

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 January 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.S., S.B.ST.J.,
J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE FRED LI WAH-MING, S.B.S., J.P.

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

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

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

MEMBERS ABSENT:

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.B.S., J.P.

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE AMBROSE LEE SIU-KWONG, G.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.
SECRETARY FOR THE ENVIRONMENT

CLERK IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

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

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

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice	6/2010
Census and Statistics (Annual Earnings and Hours Survey) Order	7/2010
Foreign Lawyers Registration (Fees) (Amendment) Rules 2010	8/2010
Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (Commencement) Notice.....	9/2010

Other Papers

No. 64 — Report on the Administration of the Fire Services Department Welfare Fund together with the Director of Audit's report and audited statement of accounts for the year ended 31 March 2009

Report of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Management of Exchange Fund

1. **MRS REGINA IP** (in Cantonese): *According to the Annual Report 2008 of the Hong Kong Monetary Authority (HKMA), in terms of currency mix, the investment benchmark of the Exchange Fund (EF) was that 86% of the assets were in United States (US) dollar and other currencies (which included the Hong Kong dollar) while the remaining 14% were in other currencies (which included mainly Euro, Yen and Sterling). EF's compounded annual return from 1994 to 2008 was 6.1%, which was lower than that of other funds. For example, the compounded annual return of the Government of Singapore Investment Corporation Pte Limited from 1981 to 2006 was 9.5%, and that of the Stanford University Merged Pool from 1998 to 2008 was 8.9%. In this connection, will the Government inform this Council:*

- (a) *whether HKMA will consider updating EF's existing investment benchmark so as to raise EF's return rate;*
- (b) *given the sluggish US economy as well as persistently weak US dollar exchange rate and low US interest rate, plus the fact that a number of scholars have pointed out that the US national debt has reached an astronomical figure and will most likely be monetized by the US Government, thus leading to depreciation of the US dollar, whether HKMA will consider shifting those assets which are currently allocated to the US dollar to other currencies; if not, of the reasons for that; and*
- (c) *given that Renminbi (RMB) continues to be strong, whether HKMA will consider increasing the percentage of RMB assets in the investment benchmark?*

FINANCIAL SECRETARY (in Cantonese): President, my reply to the three-part question is as follows:

- (a) The Hong Kong Monetary Authority will regularly review the investment benchmark allocation, and to ensure that it consistently meets the investment objectives of the Exchange Fund under the changing financial market conditions.
- (b) Since the primary objective of the Exchange Fund is to maintain monetary stability, the investment benchmark of the Exchange Fund contains a substantial allocation to US dollar-denominated assets.

When conducting the regular review, we will take account of long-term historical data and developments in the global financial markets in order to assess the optimal currency and asset mix for the Exchange Fund, including the allocation to US dollar and other currencies, so as to achieve the investment objectives of the Exchange Fund in the long term.

- (c) We will regularly review the Exchange Fund's investment benchmark allocation. We will, in view of the changing financial market environment, assess and determine the optimal currency and asset mix for the Exchange Fund, including whether particular currencies (for example, RMB) should be held, and the optimal allocation to different currencies so as to achieve its investment objectives in the long term.

MRS REGINA IP (in Cantonese): *President, many countries and regions have set up sovereign wealth funds decades ago to manage surpluses in a bid to gain higher returns and to make strategic investments to help support the middle class and to develop new industries having greater advantages. Will the Financial Secretary consider allocating a small amount from our huge Exchange Fund reserve of over US\$200 billion to set up an independent account similar to a sovereign wealth fund for making strategic investments?*

FINANCIAL SECRETARY (in Cantonese): President, we have not given special consideration to setting up an independent fund, but we would review

from time to time our current investment benchmark. In so doing, we can maintain financial stability on the one hand; on the other hand, we can also achieve capital maintenance and increase revenues.

MR PAUL CHAN (in Cantonese): *President, the Exchange Fund balance currently exceeds of \$1,000 billion and one of the major functions of the Exchange Fund is to support the linked exchange rate. However, examining the matter from the angle of supporting the linked exchange rate, it may not be necessary to use such a huge fund. My supplementary question is: Will the Financial Secretary consider allocating a portion of the Fund to make more aggressive investments, and to measure the investment return rate using another set of benchmarks?*

FINANCIAL SECRETARY (in Cantonese): *President, the major objective of the Exchange Fund is to maintain financial stability. As regards the size of the Exchange Fund, it is indeed difficult to prescribe its size at present because the scale and nature of each financial crisis that we encountered are different. Moreover, the levels of the liquid capital in the market have become higher and higher and the speed of flow has become faster and faster. The market changes that we worried at present are also fairly complicated. Therefore, it is difficult for us to define an adequate level. Judging from what we now see, we hope that the Exchange Fund would be of a fairly large size in order to handle with the present issues.*

MR CHIM PUI-CHUNG (in Cantonese): *President, the Financial Secretary stressed stability in his reply and, in fact, we can see that following the virtual and covert depreciation of the US dollar, the Exchange Fund has a loss of 45%. My supplementary question is: Does the Financial Secretary have the courage to allocate one third or a quarter of the Exchange Fund for a peg with the RMB, so as to protect the interests of Hong Kong people?*

FINANCIAL SECRETARY (in Cantonese): *President, we have all along paid close attention to the lure of RMB investments but whether or not we would invest in RMB assets will depend on the outcome of fairly meticulous financial*

and risk analyses. On the one hand, we know that the Mainland has substantial economic strength and we also know that we have to assess the potential investment return of RMB assets; on the other, we also have to consider RMB convertibility and the market liquidity of individual RMB financial instruments.

MS STARRY LEE (in Cantonese): *President, in his reply just now, the Financial Secretary has not directly answered whether or not a sovereign wealth fund would be established, and he has not directly answered a Member's question about allocating part of the Exchange Fund for RMB investments or other aggressive investments. However he has stressed a number of times in his reply that the HKMA would conduct reviews from time to time. I wish to find out more about the factors that the Financial Secretary would take into account when conducting the reviews. Please let us know your benchmark so that we can size up the situation and offer our views.*

FINANCIAL SECRETARY (in Cantonese): Our benchmark is mainly conformity with investment objectives. As regards the investment objectives, several goals should be achieved in order to fulfil the statutory objectives of the Exchange Fund: First, preserving capital; second, ensuring that the monetary base is fully backed by highly liquid US dollar denominated securities at all times, which is a very important point; and third, ensuring sufficient liquidity to maintain financial and currency stability. So long as these three objectives can be met, we will strive to achieve better investment returns to safeguard the long-term purchasing power of the Fund.

DR RAYMOND HO (in Cantonese): *The Financial Secretary mentioned in part (c) of the main reply that the Government would conduct reviews on the investment benchmark of the Exchange Fund from time to time. May I ask the Secretary whether, in this process, the Monetary Authority makes recommendations and the decisions; he makes recommendations for decisions to be made by the Financial Secretary; or the Financial Secretary makes the decision after consulting the Chief Executive or after consulting the Legislative Council as well?*

FINANCIAL SECRETARY (in Cantonese): President, generally speaking, the HKMA will make recommendations on investment decisions, which will then be referred to the Investment Sub-Committee for study, after which recommendations will be made to the Exchange Fund Advisory Committee for decisions to be made by me.

PRESIDENT (in Cantonese): Dr Raymond HO, has your supplementary question not been answered?

DR RAYMOND HO (in Cantonese): *My supplementary question is: Will the Chief Executive be consulted?*

FINANCIAL SECRETARY (in Cantonese): It is not necessary to consult the Chief Executive about these decisions.

MR CHAN KAM-LAM (in Cantonese): *President, the reply of the Financial Secretary seems to stress maintaining currency stability and an appropriate investment strategy at the expense of other aspects. Of course, our Exchange Fund has its specific functions but holding an excessive amount of problematic currencies in the international financial community may lead to serious crises. In fact, investment in many local infrastructural projects are worth consideration by the Government, will the Government draw up its plans anew? For example, it can make greater investments in local infrastructural projects, public works or infrastructural projects in other districts to safeguard the revenue and base value of the Exchange Fund.*

FINANCIAL SECRETARY (in Cantonese): President, I have said that the asset or currency mix of the Exchange Fund will be adjusted from time to time according to our principle of prudent management of the Exchange Fund so as to achieve the statutory objectives. As regards the suggestion made by the Member, we will also evaluate the possibility of strategically diversifying investments among various assets and currency types in a prudent and progressive manner. We will continue to do so.

PRESIDENT (in Cantonese): Mrs Regina IP, this is your second supplementary question.

MRS REGINA IP (in Cantonese): *President, I think the Financial Secretary also knows that some private fund management companies have seen their investment increase from US\$500 million to US\$4 billion in a decade or so and the returns are very substantial. Although the stability of the exchange rate has to be ensured, as we have a reserve of some \$200 billion, why can we not allocate say \$20 billion for establishing a sovereign wealth fund just as many countries and regions have done, to secure higher returns and let the HKMA encounter greater competition so that it will do an even better job?*

FINANCIAL SECRETARY (in Cantonese): President, the Exchange Fund is not purely an investment fund and its investment objective is certainly different from other investment funds. As we all know, the Exchange Fund managed by us has to be readily available for use and is intended to maintain financial and currency stability. For this reason, the primary investment objective of the Fund is to maintain high liquidity, followed by capital preservation. For the other investment funds, since their objectives are to strive for the greatest capital growth within a longer time period, they can make some longer-term, lower-liquidity or higher-risk investments. Therefore, their nature is different from that of the Exchange Fund.

MR PAUL TSE (in Cantonese): *President, just now, the Financial Secretary has given his replies a number of times but it seems that his attitude has remained very cautious. Of course, we appreciate that. However, given that our Government is no longer the pre-1997 British-Hong Kong Government, we cannot, nor do we wish, to seek the assistance of the United Kingdom casually in respect of many matters. However, if a local Government wants to function properly, it very often needs the acceptance and support of the public. For example, we have recently seen that, in some countries facing economic crises, for example, Korea, the people sold their jewelries to help the Government, and this is even more important. The success of a government depends on the trust and support of the people. In hard times, a laxer approach should be adopted instead to deal with our funds and reserves as far as possible. In this regard,*

can the Financial Secretary tell this Council if the Government would consider adopting a laxer and perhaps more investment-oriented attitude towards handling our reserves?

FINANCIAL SECRETARY (in Cantonese): President, we will frequently examine our investment benchmark but we have to be prudent because our major objective is to maintain financial and currency stability.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, this is your second supplementary question.

MR CHAN KAM-LAM (in Cantonese): *President, Mrs Regina IP's main question asks about the point that the US dollar and US dollar bonds will most likely be monetized by the US Government,, thus leading to a substantial depreciation of the US dollars that we are holding. However, the Financial Secretary has not given a direct reply. In handling the investments of the Exchange Fund, if there are measures in reverse taken by foreign countries, may I ask the Financial Secretary if there is any strategy in place and how we can cope with them?*

FINANCIAL SECRETARY (in Cantonese): President, on the prospect of the US dollar, some people speculate that in view of the economic problems in the United States at present, in the medium term, the US dollar will be relatively weak. However, at the same time, many other people hold that, given the depth and breath of the US dollar market, it is difficult for other currencies to take its place in the short term or even the medium term. Yet, we will adjust our strategy from time to time to tackle possible scenarios.

PRESIDENT (in Cantonese): Mr Paul CHAN, this is your second supplementary question.

MR PAUL CHAN (in Cantonese): *President, I also want to follow up the supplementary question put by me just now. The Financial Secretary said a*

short while ago that the Exchange Fund is mainly intended to maintain the linked exchange rate and financial stability. Of course, we agree very much with that. However, though we only had a reserve of several hundred billion dollars years ago, we also achieved the objective. Just now, the Financial Secretary said that, at present, we could not figure out the magnitude of similar blows in the future but we also have a joint defence mechanism — in respect of foreign exchange — the relevant amount is US\$200 billion and Hong Kong, the Mainland and Southeast Asian countries are participating. In other words, we have now invested over \$1,000 billion in the Exchange Fund simply for the purpose of maintaining the linked exchange rate and financial stability, and the amount is far too large. As a result, there is less room for us to make more proactive investments.

A Member mentioned the RMB just now and we also referred to gold before. If the Financial Secretary does not use some of the money for an alternative purpose or consider another investment standard, could he reconsider how he can adjust the benchmark of investment return, so that it could really suiting the actual circumstances and also guarantee the rate of return for this fund painstakingly accumulated by Hong Kong people?

