneously handled by the Court.

As we all know, after a Member has proposed a motion, it will be subject separate voting. In the present situation, during division, a motion proposed by the democratic camp will not obtain a majority vote from Members of the functional constituencies, whereas a motion proposed by the pro-establishment camp will not obtain a majority vote from the directly elected Members of geographical constituencies. That is to say, it is also practicable if we similarly propose a motion to censure Members of the pro-establishment camp for displaying substandard national flags, and then it will be referred to an investigation committee, too. In that case, how many investigation committees will the Legislative Council need to set up? It is really unimaginable to me.

Mr Martin LIAO alleged that we had evaded talking about Dr CHENG Chung-tai's grossly disorderly conduct during the debate because under Article 79(7) of the Basic Law, the procedure can be initiated should Members have any misbehaviour. According to RoP 45(2), "The President, the Chairman of a committee of the whole Council or the chairman of any committee shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting." The reason why I read out this rule is that grossly disorderly conduct of Members may actually take place every week. Everyone ordered by the President to leave had grossly disorderly conduct. Following this definition, every time after a Member is ordered to leave, the other people may initiate the procedure. They may invoke RoP 49B(1A), extend it to Article 79(7) of the Basic Law and then conduct this procedure again. Will it ever end? Various Members support referring the matter to an investigation committee, but the speeches delivered by many of them have shown that they do not know the terms of reference of the committee. An example is Ms Starry LEE. This investigation committee should be responsible for investigating the incident on 19 October ... Actually, I have no idea how the investigation should be carried out. I believe the committee will complete its work most quickly. Members will watch the video clips once and then ask if Dr CHENG Chung-tai will come to give any reply. If he will not do so, the investigation will almost finish unless, heeding my advice, they request the pro-establishment camp to produce the flags displayed by them at that time and take measurements to determine whether they meet the specifications, and then ask the pro-establishment camp their motive in displaying the national flags. This is quite interesting. Mr Paul TSE stated in part (1) of the Schedule of his motion that the pro-establishment camp displayed the national flags to "highlight the solemnity and pledge of taking oath to uphold the Basic

Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China". I consider this illogical. On the day of oath-taking on 12 October, I did not see the pro-establishment camp hoist any national flag to highlight "the solemnity and pledge [of taking oath] to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China". They had planned not to let Sixtus LEUNG and YAU Wai-ching to take their oaths on 19 October. Since they had planned not to let them take the oaths, how could they highlight this point?

Some Members said that he intended to protest and insult China. I guess some people whose glass holders had been inserted with national and regional flags had no idea what it meant. Frankly, if they are so patriotic and have so much respect for the national flag as they said, they should carry through the whole show. They should have arranged the flags together with flag stands rather than casually using some glass holders. I consider inserting national flags into glass holders as greatly disrespectful. Hence, all along I did not refer to them as national flags. I just referred to them as mock-ups or protest props for Members' interest. Otherwise, I can also accuse them of contravening section 4 of the Ordinance or Article 79(7) of the Basic Law. This is pointless.

Moreover, I would like to respond to a serious question from Dr CHIANG Lai-wan, since she said I was harbouring and shielding my comrade. I need to make it clear to Dr CHIANG that it is absolutely not because Dr CHENG Chung-tai is my comrade that I have proposed this motion today. I believe Dr CHENG Chung-tai and the Civic Passion, the organization to which he belongs, will not regard me and the People Power, to which I belong, as their comrades. The attacks launched by the Civic Passion at the People Power may be even more than its attacks of DAB. Hence, they are absolutely wrong in thinking that I have proposed this motion in order to shield any fault or harbour Dr CHENG Chung-tai.

However, the most vicious person is Dr Junius HO. Do Members know what he said? Initially I did not get it. He said I might have proposed this motion out of great love. At first I did not understand it. Later, Dr CHIANG Lai-wan explained to me that it meant I would be fond of and defend all males, but I have no such intention at all. What I wish to discuss in proposing this motion is whether or not this Council should procedurally work in this way.



Even Mr Paul TSE stated that he could not confirm if Dr CHENG Chung-tai's behaviour was unlawful. Dr CHIANG Lai-wan, however, regarded herself as a judge and said "both the emperor and the people are equal before the law". Every time I heard this saying, I found it unpleasant to the ear because this saying should apply to LEUNG Chun-ying rather than such behaviour of Dr CHENG Chung-tai.

Another Member said that Dr CHENG Chung-tai's voters might also feel dissatisfied with his behaviour. I agree with this point. I have heard Dr CHENG Chung-tai's voters express their dissatisfaction with his behaviour, saying that his acts of resistance after the election were too mild. Different people may have different interpretations.

As regards the question of childish behaviour and disrespect for Honourable colleagues, I will not comment on such things. But even if that is really the case with him and he has really besmirched Members of the pro-establishment camp, so what? Even if Members of the pro-establishment camp have been affronted, they do not need to go so far as to invoke RoP 49B(1A) and stage such a big show, do they? They can show their disapproval and refuse to accept his behaviour, hold that his behaviour was wrong, should not be encouraged, was unbearable, intolerable or whatsoever, but they should not, for this reason, adopt this approach which I describe as firing a machine gun. If that is the case, the Council will never have peace.