FINANCIAL SECRETARY (in Cantonese): President, we did adjust our strategy from time to time and it can also be seen that, for so many years in the past, our revenues were actually quite satisfactory. Our revenues are comparable to those of many other funds.

PRESIDENT (in Cantonese): Ms Starry LEE, this is your second supplementary question.

MS STARRY LEE (in Cantonese): *President, I believe that the public and Members agree with the Financial Secretary's comment that it is necessary to use part of the funds prudently and give priority to maintaining financial stability. However, summing up Members' remarks just now, directly-elected Members and Members returned by functional constituencies feel the same. They think that the Financial Secretary can consider allocating part of the funds for alternative investments, that is, establishing a sovereign wealth fund or investing in gold or RMB.*

Financial Secretary, I really wish to challenge you. I believe that political considerations may have overridden other considerations because if losses are incurred in the reserve so allocated or the return is not good enough, the Government may be under immense political pressure. However, now that there are such views in the legislature, is the Financial Secretary willing to take this challenge and put forward this subject matter for discussion with Members again or re-examine this possibility with the public again this year?

FINANCIAL SECRETARY (in Cantonese): President, the Exchange Fund has a bearing on the financial stability of the whole society. This is a very important issue that we must handle very prudently. Members may be aware that apart from the backing portfolio — the backing portfolio is designed to provide full backing to the US dollar — we also have an investment portfolio. As regards the investment portfolio, we will invest in some bonds and even shares and other currencies. The returns in this connection are pretty good and they can at the same time provide stability and liquidity.

PRESIDENT (in Cantonese): Last supplementary question.

DR RAYMOND HO (in Cantonese): *President, will the Financial Secretary consider transferring a portion of some \$1,400 billion in the Exchange Fund to the limited company under the control of the Financial Secretary and investing in the services of one of the railway projects that the public readily used? The railway project can be listed, financing arrangements can be made and the value of the whole project can be appreciated. Has the Government considered this approach?*

FINANCIAL SECRETARY (in Cantonese): President, we always think that, if there are necessary expenses, we would spend whatever is necessary. At present, on the fiscal reserve, we should have enough reserves to tackle the current problems. If there is a need for us to introduce new measures, we will definitely consider taking such measures.

PRESIDENT (in Cantonese): Second question.

Relationship Among the Executive Authorities, the Legislature and the Judiciary

2. **MR ALBERT HO** (in Cantonese): *President, it has been reported that during his visit to Hong Kong in 2008, State Vice-President XI Jinping pointed out that there should be mutual understanding and support among the executive authorities, the legislature and the Judiciary. On the eve of the 10th anniversary of the reunification of Macao in November last year, Vice-Minister of the Hong Kong and Macao Affairs Office (HKMAO) of the State Council ZHANG Xiaoming praised the relationship among the executive authorities, the legislature and the judiciary of Macao for putting emphasis on complementing one another. In response to such remarks, Deputy Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region LI Gang stated that Macao and Hong Kong could draw reference from each other. Besides, Chief Justice Andrew LI of the Court of Final Appeal pointed out at the Ceremonial Opening of this Legal Year that the system in Hong Kong involved checks and balances among the executive authorities, the legislature and the Judiciary. He also pointed out at a subsequent press conference that the legal system of Macao was entirely not suitable for Hong Kong. In this connection, will the Government inform this Council:*

- (a) *whether it has plans to cause the executive authorities, the legislature and the Judiciary of Hong Kong to move towards the direction of understanding, supporting and complementing one another; if so, of the content of those plans; if not, the reasons for not implementing such plans;*
- (b) *whether it is prepared to maintain the system of checks and balances among the executive authorities, the legislature and the Judiciary; if not, of the reasons for that; and*
- (c) *whether it will draw reference from the governance experience of Macao; if so, whether it has assessed which aspects of the composition and arrangements of the executive authorities, the legislature and the judiciary of Macao are worthy of Hong Kong drawing reference; if such an assessment has been made, of the results?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, my reply to Mr Albert HO's question is as follows:

- (a) In accordance with the Basic Law, the executive authorities, the legislature and the Judiciary have their respective powers and responsibilities. Article 2 of the Basic Law clearly stipulates that the Hong Kong Special Administrative Region (HKSAR) enjoys executive, legislative and independent judicial power, including that of final adjudication.

According to the design of the Basic Law, the political structure implemented in the HKSAR is basically an executive-led system headed by the Chief Executive. The Basic Law clearly stipulates the respective powers and responsibilities of the executive authorities and the legislature. Under the spirit of the Basic Law, the executive authorities and the legislature should both complement, and keep a check and balance on, each other's functions. Any bills and budgets must be put forth by the Government and approved by the Legislative Council. Article 64 of the Basic Law provides that the HKSAR Government must abide by the law and be accountable to the Legislative Council: it shall implement laws passed by the Legislative Council and already in force; it shall present regular policy addresses to the Legislative Council; it shall answer questions raised by Legislative Council Members; and it shall obtain approval from the Legislative Council for taxation and public expenditure.

In formulating and implementing policies, the executive authorities must take full account of public opinions to ensure that the policies are reasonable and consistent with policy objectives. On this basis, the executive authorities have placed importance on the Legislative Council as an important channel for reflecting opinion of the community, and have been supporting the work of the legislature.

Moreover, Article 85 states that the HKSAR courts shall exercise judicial power independently, free from any interference. As the rule of law is an important core value of Hong Kong, the consistent position of the HKSAR Government is that we should strive to preserve the independence of the Judiciary.

The executive authorities, the legislature and the Judiciary will continue to act in accordance with the Basic Law.

- (b) As stated above, under the Basic Law, the relationship between the executive authorities and the legislature is one of mutual regulation and co-ordination; the courts of Hong Kong exercise judicial power independently, free from any interference. The HKSAR is established in accordance with the Basic Law, and the people of Hong Kong support the implementation of "one country, two systems" in Hong Kong. The HKSAR Government will certainly continue to act in accordance with the Basic Law.
- (c) The Hong Kong and Macao Special Administrative Regions both have their unique historical background, social environment, constitutional arrangements and political systems. Under the principle of "one country, two systems", the executive authorities, the legislature and the Judiciary of Hong Kong, being a special administrative region, will continue to act in accordance with the Basic Law.

Hong Kong and Macao have all along been undertaking exchanges and co-operation primarily on economic, social and livelihood issues. Mutual co-operation between the two SAR Governments has been dealt with in accordance with the powers provided by the Hong Kong and Macao Basic Laws respectively.

MR ALBERT HO (in Cantonese): *President, part (a) of my main question asked the Secretary mainly about whether the Government has any plans to enable further co-operation or co-ordination between the executive authorities and the Judiciary. But it appears the Secretary has not given a straight answer. So I take it to mean that there are no specific plans. But then in part (b) and even throughout the whole main reply, the Secretary said that great importance is attached to the rule of law as a core value and the independence of the Judiciary. In view of this, may I ask the Secretary if he would agree with this view of mine? Specifically, Chief Justice Andrew LI stressed the checks and balances among the Judiciary, the legislature and the executive authorities, whereby the Judiciary must adjudicate cases independently, maintain judicial independence and*

immunity to interference and ensure that the executive authorities abide by the laws, in order to discharge its duty of exercising checks and balances. This in his opinion is the best co-ordination. In other words, the best co-ordination that can be effected by the Judiciary is to do a good job of checking the executive authorities, without doing anything further to step up the so-called co-operation and co-ordination.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we have here in Hong Kong an executive-led system under which regulation and co-ordination are indeed effected among the executive authorities, the legislature and the Judiciary. However, I have stressed in the main reply time and again that under the Basic Law, the Judiciary of Hong Kong enjoys independent judicial power including that of final adjudication. As clearly evident to Members, in the 12 years since the reunification, the HKSAR Government has absolutely respected the laws and worked in accordance with them. For example, judgments handed down by the Courts may invariably be subject to judicial review and we have acted in strict accordance with such judgments after they are made. Just as in the case of a judicial review initiated by an imprisoned person last year, we amended the Legislative Council Ordinance within several months after a judgment had been handed down by the Court to ensure that imprisoned and remanded persons enjoy the right to vote.

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

MR ALBERT HO (in Cantonese): *President, he has not answered the thrust of my question. Put simply, is the best co-ordination that can be effected by the Judiciary is to do a good job of its independent adjudication as exercise of checks and balances without devising any plans for the so-called further co-ordination?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, to work in accordance with the Basic Law is the best mutual co-ordination and regulation.

MS EMILY LAU (in Cantonese): *President, the Secretary mentioned in the main reply that the Courts of Hong Kong adjudicate cases independently, free of any interference. However, it is also mentioned in the main question that Mainland officials (ranging from the State Vice-President to a Vice-Minister of the State Council and a Deputy Director of the Liaison Office) have stated one after another that the Courts of Hong Kong and the executive authorities should effect mutual support and co-ordination. President, are the executive authorities aware that when the Chief Justice suddenly announced his early retirement (advanced by three years) last year, enormous worries were aroused in the legal sector and the community, thinking that pressure had been exerted on the Judiciary? Have the authorities assessed the situation? And is it because the Central and Mainland officials have made comments one after another that the Judiciary and many members of the public feel greatly disturbed?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I stated clearly in the main reply the fundamental position of the HKSAR Government in upholding the spirit of the rule of law and respecting judicial independence. As regards the retirement of Chief Justice Andrew LI, since he had given a clear account on his position to the public last year, I do not have anything to add here.

MS EMILY LAU (in Cantonese): *President, my supplementary question asked the authorities if they had assessed whether or not the many discussions and worries in the community were induced by the many remarks made by Mainland officials?*

PRESIDENT (in Cantonese): Secretary, the Member asked if an assessment had been made.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I think the community of Hong Kong still has hundred percent confidence in the independence of the judicial system of Hong Kong.

MR LEUNG KWOK-HUNG (in Cantonese): *President, Mencius said, "To a state, the people are the most important thing, the altars to the gods of earth and grain come second, and the ruler is the least important thing."⁽¹⁾ Nowadays, the remarks made by Vice-President XI Jinping seemed to suggest that "the government is the most important thing, the Legislative Council comes second, and the Courts are the least important thing". Now that any order has been set, there must be co-ordination. May I ask the Secretary how we should interpret the spirit underlying these remarks of the Vice-President? He said the Courts and the Judiciary and the Government should effect mutual support and co-ordination. But this is a concept different from the mutual checks and balances and monitoring under the separation of powers. How does he interpret the discrepancy of these several words?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, the Basic Law has not set any order for the executive authorities, the legislature and the Judiciary. Meanwhile, the Basic Law has clear stipulations on the co-ordination and regulation among these three bodies. Therefore, there would not be any problem as long as they act in accordance with the Basic Law.*

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has not answered my supplementary question.*

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

MR LEUNG KWOK-HUNG (in Cantonese): *Because Vice-President XI Jinping did not mention checks and balances. He said there should be mutual co-ordination and support*

PRESIDENT (in Cantonese): *Please raise your follow-up.*

(1) Mencius, 華語教學出版社, Beijing

MR LEUNG KWOK-HUNG (in Cantonese): *Under the system of separation of powers, there are checks and balances and monitoring, and co-ordination and support is out of the question*

PRESIDENT (in Cantonese): Please raise your follow-up.

MR LEUNG KWOK-HUNG (in Cantonese): *How could the separation of powers mean mutual support and mutual co-ordination? It should mean mutual checks and balances and monitoring. The Secretary has not answered my question. He has only advanced a straw argument. Mutual*

PRESIDENT (in Cantonese): Mr LEUNG, you need only state your follow-up clearly. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the system in Hong Kong is led by the Chief Executive, an executive-led system which is not at all identical to the system of separation of powers in foreign countries. But there is mutual regulation between the executive authorities and the legislature in Hong Kong, and there is also mutual regulation between the executive authorities and the Judiciary. I said just now that some judgments in respect of judicial reviews had been handed down by the judicial system and the Judiciary. And we would invariably have to amend legislation, and when we do so, we must table such proposals and bills before the Legislative Council and obtain its agreement and support before they can be enacted. Therefore, there is a clear system of mutual regulation in place, and it operates every day.

MR FRED LI (in Cantonese): *President, it is pointed out in Mr HO's main question that the Vice-Minister of the HKMAO and the Deputy Director of the Liaison Office had respectively sung high praises of the apparently successful co-ordination effected among the executive authorities, the legislature and judiciary of Macao on public occasions without any reference to checks and balances. However, the Secretary stated in the main reply that the exchanges between Hong Kong and Macao are confined to the economic and social aspects*

and people's livelihood. Has the Central Government clearly instructed or hinted to the SAR Government that we must properly learn from Macao how best to effect co-ordination among the three arms of government rather than imposing so many checks and balances?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the Central Government as always supports the HKSAR Government in acting in accordance with the law, that is, the Basic Law.

MR FRED LI (in Cantonese): *President, he has not answered my supplementary question. Has the Central Government clearly instructed or hinted to the HKSAR Government that it has to learn from Macao how best to effect co-ordination?*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, be it a clear instruction or a hint, we must act in accordance with the Basic Law.

MS AUDREY EU (in Cantonese): *President, just as many Members have said just now, judicial independence and checks and balances and the mutual support as stated by State Vice-President XI Jinping, or the so-called mutual co-ordination mentioned by Vice-Minister of the HKMAO ZHANG Xiaoming, are two different things actually. So this is my supplementary. Has the SAR Government including the Chief Executive, Secretary Stephen LAM and other officials made enquiries with the State Vice-President, the HKMAO and even the Liaison Office about the reasons for their making those remarks? Why do they want us to learn from Macao? The Chief Justice said we could not learn from Macao for we have judicial independence and there are checks and balances. Why would the state leaders have such different ideas? Has the Administration made enquiries about the reasons for those remarks? If not, why not? If yes, what are the reasons? Why are there such different ideas?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the HKSAR Government maintains a clear position of supporting the rule of law and judicial independence in Hong Kong. For years, we have been acting in accordance with the Basic Law, thus we need not make further comments or enquiries about those remarks.

DR RAYMOND HO (in Cantonese): *Before the reunification, people all talked about the separation of powers. After the reunification, we must apply our own constitution, that is, the Basic Law. But many people are still talking about us practicing the separation of powers. I remember that about three to four years ago, Chairman of the Standing Committee of the National People's Congress WU Bangguo said Hong Kong is executive-led, that is, according to Article 74 of the Basic Law, Members may not introduce bills which relate to the public expenditure, operation of the Government or government policy. And the Basic Law also mentions that the executive authorities shall be accountable to the legislature. So there are indeed effects of mutual regulation in these several aspects. May I ask the Secretary why the Government has made so little effort to explain to the public given that many people are still talking about the separation of powers 13 years into the reunification? If it should decide to make really great efforts on this in the future, what would it do?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, our position in this respect is in fact very clear. If Members still remember it, we released The Second Report of the Constitutional Development Task Force in April 2004, and on page 37 (of the Chinese version) it is stated clearly why the political structure of Hong Kong is an executive-led system. In the report, it is stated that according to the Basic Law, for example, the Chief Executive shall be the head of the HKSAR; and Article 60, the head of the SAR Government shall be the Chief Executive; Article 48, the Chief Executive shall implement the Basic Law; Article 62, the Chief Executive shall lead the HKSAR Government to introduce bills, motions and subordinate legislation; Articles 57 and 58, bodies functioning independently like the Independent Commission Against Corruption and the Audit Commission shall be accountable to the Chief Executive; and Articles 90 and 19, judges of courts of all

levels shall be appointed by the Chief Executive. All of these serve to illustrate that the concept of an executive-led political structure has a clear foundation in the Basic Law, and throughout the years we have adhered firmly to this position.

PRESIDENT (in Cantonese): Dr HO, has your supplementary question not been answered?

DR RAYMOND HO (in Cantonese): *I asked just now what the Government would do in the future if it made greater efforts to explain the relevant arrangements to the public. He has not answered this part.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, when we promote the Basic Law, we would also give consideration to suitably promoting this theme.

MR PAUL TSE (in Cantonese): *According to my understanding and experience, judicial officers or judges seldom, if ever at all, discuss the merits of a case or how judgments are made. However, from my communication with judicial officers in the course of my participation in the work of a panel some time ago, I gained some insight into their needs in administration, including that of judicial officers and the Courts. During the discussions, we engaged in frank deliberations on how best the Legislative Council may offer assistance in terms of personnel and facilities. I can appreciate such communication in respect of administration, and I believe Members will understand this, too. But insofar as administration of justice is concerned, has the Secretary ever received any formal or informal complaints made either in a direct or indirect manner about judgments made by judicial officers having been interfered by the executive authorities, that is, a judicial version of the "harmony" incident?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the HKSAR Government absolutely respects the independence of the Judiciary. For this reason, our communication is restricted

to administration only. For example, during the annual budgeting exercise, we would engage in liaison over matters of administration. Moreover, when our legislative exercise involves the operation of the Judiciary, we will seek its advice and introduce bills or subsidiary legislation only after joint discussions with it. As regards the judgment of cases, it rests entirely with the Judiciary. In the many years since the reunification of Hong Kong, I have never heard of individual judicial officers voicing the view that they have been subject to external pressure in trying cases or passing judgments.

PRESIDENT (in Cantonese): Third question.

Measures to Stabilize Development of Schools

3. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, it has been reported that according to the Education Bureau, the intake of Secondary One (S1) students in the coming school year will substantially decrease by 6 300, and will decrease further from this year's 63 000 to 42 000 within the next five years. It has also been reported that according to the estimation of some members of the school sector, around 50 to 60 secondary schools may cease operation in the new school year. The Secretary for Education recently visited associations of school heads in various districts to consult the principals on measures to mitigate the impact of declining population on secondary schools. Given that it has been pointed out by some members of the school sector that with the commencement of implementation of the new senior secondary (NSS) academic structure in this school year, schools are keenly waiting for the authorities to formulate measures to stabilize the development of schools, so that both the principals and teachers can concentrate their efforts on implementing the NSS academic structure and dealing with other onerous reform-related matters, including the addition of the Liberal Studies subject, Other Learning Experiences and Student Learning Profile, integration of certain subjects, gradual increase in the number of subjects with school-based assessment (SBA) and increasing weightings of SBA components in the concerned subjects, next cycle of external school reviews, and arrangements related to finetuning of the medium of instruction for schools, will the Government set out the views collected in the consultation exercise and inform this Council of the new measures which the authorities will implement to*

stabilize the development of schools, in order to help schools implement various reform measures under the NSS academic structure smoothly, and whether the new measures will include suspending the policy under which under-enrolled schools have to be closed?

SECRETARY FOR EDUCATION (in Cantonese): President, the Government has put in substantial resources in the last decade to implement initiatives to enhance the quality of education. For secondary schools, new initiatives include enhancement of English learning, provision of 12-year free education and the implementation of the New Senior Secondary academic structure (NSS), and so on. To assist schools in implementing NSS, we have provided \$1,900 million additional resources since the 2005-2006 school year. In fact, after several years of preparation, the school sector is generally ready to take forward the NSS which commenced in September last year.

We have been closely monitoring the issue of student population decline and have already introduced various relief measures to facilitate the development of secondary schools and stabilizing the teaching force. The situation we are now facing is: with the dwindling S1 student population, more schools will be affected. Some schools will inevitably have to reduce their number of S1 classes not as a result of the education policy but as a result of the decline in student population. According to past experience, individual school's enrolment situation is affected by a number of factors, including parental choice, uneven distribution of student population in different districts as well as the characteristics of individual district, and so on. In projecting the number of affected secondary schools, the abovementioned factors have to be taken into consideration. According to our projection, the number of secondary schools affected by the student decline in the coming year will not be as large as that predicted by the school sector.

Nevertheless, we understand that the decline in student population brings about uncertainties to the sustainable development of schools. The school sector has also expressed their concern on various occasions, and suggested that the Government should implement further relief measures to maintain a stable environment for schools and teachers to feel rest assured and to concentrate on the implementation of NSS.

We are now gathering the views of different stakeholders in the sector. According to the views collected through meetings with the school sector so far, the majority view is for the Government would encourage larger schools to downsize to 24 classes progressively. This will enable schools to have more capacity for innovative ideas to enhance teaching and learning in order to cope with the development of NSS. Another major suggestion is to allow quality schools or schools with effective featured programmes to sustain their development. There are also suggestions that the Government should further reduce the class size of secondary schools or even implement small-class teaching in secondary schools. We have also started collecting views from parent representatives of different districts.

With due reference to the views collected from the sector and after careful consideration, we wish to explore the feasibility of implementing additional relief measures along the following directions, including (1) encouraging sponsoring bodies to review schools under their sponsorship and consider reducing the number of schools in an orderly manner through merger or other means; (2) facilitating schools that are willing to reduce the number of classes voluntarily to implement the new class structure in an orderly manner; (3) facilitating schools to collaborate with other schools or post-secondary institutions/professional bodies/vocational bodies in operating practical programmes; and (4) allowing quality schools and schools operating effective featured programmes to sustain their development, and so on. We will continue to exchange views with principals in various districts and will also meet other stakeholders, including sponsoring bodies and parent representatives, with a view to working out measures both practicable and acceptable to various stakeholders as soon as possible.

MR CHEUNG MAN-KWONG (in Cantonese): *President, in the past six years, the declining primary student population already led to the closure of more than 100 schools, thus leading to turbulence and panic in schools. The problem of declining student population has now spread to secondary schools. Next year, the intake of S1 students will decrease by 6 300, and within the coming five years, the intake will decrease by 21 000. This will definitely mean disaster to secondary schools. Has the Government assessed the effects of school closure*

on the stable implementation of NSS? Can the Government guarantee that the error of closing down primary schools will not be repeated in the secondary school sector? Can the Government also guarantee that regardless of the solutions to be adopted as discussed between the Secretary and the school sector, the closure of secondary schools will not be one of the options for the Government, and that the policy of closing down secondary schools will be brought to a complete halt?

SECRETARY FOR EDUCATION (in Cantonese): I have already made it very clear just now that school closure is the reality. School closure is not the result of any government policy but the consequence of population decline. On the basis of the prevailing population size of the time, we founded a large number of schools. Now, the population is on the decline, as pointed out by the Honourable Member, it is declining at a rate of several thousand a year. Looking ahead, the number will only become increasingly smaller. This is an incontestable fact. At present, we do not have any measure or policy to make up for the reduction of student population. Therefore, we must plan well ahead to identify ways of reducing the impact to the minimum.

We hope that different approaches can be adopted to adjust school operation. The number of students is dwindling, but how small has the number become? We have observed that, in some schools, there is even the problem of zero intake. (Appendix 1) We must realize that operationally, a school is divided into different levels. In an operating school, there must be a certain number of students in each level. Our worry is that some schools may fail to admit any S1 students year after year and some schools may perpetually fail to admit any S1 students. We actually saw such a phenomenon in Tai Po District two years ago. Some schools there only had a double-digit intake. The number of students in each level was only 20 to 30. How could any classes be formed? The problem is that it is impossible to form any classes. Therefore, the problem is not so much about the Government's willingness or otherwise to invest resources. Rather, it is simply difficult to form classes. We are facing such a situation now. We must work out how we can fix things up so that existing schools can continue operating without worries.

The interesting thing now is that if we can appropriately reduce the number of schools, the situation will stabilize because when there are fewer schools, the remaining ones will be able to cope despite the decline of student population. Therefore, what we are doing now is to seek stability amidst instability.

PROF PATRICK LAU (in Cantonese): *Regarding the Secretary's point on the declining number of schools, I think the most serious problem may be the unemployment of teachers. This will be the greatest problem instead. But I have also observed that tutorial schools are in vogue in Hong Kong. Why does the Government not adopt a policy whereby teachers in schools can offer private tuition to needy students? The relevant resources will not be wasted this way.*

SECRETARY FOR EDUCATION (in Cantonese): President, the impact of surplus teachers is an issue which we can tackle rather easily. The reason is that having surplus teachers is only a temporary condition. When there are surplus teachers, we can stop teacher recruitments in the meantime and let natural wastage of teachers, such as retirement and switching of occupation, take place. Such conditions do happen. It is therefore easier for us to tackle this problem.

Regarding Prof LAU's proposal, we have not given any thoughts to it. But it can also be taken into consideration. There are other ways to tackle the problem of surplus teachers, and we are currently considering them.