As regards misbehaviour, as I mentioned just now, all those Members who are ordered by the President to leave the Chamber can be regarded as having misbehaved. The President may consider a lot of behaviour as misbehaviour, but so may we. An example is falling asleep during a meeting. In my view, Dr CHIANG Lai-wan was also being childish and disrespectful to Honourable colleagues in the Council when she quarrelled with Dr Helena WONG for a couple of minutes at the meeting of the Panel on Education on Monday. In that case, should I also invoke RoP and request to refer the matter to a committee for discussion about whether such misbehaviour is so serious that we need to take a vote on disqualification? As we all know, the chance of ultimate disqualification is slim.

Another point is about Dr CHIANG Lai-wan. I have almost forgotten to talk about it. She said something like the national flag reflecting an embedded history and culture of thousands of years, which was immediately challenged afterwards. How will the national flag of the People's Republic of China have a history and culture of thousands of years? As I said just now, Members may not

agree that this approach is making a mountain out of a molehill. Whether something is important or trivial is a subjective judgment. However, if everyone elevates the matter to this level of employing a machine gun whenever he considers that someone has misbehaved, referring it to a committee for investigation and requiring passage by a vote of two thirds of the Members present, then it is possible that we will have to do so every week or every month. Once this precedent is set, there will be great trouble. It will be difficult for the Council to go back to the right track and conduct proper debates. This is what I wish to say.

Hence, I hope Members will support the motion "That no further action shall be taken on the censure motion moved by Mr Paul TSE" proposed by me.

I so submit.

**PRESIDENT** (in Cantonese): Before I put to you the question on the motion, I wish to remind Members that according to Rule 49B(2A) of the Rules of Procedure, if Mr CHAN Chi-chuen's motion is passed, the Council shall not take any further action on Mr Paul TSE's censure motion; if it is negatived, the matter stated in the censure motion shall be referred to an investigation committee.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Chi-chuen under Rule 49B(2A) of the Rules of Procedure, 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 CHAN Hak-kan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHAN Hak-kan has claimed a division. The division bell will ring for five minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen, Mr SHIU Ka-chun, Dr Pierre CHAN, Mr KWONG Chun-yu and Dr YIU Chung-yim voted for the motion.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr LUK Chung-hung and Mr LAU Kwok-fan voted against the motion.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Mr LEUNG Kwok-hung, Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Mr HUI Chi-fung, Mr Jeremy TAM, Mr Nathan LAW and Dr LAU Siu-lai voted for the motion.

Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Dr Junius HO, Mr Wilson OR and Mr CHEUNG Kwok-kwan voted against the motion.

THE PRESIDENT announced that among the Members returned by functional constituencies, 32 were present, 11 were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 16 were in favour of the motion and 12 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 motion was negatived.

**PRESIDENT** (in Cantonese): In accordance with Rule 49B(2A) of the Rules of Procedure, the debate on Mr Paul TSE's censure motion is now adjourned and the matter stated in the censure motion is referred to an investigation committee.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9:00 am tomorrow.

*Suspended accordingly at 7:45 pm.*

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Education to Mr SHIU Ka-chun's supplementary question to Question 5**

As regards the loan repayment period of youngsters who have completed associate degree and then self-financing degree programmes, the Government's student finance policy is to ensure that no student is denied access to education due to lack of means. Eligible students may, depending on their situations, apply to the Student Finance Office of the Working Family and Student Financial Assistance Agency for assistance in the form of grant and/or loan to pay for their tuition fees, academic expenses and/or living expenses.

Student loan borrowers are required to repay their loans upon completion or cessation of studies in accordance with the terms for the loans. The standard loan repayment period is 15 years. Student loan borrowers may opt to start repaying their loan one year after completion of studies. For a student loan borrower who has completed a first degree programme right after an associate degree programme, he/she can commence loan repayment after completion of his/her first degree programme. The standard loan repayment period is also 15 years.

Besides, student loan borrowers who have difficulty in repaying their loans on the ground of further full-time studies, financial hardship or serious illnesses may apply for deferment of loan repayment. Student loan borrowers who have been granted approval for deferment of loan repayment are allowed an extension of the loan repayment period without interest during the approved deferment period, subject to a maximum of two years. Together with the standard repayment period of 15 years, the entire repayment period can be up to 17 years.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Constitutional and Mainland Affairs to Ms Starry LEE's supplementary question to Question 6**

As regards the number of people and organizations involved in the deliberate distortion of the Basic Law in society, the Government does not have information or keep any record. The Government will continue to step up its efforts to promote the principle of "one country, two systems" and the Basic Law, and organize various kinds of activities to enable the public to comprehensively grasp the holistic concept of "one country, two systems" and to deepen their understanding of the contents of the Basic Law.