MS CYD HO (in Cantonese): *Honestly, the decline of student population precisely gives us the best opportunity to implement small-class teaching and to teach students according to their aptitude. The Secretary's main reply mentions the idea of allowing quality schools or schools with effective featured programmes to sustain their development. May I ask the Secretary to tell us the contents of the featured programmes offered by these quality schools? Do they teach students according to their aptitude? What kinds of schools can become quality schools? Can the number of students per class be reduced?*

SECRETARY FOR EDUCATION (in Cantonese): All these matters are dependent on the school-based decisions of the quality schools concerned. We

are of the view that we need not always focus on educational qualifications in our consideration. Quality talents can be developed in many other ways. For example, some students may not be able to achieve very good academic results, but they are still gifted or exceptionally talented in other respects. For instance, they may be very outstanding in terms of creativity, performing arts, writing or sports. At present, we do not have any systematic arrangements for nurturing such students. In general, we hope that all students can cultivate extensive interests and receive broad education. However, in the case of students with special talents, we are prepared to give them an education geared to their special talents, rather than focusing only on broadness. These are special arrangements for special cases. We must find out how the matter can be handled, and this is also one of the topics in our consultation exercise. We hope that an integrated programme can be formulated for implementation, and we are now having discussions with the school sector as a start. If we have the sector's acceptance, and if resources permit, we will introduce the programme to the public and implement it. We are now considering the relevant details.

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

MS CYD HO (in Cantonese): *President, the Secretary has not told me whether class sizes will be reduced in case the programme is implemented.*

SECRETARY FOR EDUCATION (in Cantonese): As I mentioned in my main reply, we have been improving education quality over the past 10 years. So, please do not think that we just started to improve education quality when we woke up this morning. We have been making efforts to improve the class structure of schools. In the past two years, there was already a year-on-year reduction of Secondary School Places allocated. At present, the minimum class size is just 30. Of course, the class sizes in ordinary schools will be larger, but a class can still be formed when there are only 30 students. In some special cases where there is insufficient intake, as long as there are 61 students, we will allow the school concerned to operate three classes. This will mean only 20 students per class. Therefore, the Government has already been implementing special

arrangements for special cases. However, if we are to require all secondary schools to switch to small-class teaching, I would say that this is not a good solution to the problem we are now facing. The reason is that small-class teaching is another kind of teaching methodology which is not only about the reduction of class size. As a matter of fact, over the past few years, the Government has been investing quite a lot of resources in improving the ratio of teachers to students in schools.

MR WONG SING-CHI (in Cantonese): *President, it is mentioned in the Secretary's main reply that the mainstream opinions are that structural reorganization is expected to be made to downsize schools to 24 classes. But on the reduction of class size in secondary schools, it is only stated that it has been suggested.*

Secretary, I do not know why you are not aware that this is also a mainstream opinion. Many people in the school sector, parents and members of the public think that the mainstream opinions support small-class teaching. I do not know why you have said so. Maybe, you simply do not intend to go about this task seriously. As a matter of fact, Sha Tin, Tai Po, Sheung Shui and even Tuen Mun are the worst-hit areas. Many schools in these districts are facing the crisis of closure.

Secretary, since many non-governmental organizations and the school sector think that small-class teaching is the mainstream opinion, can small-class teaching be implemented in these worst-hit districts first, so that the schools there can provide quality education to students in a more stable environment?

SECRETARY FOR EDUCATION (in Cantonese): Actually, as I mentioned just now, we do understand that most secondary school teachers and principals are very concerned about the decline of student population and they hope that small-class teaching can be implemented. But we must realize that the implementation of small-class teaching is one of the commitments to the provision of quality education, rather than a means to tackle the problems of the reduction of classes, cessation of school operation and surplus teachers. We have always attached great importance to the teaching environments in primary

and secondary schools and also the appropriateness of school subjects. As I mentioned just now, we will provide secondary schools with additional teachers. Small-class teaching is not implemented in our schools, but we have such measures as additional teachers for implementing group teaching in the same class. Therefore, as I just mentioned, we have already put in place a measure whereby a class can still be formed even when there are fewer students. However, we have no intention to make this a general measure for implementation in all schools at present.

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

MR WONG SING-CHI (in Cantonese): *I am not saying that all schools should implement*

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

MR WONG SING-CHI (in Cantonese): *..... I mean to ask him whether small-class teaching can be implemented on a priority basis in the schools in such places as Sha Tin, Tai Po, the North District and Tuen Mun.*

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

SECRETARY FOR EDUCATION (in Cantonese): The only thing I would like to add is that we do not think that this is one of the solutions to these problems.

MRS REGINA IP (in Cantonese): *President, speaking of the decline of student population, may I ask the Secretary whether the authorities have taken those children born to mainland mothers in Hong Kong into account when they estimate the number of school children? It is because tens of thousands of such*

children are born in Hong Kong every year. They have the right of abode in Hong Kong, and they may come here for education at any time. Has the Government conducted a survey on the number of such children who may come here for kindergarten, primary or secondary education? If it has, how were such surveys conducted? If not, why has it not done so?

SECRETARY FOR EDUCATION (in Cantonese): President, we have conducted surveys about the situation we have been faced with in recent years and the current size of our student population, and so on. We are talking about secondary student who are at least 13 or 14 years of age, so we need to look back at the situation a decade or so ago. At that time, not many pregnant women from the Mainland came here for delivery. But in the 2018-2019 academic year — I have some figures in hand — the situation may still not be optimistic. Just now, Mr CHEUNG Man-kwong mentioned some figures exceeding 50 000. Actually, during the years between the 2013-2014 and 2018-2019 academic years, there will only be some 50 000 students, which already include all Hong Kong and Mainland children. The figure may start to increase mildly starting from the 2019-2020 academic year, which also includes the number of children born to Mainland mothers in Hong Kong. But, how many of these children will come to Hong Kong for education? We can only make a hypothesis now because we must make a hypothesis if we are to undertake planning. We assume that half of these Type II babies will come to Hong Kong for secondary education. As for the situation in the future, we will make adjustments in the light of the actual situation and depending on the number of those children who come here every year. This is our present assumption. Yet, the figure is not encouraging either. Even if the number of children concerned rises again in 2020, it will just be more than 60 000.

PRESIDENT (in Cantonese): Seven Members are still waiting for their turns to ask their supplementary questions. Nevertheless, since this Council has spent more than 21 minutes on this question, Members can only follow up this issue through other channels.

PRESIDENT (in Cantonese): Fourth question.

March for Universal Suffrage on 1 January 2010

4. **MR WONG YUK-MAN** (in Cantonese): *President, there have been comments that the arrangements during and after the march for universal suffrage held on New Year's Day of 2010 were made by the police with the intention to suppress the participants of the march, which seriously undermined the freedom of expression. Those arrangements included deploying a large and disproportionate number of police officers at the destination of the march, that is, outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office), video-filming the faces of the participants at a close distance, and sending police officers to the home of a participant of the march in a high profile manner afterwards to harass her family members. In this connection, will the Government inform this Council:*

- (a) *of the number of police officers deployed outside the Liaison Office on the day of the march and the justifications for the deployment of police of such a scale;*
- (b) *given that it was reported that although the police had already obtained the telephone number of the aforesaid participant, they still sent police officers to her home early this month to ask her family members about her contact details as a way to harass them, and then arrested the participant in a high profile manner afterwards, of the justifications for the police making such arrangements; and*
- (c) *given that there have been comments that the police might have intruded into personal privacy by video-filming the faces of participants of the march at a close distance, whether it has assessed if the participants have the right to refuse being video-filmed by the police; and whether the police are required to obtain the prior consent of those to be video-filmed?*

SECRETARY FOR SECURITY (in Cantonese): President,

- (a) The SAR Government respects the rights of the public to peaceful assemblies and processions and to express their views. We all know that as Hong Kong is a crowded place, large-scale public assemblies and processions will affect other people or road users, and may have impacts on public safety and order. In this

connection, while facilitating the expression of views by participants of processions, it is also the police's responsibility to maintain public order, and at the same time strike a balance by ensuring the rights of other people to use the public place or road as well as their safety. Participants of processions, in expressing their views to the public, should also observe the Hong Kong law and public order and proceed in a peaceful and safe manner.

In handling public events, the police will maintain close contact with the organizers having regard to the information and the expected number of participants provided by the latter. The police will, by taking into account possible public responses, strategies and experience in handling similar events in the past, details of the events and possible constraints on their operations, make comprehensive risk assessment and examination to decide on the necessary manpower deployment and implement appropriate crowd management measures, with a view to ensuring that the event is conducted in a safe and orderly manner.

With regard to the procession on 1 January, the expected number of participants as provided by the organizer was 10 000. Since the procession itinerary included a number of busy districts and trunk roads, it was necessary for the police to deploy sufficient officers along the route of procession and at the assembly place to maintain order of the whole procession and to ensure proper crowd and traffic management. The police have not maintained breakdown figures on police officers on duty at individual locations. Besides, the event on that day demanded flexible deployment to cope with the movement of the crowds in the procession and their activities. According to the police, about 1 000 officers were deployed in total for the operation on that day.

- (b) If the police need to take arrest and charge action based on the facts and evidence collected, it is a usual practice of the department to go to the reported residential or office address(es) of the case subject to make an arrest action. With regard to the case mentioned in part (b) of the question, I understand that the police have followed the usual practice in handling the matter.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

- (c) If the police consider it necessary to take video records of major public events, the main purpose is to maintain a live record of the event itself rather than to target individual participants. In general, video filming is to facilitate future internal review and strategy evaluation with a view to improving the management and response capabilities of the police in dealing with large-scale events. For this reason, video filming by the police of any procession or overall movements of crowds does not involve any purpose or act pertaining to personal data collection. Except for the constraints at an event venue or its environment, police officers normally do not video-film individual participants at a close distance.

Only when there are signs of a breach or a possible breach of public peace or public order, will the course of the incident or the behaviour of individuals causing the breach become the focus of the video filming by police officers. In such cases, it is reasonable and lawful for the police to take evidence by video filming those who are suspected to have violated the law.

Only police officers with appropriate training will be tasked to video-film public events. Any such filming will require the special authorization from officers of the rank of Chief Superintendent or above. Besides, officers responsible for the filming must act in accordance with the specific instructions of a supervisor of the rank of Superintendent or above. Police officers who carry out video filming will be identifiable by wearing uniforms of police officers.

MR WONG YUK-MAN (in Cantonese): *Deputy President, I am not at all satisfied with any part of the Secretary's reply, and this is affirmative. In part (b) of the question in particular, I ask about the issue of Miss Christina CHAN, the master degree student of the University of Hong Kong, being squared accounts with after the incident. He said that evidence had to be collected and that is all right. However, the police have harassed her family members. When, she was on a programme of the Radio Television Hong Kong (RTHK) later on, the police arrested her at the entrance of the RTHK. That is not her place of*

work, as she was only participating in a programme. That means the police has received some information telling them that she was there, and they went there to arrest her. It is not necessary for the Secretary to create such a kind of white terror. It is very easy to arrest her, right?

Let me read out a paragraph for him: "Since reunification of Hong Kong, a lady who reported a case to the police was raped by a policeman at the police station, some participants of a sit-in demonstration for preservation purpose were being stripped and humiliated, a lady demonstrator was arrested at the entrance of the RTHK after participating in a forum programme, her trousers were pushed down a little so that the tattoo at her waist could be video-filmed, and peaceful demonstrators were unjustifiably prosecuted for assaulting the police. We thus see that the customs handed down from the Royal Hong Kong Police Force together with the property of Hong Kong have almost been completely ruined and wasted in the hands of Donald TSANG." This is from a very famous

DEPUTY PRESIDENT (in Cantonese): Mr WONG Yuk-man, please raise your supplementary directly.

MR WONG YUK-MAN (in Cantonese): commentator, CHIN Wan. *This is one of the paragraphs in his article titled "How to ruin a police force". It means that the reputation of the police is not built up easily and its image is not established easily, right? In this connection, I am not going to talk about the suppression of those peaceful demonstrators by the police, they arrest a*

DEPUTY PRESIDENT (in Cantonese): Mr WONG Yuk-man, please put your supplementary.

MR WONG YUK-MAN (in Cantonese): participant of a peaceful demonstration.

DEPUTY PRESIDENT (in Cantonese): Mr WONG Yuk-man, please raise your supplementary directly.

MR WONG YUK-MAN (in Cantonese): *Secretary, will you find that the adoption of this method has really put us in a very difficult situation, and has tarnished the image of the Hong Kong Police Force?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, concerning the article of that commentator, it is not convenient for me to comment on it here. Since the case is still under investigation, I will not comment on it as well.

DR PHILIP WONG (in Cantonese): *Deputy President, in several recent demonstrations, the police have been very tolerant and this is worth commendation. However, those demonstrators took increasingly intense actions, for example, they stormed police cordons, threw objects and even pushed and shoved the barricades. May I ask the Secretary if the authorities have any strategy to deal with such increasingly intense protesting actions?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, as I also mentioned in the main reply, Hong Kong is a place that upholds human rights protection. The actions taken by the police always facilitate demonstrations exercising their rights to expression their views. Nevertheless, in exercising their rights to express their views, I think it is also mentioned in the Basic Law that members of the public should observe the law of Hong Kong. Therefore, in this connection, the police will communicate with the organizers of demonstrations, processions and assemblies and see how they can ensure and facilitate the expression of views by them. But, at the same time, we also require the organizers of demonstrations to co-operate with the police so that the assemblies or processions can take place in an orderly and law-abiding manner.

Dr Philip WONG also said earlier that, recently, some demonstrators — I am not saying that all of them — had taken some more intense actions or had not observed the routes, time of assembly or the behaviours as agreed between us and the organizers of processions and assemblies. As Dr WONG just said, for many times, they stormed the police cordons and even took some violent actions. We condemn the behaviour of a handful of demonstrators. Of course, I think that all Hong Kong people hope that the police will act in accordance with the law. If anyone has violated the law of Hong Kong by unlawful means, the police will

deal with such cases in accordance with the law. I do not agree with the other Mr WONG who just said that this was squaring the accounts afterwards. It is because if anyone has breached the law of Hong Kong, Hong Kong people would expect law enforcers to enforce the law.

DR MARGARET NG (in Cantonese): *Deputy President, I would like to follow up the article just read out by Mr WONG Yuk-man. That article was written by the commentator CHIN Wan who is highly respected in Hong Kong. The comments of CHIN Wan have not only touched upon individual cases, they have even referred to the overall trend, that is, the demonstrators were humiliated by the police after they had been arrested. Mr WONG asked whether this will affect the reputation of the police force. May I ask the Secretary why he is not responding in the face of such a serious criticism? Can he give a response such a serious comment now?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, as I said earlier, the SAR Government has long respected the rights of the public to peaceful assemblies and processions, and to express their views. However, we should also maintain law and order. When public safety and order is under threat, or when there are violent incidents, the police will take actions to suppress them in order to maintain law and order.

As I also said earlier, we will not comment on any individual case as the authorities are conducting investigations. Besides, these articles by commentators are published in newspapers everyday. Some of them pointed out that the police have abused power while some others pointed out that the police have shown great restraint. Part of that article mentioned that in the 1960s I have read that article and it touched upon some measures. I think that many points in that article have actually been quoted out of context. I can assure Members here, and the Commissioner of Police has also assured me that he attached great importance to the point that, in the course of law enforcement, police officers must handle each and every cases in accordance with the law, and the law should be enforced in a fair, impartial and open manner. In this regard, in the eyes of the public, the credibility and reputation of the police has all along been rather high. I disagree with that article that, at present, especially after

1997, our Police Force have abused power in more serious ways, and the reputation of the police force has been totally tarnished. I absolutely disagree with it.

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

DR MARGARET NG (in Cantonese): *Deputy President, the part that the Secretary has not answered is that, the article mentions that some people who were arrested were humiliated when they were detained. Humiliating these people will give the public a bad impression of the police. As far as humiliation is concerned, the Secretary has been very evasive. Can he reply to this part now?*

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

SECRETARY FOR SECURITY (in Cantonese): Deputy President, this allegation does not tally with the facts.

MR JAMES TO (in Cantonese): *Part (b) of the main question mentions that the police have been criticized for arresting Miss Christina CHAN at the radio station in a high profile manner. However, the reply given by the Secretary is that it is a usual practice for the police to arrest the persons concerned at their homes or work places. Next, the Secretary said that he understood that the police had followed the usual practice in handling the matter. May I ask the Secretary, according to his understanding, does Miss CHAN not go home or attend classes everyday, or is Miss CHAN a disc jockey at the radio station? Why would the Secretary understand that the police have, as he said, followed the usual practice and have not deliberately handled the matter in a high profile manner?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, since this case is still under investigation, I cannot comment too much on it. Nonetheless, the police have indeed looked for the person concerned at her home but they could not find her.

DEPUTY PRESIDENT (in Cantonese): Mr James TO, the Secretary has already given an answer. Which part of your supplementary has not been answered?

MR JAMES TO (in Cantonese): *Deputy President, the part that the Secretary has not answered is: According to his understands, does Miss Christina CHAN not go home or attend classes everyday but only work as a disc jockey at the radio station, thus, the police have followed the usual practice and have not handled the matter in a particularly high profile manner?*

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

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have not mentioned anything like that.

MR JEFFREY LAM (in Cantonese): *Deputy President, the last few demonstrations and processions have turned into conflicts. For instance in the procession on 1 January, and the demonstrations outside the Legislative Council Building on 16 and 17 January, some injuries were caused. With regard to public events and arrangements, have the police communicated and set out some conditions with the organizers, and make some substantial arrangements beforehand? If an organizer does not act in accordance with the law and causes chaos, how will the police handle the processions and assemblies held by the same organizer in the future?*

DEPUTY PRESIDENT (in Cantonese): Mr Jeffrey LAM, your supplementary has deviated from the main question. Let me see if the Secretary for Security can give an answer on the overall situation.

SECRETARY FOR SECURITY (in Cantonese): Generally speaking, according to the Public Order Ordinance, the public assemblies and processions subject to regulation are the public assemblies with more than 50 participants and the public processions with more than 30 participants, and the organizers concerned should apply to the Commissioner of Police seven days prior to the events. The Ordinance has also stipulated that if there are rational grounds, based on considerations of safeguarding public safety or public order, the Commissioner of Police can impose conditions on that event, or oppose the holding of a public assembly or public procession for which the police have already been notified. Of course, we have an appeal mechanism, and the decision of the Commissioner of Police can be challenged. The police will base on their experience in co-organizing large-scale public events and, as I said earlier, closely liaise with the organizer or the pickets arranged by the organizer to ensure that the public assemblies can be conducted under safe and orderly circumstances. Before the processions or assemblies, the police will discuss with the organizers about such arrangements as the routes and time. In the course of the large-scale assemblies or processions, the police will require the organizers to hold the relevant activities according to the agreed arrangements.

I want to emphasize that any unexpected actions in violation of the agreed arrangements or behaviours that affect the effective maintenance of public order by the police is not worth encouraging indeed. The organizers also have the responsibilities to take measures to ensure that the public processions and assemblies can be held in a safe and orderly environment. If the organizers' violation of the agreed arrangements leads to some unexpected actions that disrupt public order or destroy social tranquility, they may have breached the relevant law. Upon receipt of a written notice concerning a public assembly or procession to be held, the police will carefully consider the situation of each case before making a decision. The police can impose conditions on the event concerned or oppose the holding of the event.

However, one of the factors that the police have to take into consideration in the first place is protecting public safety and maintaining public order, as well as to minimize the impact of the event on the public.

MS EMILY LAU (in Cantonese): *Deputy President, part (a) of Mr WONG Yuk-man's main question is about the Liaison Office. Deputy President, you were not there on that day. When we proceeded to the Liaison Office, we were really shocked as there were so many police officers and they were like ants, and there were four, five, six, seven layers of barricades. Deputy President, the reply of the Secretary is rather interesting. He said, "..... have not maintained breakdown figures on police officers on duty at individual locations." Does he mean that the police themselves do not know how many officers have been deployed to the Liaison Office? How could he give such an answer? Has the Administration considered that it is very provocative to send so many police officers to deal with some demonstrators who are peaceful, rational and non-violent (whom I hope have not spoken foul language)? Does this policy need to be reviewed?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, as I said earlier, when the police handle these public events such as processions and assemblies, the first and foremost consideration is public safety and public order. They will also minimize the impact of these events on the public as far as possible. In the course of the events, the police will try their best to prevent any disruption of social order, traffic congestion and road blockage.

In fact, we already discussed the route of the procession with the organizer. The terminal point of the procession on that day was the south gate of the Liaison Office. We all agreed that the procession would come to an end when we reached the gate and the participants in the procession would then disperse peacefully. We also liaised with the related transport operators and as we hoped that some means of transport could be arranged for the departure of demonstrators. However, unfortunately, some demonstrators deviated from the agreement reached between the organizer and the police on that day and they had not departed there. A large group of people even gathered afterwards and blocked the main road and the tram route for almost a few hours. In light of the situation at the time, the police deployed more manpower to maintain order. Of

course, a handful of more radical demonstrators wanted to storm into the Liaison Office then, and the police were obliged to safeguard these private places from being intruded.

I totally disagree with the remarks of Ms Emily LAU that we had deployed too many police officers on that day and were provocative to the demonstrators. The police had actually adopted a defensive strategy on that day.

DEPUTY PRESIDENT (in Cantonese): This Council has already spent more than 22 minutes on this question. Although there are still six colleagues in the queue, they will have to follow up this issue on other occasions. Fifth question.

Protection of Endangered Species

5. **MR FREDERICK FUNG** (in Cantonese): *Deputy President, it has been reported that in order to attract business, a catering group earlier successfully made a bid at high price in Japan for a bluefin tuna, a fish from a species listed as endangered by conservation bodies, which gave rise to strong criticism from members of the public that the group is encouraging consumption of endangered species. Some organizations and members of the public initiated protests at the restaurants of the group, and they also called upon people on the Internet not to patronize such restaurants. In this connection, will the Government inform this Council:*

- (a) *given that at present, only regulated species listed by the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will correspondingly be brought under the regulatory control of the Protection of Endangered Species of Animals and Plants Ordinance (the Ordinance) by the Government, whether the Government has assessed if such an arrangement is too passive;*
- (b) *given that there have been reports that several countries will propose in the CITES Conference of the Parties to be held in March this year to list the aforesaid bluefin tuna as regulated species, and to stop the relevant trading activities, whether the authorities will consider taking a more proactive lead to bring this endangered*

species under the regulatory control of the legislation in Hong Kong; if they will not, of the reasons for that; and

- (c) *of the details of the Government's work on publicizing to the catering trades and educating them on protection of endangered species; how the authorities, under the situation of business interests being first, advocate to the corporations that they have important environmental protection and conservation responsibility?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, I thank Mr Frederick FUNG for his question.

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

- (a) and (b)

The Government is committed to the protection of endangered species and implementation of the CITES through legislation, law enforcement and public education. The CITES aims to protect endangered species from over-exploitation or imminent extinction by regulating their international trade. China is a Party to the CITES, and Hong Kong takes part in the work of CITES through our national government.

To enforce the provisions of the CITES, the Government strictly regulates the trade of the endangered species listed in the Appendices of the CITES through the Ordinance. Appendix I includes species which are threatened with extinction and their import and export are prohibited except for certain special purposes such as scientific study or display in museum. Appendix II lists under regulation species which may become extinct unless their trade is under control; and species in Appendix III are those identified by any Party to the CITES as requiring international trade regulation, so as to protect them from over-exploitation. Licences are required for the import and export of controlled species as mentioned above.

The Parties to CITES hold regular Conferences of the Parties to discuss and review in detail the species controlled under CITES.

Our established practice is to strictly follow the CITES regulations, and include all the species regulated under CITES into the regulatory control of the Ordinance. We are aware that the next CITES Conference of the Parties meeting will be held in Qatar in March this year, and discussion will be held on whether to list Atlantic bluefin tuna as a CITES Appendix I species. In considering the proposal, I believe the Parties will conduct detailed examination on a number of factors, including the population size of the fish, fisheries management and its conservation status. Once the proposal is adopted in the Conference, all Parties will have to follow. Hong Kong will also follow the decision of the Conference of the Parties, and amend the Ordinance accordingly to bring these species under its scope of control.

- (c) We believe that publicity and educational programmes can raise the awareness of the public and the food trade on endangered species. In view of this, the Agriculture, Fisheries and Conservation Department (AFCD) organizes a series of educational and publicity activities each year, which include publicity through the media and internet, distribution of leaflets, booklets and posters, organization of exhibitions and seminars, as well as arranging visits to the Endangered Species Resource Centre, to enhance public awareness on the protection of endangered species and the relevant legislation. In 2009, that is in the past year, AFCD organized 36 such exhibitions, 46 seminars and received 6 200 visitors to the Resource Centre.

Apart from the extensive publicity and educational activities for the public, AFCD's promotional efforts have also been targeted at endangered species traders. Through various activities such as consultation meetings and trade seminars, information related to endangered species is disseminated. In November last year, AFCD informed relevant traders and restaurant operators of and consulted them on the proposal just mentioned of possibly including bluefin tuna under CITES control. The parties concerned were also informed that the CITES Conference of the Parties will be held in March this year to discuss the matter and that the international community has expressed concern over the conservation of these kinds of fish.

MR FREDERICK FUNG (in Cantonese): *Deputy President, from the last paragraph of the Secretary's main reply, I am grateful to learn that the Government showed its concern about this matter and organized publicity activities targeted at the relevant restaurants. I believe the Government would also know that since the 1970s, the numbers of northern bluefin tuna and southern bluefin tuna have declined by 85% and 90% respectively, with only a small number left. I also know that the CITES will hold a conference in Doha on 24 March. While China is a Party to the CITES, Hong Kong is not. I wish to take this opportunity to inform the Government that, 31 Legislative Council Members have signed the pledge of the WWF and promised not to eat bluefin tuna. We will also call upon restaurants not to sell this kind of fish and we are ready to disseminate this message on behalf of the WWF. The Secretary can see that, apart from the Government, the majority of Members in this Council have adopted this attitude. I would like to ask the Secretary, in view of the meeting to be held in Doha on 24 March, will he find out more or persuade the Chinese Government to support the listing of bluefin tuna as a CITES Appendix I species, prohibiting the trading of this species? If he will, what will be the reaction of the Central Government? If he will not, why has he not persuaded the Chinese Government to do so?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank Mr Frederick FUNG for his views. First of all, China is only one of the Parties in the CITES Conferences, and Hong Kong is not an independent Party. However, in line with our usual practice, we will send a delegation to attend the conference as we are one of the representatives of our country. I know that we must follow certain procedures in discussing this topic. For instance, in considering the proposal of listing Atlantic bluefin tuna as a CITES species, some data must be presented, for example, the exploitation of the species or the reduction of the species as reflected in a baseline environmental survey, as well as other views of the trade. In this connection, the Conference would consider in the first place the data and other proposals. In addition, other factors would also be taken into consideration, in particular those related to conservation. As such, we would examine the situation in collaboration with the representatives of our country before putting forward our views.

All along, after new species have been listed in the CITES, Hong Kong strictly complied with the relevant provisions. Besides, as a region engaging in import and export trade, we will not only allow local use of the species — for fish, people can eat them — but we will also allow re-export trade, and we would

exercise stringent control. Thus, in this regard, as a member of one of the Party to the CITES and a regulator, Hong Kong would exert every efforts to do the job well.

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

MR FREDERICK FUNG (in Cantonese): *My supplementary question is: has the SAR Government found out more or persuaded the Central Government to support including bluefin tuna in the Appendix of CITES, as there are a lot of relevant data in various parts of the world*

DEPUTY PRESIDENT (in Cantonese): You only need to raise the part of your question that the Secretary has not answered.

MR FREDERICK FUNG (in Cantonese): *He has not answered whether he has persuaded the Central Government. If he has, what is the outcome? If he has not, why has he not done so?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): We will certainly follow Mr Frederick FUNG's advice just now when we attend the Conference, but there are other factors to be considered, for example, the control arrangements and the examination of data would also be taken into consideration.

MR LAU WONG-FAT (in Cantonese): *Deputy President, I would like to ask if the relevant government departments have plans to step up inspection of high-grade restaurants of their own accord, so as to prevent such restaurants from secretly importing endangered species for the consumption of frequent customers?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank Mr LAU Wong-fat for his supplementary question. If the species mentioned in Mr LAU's

supplementary question is Atlantic Bluefin Tuna as mentioned by Mr Frederick FUNG, as this kind of fish has not yet been included in the scope of control for the time being, it can be traded throughout the world. However, if Mr LAU Wong-fat is referring to the controlled species under the CITES, be they listed in Appendix I, Appendix II or Appendix III, the AFCD has been conducting inspections in this regard. Apart from import and export control at the border, we also carry out inspections at warehouses and even retail outlets. My colleagues have told me that they would carry out police undercover operations some times. Furthermore, we would monitor on the Internet if such species are sold. As such, in regard of work in this area, as I said when I replied to Mr Frederick FUNG's question just now, we would strictly comply with the provisions.

MR WONG YUNG-KAN (in Cantonese): *I would like to ask the Secretary, the upcoming conference will be held in March and in regard to all endangered species, apart from prohibiting catching, such issues as culture, breeding and conservation should also be considered. The sturgeons, for example, as they are protected species, it was suggested earlier that consumption should be prohibited. However, they are now bred and sold everywhere. I would like to ask the Government if it has considered suggesting China to strongly develop the breeding of such species after prohibiting catching.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank Mr WONG Yung-kan for his supplementary question. The CITES mainly regulate the international trade, that is, import and export, and sale of these endangered animal and plant species. Therefore, in this regard, the purpose of the CITES is to prohibiting trading.

As for some species, their population size is usually increased by breeding, as a way to reduce catching by human beings in the natural environment. As I am aware, the CITES has some provisions in this connection. For example, for species originally listed in Appendix I, if it is confirmed that they were the relevant domestic species, they may be listed in another appendix. As such, in the long run, this may be a factor to be taken into consideration. However, in this regard, Hong Kong mainly focuses on the work of the CITES in respect of trade regulation, this issue may not be within the scope of the CITES.

DEPUTY PRESIDENT (in Cantonese): Mr WONG Yung-kan, which part of your supplementary question has not been answered?

MR WONG YUNG-KAN (in Cantonese): *I asked him if he would suggest China as we are a Special Administrative Region of a Party to the CITES, will the Government suggest that our country should also consider breeding or studying the relevant species?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, all places (including Hong Kong and the Mainland) deal with the breeding and management of general agricultural and fishery products, and the relevant work may not be within the scope of the CITES, however, we will do whatever we can in other areas.

MR TOMMY CHEUNG (in Cantonese): *Deputy President, I am glad to be told by the Secretary just now that the bluefin tuna had yet to be confirmed among countries as an endangered species. The humphead wrasse, for example, was confirmed as an endangered species in the past, therefore, the sale of humphead wrasse has been prohibited in many places. However, there are still a lot of humphead wrasses in other places, and they can also be sold in Hong Kong as long as export licences can be produced. Under this circumstance, I would like to ask the Secretary a question. I found the Secretary's reply just now a bit strange. In the written reply he provided, the term "Atlantic" was not found, but, he read out the word "Atlantic" in his reply. This is precisely what I would like to ask a question about. As a matter of fact, can bluefin tuna be found both in the Atlantic Ocean and the Pacific Ocean? Although Atlantic bluefin tuna is an endangered species, it can still be caught in the Pacific Ocean. If a bluefin tuna is caught in the Pacific Ocean, the relevant restaurant would have an undeserved ill turn. It would be criticized harshly for selling bluefin tuna caught in the Pacific Ocean, or even be blamed for making profits from endangered species. Will the Secretary do so more voluntarily in the future? He gave an explanation today, however, when similar incidents take place in the future, it would be very unfair to the restaurants. Can he step forward and explain that the bluefin tuna*

sold in the restaurants are from the Pacific Ocean and they are not Atlantic bluefin tuna? Furthermore, the species has yet to be included in the CITES at present. He can at least, explain this point, so that the restaurants will not suffer too much or lose business.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I thank Mr Tommy CHEUNG for his comments. In the main reply just now, I have particularly used a stricter term in place of the one used in Mr Frederick FUNG's question. It is exactly because in the upcoming Conference to be held in Qatar, one of the Parties to the CITES will propose listing Atlantic bluefin tuna as a regulated species, commonly referred to as bluefin tuna as mentioned by Mr Frederick FUNG.

Mr Tommy CHEUNG was right in saying that some kinds of species are regulated according to their places of origin. Therefore, in regard to control, what Mr CHEUNG said was very correct. If we just consider the species, especially when the fish is served as sashimi on a plate, it would indeed be difficult to say where it came from. For this reason, instead of regulating the restaurants, the import and export should be regulated. For all species regulated under CITES, their import and export would be controlled. In other words, for controlled species from certain places, certificates of origin must be produced, and import is only allowed when licences have been issued. It is an effective measure at present. I believe that if this species comes under control in the future, we may adopt the same approach.

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

MR TOMMY CHEUNG (in Cantonese): *Deputy President, the Secretary has not answered the part about, if similar incidents take place in the future, will he take the initiative to explain to the public that this is not an endangered species?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, whether or not a particular species is a controlled species will be stipulated in an

ordinance. If a new species is to be included, we will certainly make the information public. Perhaps I should make an appeal here, apart from the international requirement, there are actually some voices in our community. As consumers today, we actually have lots of choices and it may not be necessary for a lot of restaurants to solicit customers using endangered species. I believe that apart from legislating in this connection, consumers can reflect seriously on the matter.

MR KAM NAI-WAI (in Cantonese): *Deputy President, the Secretary just mentioned consumers, and I also know that tuna fish sandwiches are served at the Ante-Chamber. As Mr Tommy CHEUNG just said, tuna fish can be found in both the Atlantic Ocean and the Pacific Ocean, and we may not be able to tell the difference. From the main reply, I can see that, in November last year, restaurant operators have been informed of the proposal of including bluefin tuna under CITES control. Notwithstanding this, a restaurant, in collaboration with a television station, has extensively publicized how delicious bluefin tuna is in a high profile manner. This would confuse the public or consumers. What can the Government do or what has it done to contend with that? Of course, according to the Secretary, these restaurants are not deemed as having violated the law as the species has yet to be included under the CITES, however, would it be regarded as a false start? Will the Government point out that it is immoral for the restaurants to sell bluefin tuna this way? What measures will the Government take or how will it handle the matter?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, as I stated clearly in my main reply and supplementary reply just now, the species referred to by Mr Frederick FUNG is not currently controlled. At the upcoming Conference to be held in Qatar in March, one of the Parties to the CITES will propose to control the relevant species. Yet, we are not sure if it will be listed as a number of factors have to be taken into consideration. Thus, the sale of the species in Hong Kong is not against the law at present. Nevertheless, if the species is listed in Appendix I or Appendix II of the CITES, we will legislate correspondingly to control its import and export, and we will inform the public very clearly. In our day-to-day communication, we may not be aware if certain species consumed are subject to regulation, so, we must maintain communication with the trade.

As I just pointed out in part (c) of the main reply, through our constant communications, when we know that there are similar proposals on these species in the international arena, we are duty-bound to transmit the messages to the trade. As to how the trade will handle the matters, if it is not against the law under the existing ordinances, we cannot handle these matters through regulation. Therefore, I have raised the point that the trade and consumers should consider seriously whether the species should be used to solicit customers in the course of mutual communications.

MR CHEUNG KWOK-CHE (in Cantonese): *According to the Government's main reply, the AFCD organized a series of publicity activities on endangered species each year, yet, only 6 200 visitors were received. That is a very small number, which is apparently inadequate. In the future, the Government must step up publicity and education. Does the Government has any plans to co-operate with non-governmental organizations or to allocate funding to these organizations for launching publicity and educational activities on endangered species?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, I thank Mr CHEUNG for his supplementary question. At present, these publicity and educational activities are not only organized by the AFCD, the participation of voluntary organizations is also welcome. In the past, some activities were very often organized by schools, and the school curricula have put much more emphasis on this aspect. We have the Environment and Conservation Fund, and all non-governmental organizations are welcome to file applications for conservation purposes. If members of the public are concerned about this issue, I think that similar discussions or education and publicity would be helpful.

MRS REGINA IP (in Cantonese): *I am sorry, Deputy President, I pressed the wrong button.*

DEPUTY PRESIDENT (in Cantonese): Last oral question.

Problem of Bullying in Schools

6. **MR LAU WONG-FAT** (in Cantonese): *Deputy President, it has been learnt that incidents of bullying in schools have occurred from time to time in recent years. There were incidents which involved students using violence to harm others in schools, and some students even gathered outside their schools to assault and bully fellow students. Recently, the parents of a secondary school student have relayed to me that they are deeply upset because their son has been persistently bullied by fellow students at school, yet the school has failed to tackle the problem effectively. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the guidelines set out in the resource package "Co-creating a Harmonious School" developed by the Education Bureau have been followed at present by Direct Subsidy Scheme, government, subsidized and private primary and secondary schools in handling incidents of bullying in schools; if the guidelines have not been followed, whether individual schools have dealt with the problem according to their own rationales and ways; and*
- (b) *of the government departments from which the parents concerned can seek assistance when individual schools and their stationing school social workers fail to tackle the problem of bullying occurring in schools, and whether the authorities will render new support for such parents; if so, of the details?*

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, the Education Bureau has a very clear policy whereby we will not tolerate any act of bullying in schools. We have issued circulars and required all schools to take the matter seriously and implement proactive measures to ensure the safety of students at school and to create a harmonious school environment. All schools must follow these important principles.

(THE PRESIDENT resumed the Chair)

As regards the resource package that part (a) of the question has made reference to, it aims to provide guidelines and advice for schools to enhance

teachers' awareness of school bullying and help schools formulate school-based strategies to handle, follow up and prevent such incidents.

The Education Bureau also regularly issues circulars and organizes talks and workshops for schools to remind them to handle school bullying incidents according to the relevant guidelines, and urge schools to adopt a whole-school approach in formulating and implementing anti-bullying strategies based on their individual circumstances with reference to the relevant resource packages developed by the Education Bureau. If there are unfortunately bullying incidents, schools should intervene and take follow-up action in accordance with the "Flowchart in Handling Bullying Incidents" provided in the Education Bureau's guidelines as soon as possible, taking education, guidance and protection of their students as their prime concern. They should help the bullying students rectify their behavioral problems, protect the students being bullied and restore a harmonious school environment. As far as we know, schools generally follow the principles set out in the guidelines of the Education Bureau in implementing the anti-bullying policy.

As regards part (b), home-school co-operation is pivotal in tackling school bullying. We encourage schools and parents to work closely together. Parents may contact schools directly to express their opinions. Moreover, the Education Bureau has put in place a mechanism to deal with or intervene in special cases. If parents consider that the problem of bullying has not been fully resolved even after the collaborative efforts of the school management, guidance and discipline personnel and the school social worker, they may approach the Regional Education Office of the Education Bureau for assistance. The School Development Officer concerned will look into the case and, if necessary, provide consultation, training and counselling services for the school personnel and students concerned jointly with the Educational Psychologists and School Development Officers of the Guidance and Discipline Section. If the cases are serious, or involve suspected abuse or criminal elements, we will liaise with the Social Welfare Department (SWD) and the Hong Kong Police Force for appropriate handling measures. If suspected abuse is involved, the parents may consult the Family and Child Protective Services Unit of the SWD in the respective district so that case consultation, referral, counseling and group work services, and so on, would be provided. If the school or parents consider that the incident is serious or involves criminal offence, they could report the case to the police or seek support from the School Liaison Officers of the police, so that the police may take follow-up actions.

MR LAU WONG-FAT (in Cantonese): *President, the Education Bureau has recently launched the "Stop Bullying" resource package to supplement the "Co-creating a Harmonious School" resource package launched in 2004, in the hope of deepening the anti-bullying efforts by schools. My supplementary is: what measures does the Education Bureau have for assessing or ensuring that schools really attach importance to and follow the guidelines in these two resource packages so as to comply with the policy of the Bureau requiring schools to adopt a "zero tolerance" attitude towards bullying in schools?*

SECRETARY FOR EDUCATION (in Cantonese): *President, we in fact are aware that this is mainly a preventive policy, that is, we hope that schools would know beforehand how to tackle the situation once it occurs, and to provide in advance the appropriate training to those concerned at schools, so that they will know how they should handle the situation when it occurs. Therefore, the main purpose of the resource package is prevention.*

Fortunately, the majority of schools have not noticed such situations, therefore, we have not taken special measures to assess whether schools have attached importance to or followed these guidelines. I mentioned earlier in my main reply that we will of course send officers to schools to hold workshops and meetings with them from time to time, in order to enhance their awareness in this regard. Judging from the present situation, most of those concerned at schools have undergone training, and they have followed school instructions in taking preventive measures. Of course, if similar situations unfortunately occur, we will have to see how that particular school reacts before it can truly reflect whether it has followed our suggestions.

MR LAU KONG-WAH (in Cantonese): *President, the main question mentioned that incidents of bullying have occurred from time to time in recent years, does the Secretary have some pertinent figures to support this observation, and are there any signs indicating that such bullying incidents may be related to triad activities?*

SECRETARY FOR EDUCATION (in Cantonese): *President, actually, we conduct questionnaire surveys on this issue annually in secondary and primary schools. We wish to understand the seriousness of the situation through the*

questionnaire surveys so as to make targeted planning and improve our support services. Regarding information on schools in which we have conducted questionnaire surveys, I have in hand the figures for the 2008-2009 academic year. The figures from these questionnaire surveys indicate that, in this academic year, among over 800 000 primary and secondary students throughout the territory, around 300 were involved in school bullying cases. We can definitely not say that this is a small number, but, in relation to 800 000 students, this percentage is still low. Nonetheless, having learnt of this figure, we still hope to make the number smaller as far as possible. We have to understand that this is a behaviour among students, and through "healthy campus" and school education on moral education, we hope to help them realize the standards that their behaviours should reach so that they will have fewer misbehaviours, thus reducing the number of school bullying cases.

As regards whether triad activities have infiltrated into schools as asked by the Member earlier, since this was not the focus of our survey, we had not asked whether such bullying incidents were related to triad activities. However, judging from the small number of cases, I think we can reasonably infer that there appears to be not much relation between the two. Anyway, I dare not come to a hasty conclusion; if there are such circumstances, we may have to refer to the figures collected by the police related to whether there is a connection between juvenile delinquents and triad societies to see if the relevant information can be sorted out. I do not have those information in hand. I may ask Bureau colleagues for the information and I can submit it to Mr LAU if available. (Appendix I)

MRS REGINA IP (in Cantonese): *President, in his earlier reply, the Secretary said that in some particularly serious cases, the schools or parents can make direct reports to the police or seek assistance from the School Liaison Officers of the Police. I know the Government has the "one school social worker per school" policy and, as I recall, the Government has also considered or even implemented the "one Station Sergeant per school" policy. I would like to ask the Secretary if the policy of "one Station Sergeant per school" is still adopted? If not, will this service be enhanced as a part of the anti-bullying policy?*

SECRETARY FOR EDUCATION (in Cantonese): President, the police has liaison officers stationed within schools. However, I am not sure if there is one such officer in each school now. Even if such an officer is not stationed in each

school, there will still be one Station Sergeant taking care of several schools. If such incidents occur, the police will provide appropriate assistance. Let me look up the information and furnish a written reply after I have examined the concrete conditions. (Appendix II)

MRS SOPHIE LEUNG (in Cantonese): *President, the main question is about students being bullied at schools. When some students chatted with me, they told me that they had the impression that their schools are "No Man's Land", and unless some bullying acts have gone too far that social workers or the police have to handle the cases, those who bullied could go "unchecked". Students thought that attending schools was just like going to "No Man's Land". That being the case, how can schools, teachers in particular, really protect students in the spirit of "expending the love of the young ones in one's family to those in other families", or how can a governance culture be practised so that students will not consider schools as "No Man's Land"?*

SECRETARY FOR EDUCATION (in Cantonese): President, I mentioned earlier in my main reply that we have a resource package to explain the situation to schools. In addition, we also proactively organize training classes at schools for those concerned to help teachers understand and identify what leads to bullying incidents. We will let them know that children are sometimes energetic, for example, brothers may fight each other, and brothers or friends sometimes will quarrel and have inappropriate behaviours, yet, these may not be bullying incidents. Therefore, we have to be very clear about the circumstances under which cases will be judged as bullying incidents, otherwise, if we include even common quarrels or shovings as bullying incidents, the number will be enormous.

Thus, we will primarily transmit the correct message to teachers at schools. Moreover, I mentioned earlier that we also hope that, through moral education and other measures, children can be taught to attach importance to interpersonal relationship and reduce conflicts, and to have right values.

DR LAM TAI-FAI (in Cantonese): *President, it is infuriating that bullying incidents take place in schools. Schools are places for nurturing talents, and definitely not for nurturing despotic people. However, under the NSS academic*

structure, the workload of teachers will surely see increase substantially, I am worried that, in the future, teachers will not have time to communicate with and care for students.

The emphasis of the NSS academic structure is on liberal studies, with the aim that students will get out of the classrooms and take part in different modes of teaching activities. If the Government can increase the subsidies for each student attending the secondary schools under the Direct Subsidy Scheme (DSS), the DSS secondary schools can recruit more staff and they can effectively organize more activities to tie in with the operation of small-class teaching (SCT). Teachers will also have more time and resources to care for students, educate them to establish the correct outlooks on life, building a caring environment on campus, thereby reducing school bullying incidents. In light of the bullying incidents in schools and in order to tie in with SCT, I would like to ask if the Government will consider increasing the subsidies for each student attending DSS secondary schools to help solve these problems?

SECRETARY FOR EDUCATION (in Cantonese): President, I am a bit confused. Is Dr LAM's supplementary focused on DSS schools or ordinary schools? This is because, for DSS schools, the name speaks for itself, apart from government subsidies, their revenues mainly come from the higher school fees paid by the students. In this respect, the level of school fees is of course reflected by the quality of education they provide and the quality and standards in other aspects. I think that perhaps we should put aside their literal difference first. For ordinary schools, we can certainly not provide diversified services like DSS schools, but we can surely provide basic and average quality of education.

Actually, in the past few years, we have put in substantial resources for raising the quality of education. As we look back, we can see that whenever a new initiative is introduced, we provided schools with additional resources for increasing the number of teachers; even if we have not provided recurrent expenditures, we allocated resources for schools to make appropriate preparations for the new initiatives. Thus, with regard to issues such as the NSS academic structure as understood by Dr LAM, we have in fact ploughed in the appropriate resources in connection with each and every initiative. As such, the duties undertaken by teachers in this regard are eased with the appropriate resources. We have measures in place to enable them to accomplish the tasks that we have asked them to perform.

DR PAN PEY-CHYOU (in Cantonese): *President, I disapprove of this rather passive attitude of the Secretary. In fact, there has been quite a lot of psychological and psychiatric researches on the phenomenon of bullying in schools, and there are some colleagues in the department I belonged conducting researches on this issue. Actually, the body and mind of those who bullied and the bullied will be traumatized to a certain extent, and the psychological problems of those who bullied are very often more serious. I would like to ask if the Government will adopt a more proactive approach to step up researches on this phenomenon and consider more appropriate ways to tackle the problem, rather than relying on the existing mechanism such as counselling to solve the problem?*

SECRETARY FOR EDUCATION (in Cantonese): *President, of course, schools are faced with some problems requiring immediate solutions, therefore, what I mentioned earlier is actually not for passive. We have educated and counselled students, and trained teachers in advance so that they know how to solve these problems. As for whether the problem will surface, just as Dr PAN has said, perhaps we may need other counselling facilities and we should come up with research findings about the reasons why some people have stronger emotional fluctuations, causing them to commit some irrational acts. In this regard, we welcome it if some suitable persons would conduct suitable researches.*

MS AUDREY EU (in Cantonese): *President, I would like to ask the Secretary if he has tried to find out from the students who have been bullied whether their family backgrounds have a bearing on their being bullied, for instance, do they come from particularly poor families, new arrival families or which types of families? Or is it because their parents are too busy at work to take care of them? Has the Government carried out research in this connection, and can it think of any solutions to help those students who are often bullied?*

SECRETARY FOR EDUCATION (in Cantonese): *President, the questionnaire surveys I just mentioned have not touched on these minor details. We have mainly asked about the number of bullying incidents. As I just said, among the 800 000-plus students, we only found some 300 cases in which students had been bullied. Responding to Ms EU's question, of these 300-odd cases, we are sorry to say that we had not asked any questions about the family backgrounds of the students concerned. Maybe when we come across these*

cases again, we can follow up on the background of those affected by these bullying incidents. We may need to work more carefully on this aspect next time.

PRESIDENT (in Cantonese): Oral questions time ends here.

WRITTEN ANSWERS TO QUESTIONS

Shopping Arcades Under The Link Management Limited

7. **MR WONG KWOK-KIN** (in Chinese): *President, some residents of public rental housing (PRH) have relayed to me that The Link Management Limited (The Link) has let out some of the commercial premises in the shopping arcades in PRH estates under its management to private residential care homes for the elderly (RCHEs), disregarding opposition from PRH residents and owners' corporations. Those residents have pointed out that the arrangement not only added to the burden on the public facilities of the estates, but also deprived the residents of their right in choosing retail and catering services in such shopping arcades. In this connection, will the Government inform this Council:*

- (a) *among the RCHEs involved in the applications for RCHE licences which have been approved and are being vetted by the Social Welfare Department (SWD) at present, of the number of those located in the shopping arcades of PRH estates under the management of The Link; in vetting such applications, whether SWD has taken into consideration the functions, facilities and environment of the shopping arcades in PRH estates in determining if the commercial premises in the shopping arcades are suitable for letting out for the purpose of operating RCHEs, and whether it has listened to the views of the residents in the vicinity; if it has, of the details and the mechanism for consideration; if not, the reasons for that;*
- (b) *whether the authorities have assessed the pressure imposed and impact on the recreational, medical, rehabilitative and other community facilities in the PRH estates brought by such RCHEs after they have learnt that The Link has let out the commercial premises in the shopping arcades under its management for*

operating RCHEs; if they have, of the assessment results, and whether they will provide additional community facilities in response to the establishment of such RCHEs; if they will not, of the reasons for that; and

- (c) *of the existing monitoring mechanism the Hong Kong Housing Authority (HA) has put in place to monitor The Link REIT in securing the provision of amenities ancillary as HA thinks "fit" for PRH residents, so that section 4(1) of the Housing Ordinance (Cap. 283) will not be contravened; given that some PRH residents have pointed out that The Link REIT has altered the original letting purposes of some of the retail facilities in PRH estates, resulting in the failure of the services to meet the needs of the residents, whether HA will assist the PRH residents in and discuss with The Link REIT resuming the original letting purposes of such commercial premises in the shopping arcades in PRH estates?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in divesting its facilities to The Link Real Estate Investment Trust (The Link REIT), the HA has, through stipulations in land leases, deeds of mutual covenant and other covenants, ensured that the divested facilities will continue to be used for commercial and car parking purposes, and change of use cannot be made without authorization. The Link REIT, like any private entity, may determine the trades for its shopping centres and commercial premises as well as revise the trade mix and facility layout according to circumstances. The Government and the HA cannot and will not intervene in The Link REIT's business strategies, mode of operation and trade mix.

Having incorporated the input of the Labour and Welfare Bureau, my reply to the three part question is as follows:

- (a) Among the applications for RCHEs licences approved or being vetted by the SWD, a total of 27 are located in facilities under the management of The Link REIT. To ensure that the premises are suitable for use as RCHEs, the SWD's Licensing Office of the Residential Care Homes for the Elderly will assess the location, means of ingress and egress, design, structure, type of building, fire services equipment, and sanitary condition, and so on, of the premises in accordance with the requirements set out in the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), its

subsidiary legislation and the Code of Practice for Residential Care Homes (Elderly Persons). Applications will not be approved if they fail to meet the abovementioned requirements.

- (b) RCHEs and retail shops are commercial facilities belonging to different trades which meet the commercial use requirements as stipulated in the land lease. In addition, the shopping centres and car parking facilities divested to The Link REIT by the HA are regulated by the Buildings Ordinance (Cap. 123). For any building project involving building structure or material change of use (including change of use to RCHE purpose), approval has to be obtained from the Housing Department's Independent Checking Unit (ICU) before the project can be carried out. The ICU adopts the same enforcement arrangements as the Buildings Department. It will consult the Fire Services Department, Lands Department and Planning Department when processing an application. These departments will make an assessment on the areas under their purview to ensure that the fire services equipment is up to standard, and the land lease conditions and statutory planning requirements are complied with.
- (c) In its judgment made in July 2005, the Court of Final Appeal (CFA) has stated clearly that to secure the provision of retail and car parking facilities under the Housing Ordinance (Cap. 283) does not mean that the HA needs itself to be the direct provider. The HA secures the provision of the facilities so long as the facilities are available, although they are provided not by the HA but by The Link REIT, a third party over whom the HA has no control. In reaching its conclusions, the CFA has also noted that The Link REIT may make changes to the mode of operation of its facilities, including the trade mix of the tenants.

As an organization operating on commercial principles, The Link REIT, just like any private entity, would take suitable action to respond to the economic and market conditions in order to maintain its viability in the market. Given the fact that The Link REIT's shopping centres are located in public housing estates and its clientele are mainly public housing tenants, facilities under the management of The Link REIT must cater for the tenants' needs and affordability, which in turn provide them with the services they need.

Privacy Issues of Cross-boundary Use of Electronic Money

8. **MS CYD HO** (in Chinese): *President, the authorities are negotiating with the Municipal Government of Shenzhen over mutual use of the electronic money of Hong Kong and Shenzhen, and have claimed that both sides are conducting in-depth study and holding detailed discussions concerning the technical, business and operational aspects of the issue. In this connection, will the Government inform this Council:*

- (a) *whether the aforesaid technical issues include measures to protect the privacy of members of the public; what personal information is involved in the use of electronic money for transactions at present; whether the Governments of both sides will standardize the information security measures concerning electronic money of both places so as to prevent any leakage and improper use of the relevant information through cross-boundary card readers;*
- (b) *whether the authorities have sought advice from the Secretary for Justice and the Privacy Commissioner for Personal Data on mutual use of the electronic money of Hong Kong and Shenzhen; if so, when the advice was sought and what their advice was; and*
- (c) *regarding the need of the law enforcement agencies to trace cross-boundary use of electronic money for transactions by the implicated parties for investigation of cases, of the details of the co-operation and co-ordination between the authorities concerned, the public security departments and private enterprises of both sides; what agreements have been made and principles of conduct have been adopted by both sides regarding the protection of the privacy of members of the public, as well as the details of such agreements and principles?*

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

- (a) Regardless of the type of Octopus card (personalized or standard) used in a payment transaction, the card readers only capture transaction related information, including the date and time of the

transaction, the identity of the relevant service provider, the transaction value, the remaining balance on the card and the card number. No personal data of the cardholder is involved in the process. As a result, the personal data (privacy) will not be leaked through cross-boundary card readers.

- (b) At present, the proposals under consideration for the mutual use of electronic money issued in Hong Kong and Shenzhen are based on the existing operational models of the Octopus Cards Ltd. and the Shen Zhen Shenzhentong Co. Ltd. Thus, as long as the ultimate proposal adopted complies with the relevant laws and regulations of both cities, it can start operation. It is not necessary to consult the Department of Justice and the Privacy Commissioner for Personal Data.
- (c) If assistance from relevant law enforcement agencies of the Mainland is needed for the investigation of cases which involve cross-boundary criminal activities, the law enforcement agencies will liaise with their counterparts of the Mainland through existing channels, and ensure that the cases are processed in accordance with the relevant statutory requirements, including that on the protection of personal data privacy. The law enforcement agencies will seek advice from the Department of Justice if needed during the process.

Medical Assistance for Patients with Cataract

9. **MS AUDREY EU** (in Chinese): *President, in recent years, the number of patients waiting to receive cataract surgery at public hospitals has persistently increased and the waiting time has also continued to increase. In this connection, will the Government inform this Council:*

- (a) *whether it knows the amount of resources allocated by the Hospital Authority (HA) to cope with the medical needs of patients with cataract in the last financial year;*
- (b) *of the average waiting time for cataract surgery in public hospitals at present;*

- (c) *of the current number of patients of public hospitals with cataract, broken down by age groups (below 50 years old, followed by groups covering 10 years each and up to 80 years old or above); and*
- (d) *whether the Government has any plan to provide more medical allowances (such as in the form of health care vouchers) for elderly patients waiting to receive cataract surgery, so as to facilitate their use of private medical services?*

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

- (a) HA's expenditure on the provision of in-patient service for cataract patients amounts to about \$245 million in 2008-2009. This includes subsidies for 2 937 patients who have enrolled for the Cataract Surgeries Programme but excludes expenditure on the provision of out-patient service for cataract patients.
- (b) The average waiting time for cataract surgeries in HA's hospitals as at December 2009 is estimated to be 36 months. HA will review the cases on the waiting list in the coming year, and arrange priority surgeries within two months for patients with both eyes suffering from cataract and with dense whitish and brownish cataract.
- (c) The numbers of patients waiting for cataract surgeries in HA's hospitals (by different age groups) as at December 2009 are set out below:

<i>Age group</i>	<i>Number of patients on the waiting list</i>
50 or below	809
51 - 60	2 720
61 - 70	8 213
71 - 80	25 063
80 or above	17 348

- (d) In February 2008, with the support of Government funding, HA launched the Cataract Surgeries Programme which allows eligible patients to choose to receive surgeries either in the private sector or in public hospitals through public-private partnership. Under this programme, HA will provide a fixed amount of subsidy to patients

who choose to receive surgeries in the private sector and at the same time increase the number of surgeries conducted in public hospitals, so as to reduce the waiting time for cataract surgeries. So far, nearly 7 000 patients have successfully received surgeries and restored their eyesight. Feedbacks from the participating patients are generally positive. HA is considering extending the programme for the benefit of patients.

Provision of Floor Area for Social Welfare Services Facilities

10. **MR JAMES TO** (in Chinese): *President, some social welfare organizations (SWOs) have relayed to me that they are unable to provide better services for the public because the floor areas of their facilities are insufficient. In this connection, will the executive authorities inform this Council:*

- (a) *of the current number of facilities of SWOs under the Social Welfare Department (SWD) for children, youth and the elderly, which fail to comply with the floor area requirements laid down in the Hong Kong Planning Standards and Guidelines (HKPSG) (broken down by the categories mentioned in the Guidelines), as well as the reasons for non-compliance;*
- (b) *of the current number of government properties which are vacant or with a vacancy rate over 80%; among the properties with a vacancy rate over 80%, the number of those which belong to SWD, and whether SWD has applied for converting such properties to other uses; if so, of the details; if not, the reasons for that; and*
- (c) *whether they have assessed if the "big envelop for operating expenditure" arrangement (that is, the arrangement under which government departments have to bear the operating expenditure of their public works) has impeded SWD and other government departments in applying for "government, institution and community facilities" sites and converting vacant government properties to other uses; if the assessment result is in the affirmative, what improvement measures the Government has put in place; if the assessment result is in the negative, of the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the planning and use of Government land/premises straddles a number of policy areas falling under the purview of different Government bureaux and departments. The Administration's co-ordinated reply to the three parts of the question is set out below:

- (a) One of the functions of the HKPSG is to assess the land requirements for community use. With an increasing urban population and the shortage of suitable flat land, residential density in Hong Kong is relatively higher than in other places. Against this background, the Government will correspondingly strengthen the provision of community facilities, such as schools, hospitals and social welfare facilities, and so on, in conducting district planning. In determining the scale of provision of and the standard areas for these community facilities, the Administration will take into account the growth or concentration of population in a given area.

The SWD provides a wide range of facilities for different sectors of the community, including children, youth, the elderly and persons with disability, and so on. Some of these facilities are provided in the welfare blocks of community centres, while others are accommodated in public housing estates, private/joint-user buildings. The Administration plans and determines the floor area requirements for the relevant welfare facilities based on a number of factors such as population, demographic characteristics, geographical factor, service provision and demand, and so on. Nevertheless, these floor area requirements are for general reference only. The Administration will apply them flexibly, taking into account the actual circumstances.

At present, SWD has not conducted any survey on welfare service units not meeting the floor area requirements recommended by the HKPSG. We believe that most of the units are able to meet the relevant standards. As to cases not meeting the planning requirements, they are attributable to a number of reasons. For instance, some organizations may choose to set up service units in specific locations in view of service demand and distribution of service users, though these locations may not be entirely up to the planning standards. There may also be individual service units

which require extra space owing to service expansion and are awaiting reprovisioning or setting up of sub-bases.

We are aware that there is a strong demand for social welfare services in the community. SWD has been actively identifying suitable sites for the provision of welfare facilities in different districts so that NGOs may operate new subvented services or reprovision/expand their existing services. If individual organizations experience accommodation shortfall owing to enhancement/expansion of existing subvented services, SWD will, on a case-by-case basis, assist them in searching for appropriate sites to reprovision the relevant facilities, or set up sub-bases, to address the shortfall problem.

- (b) Currently, eight government properties under the purview of the Government Property Agency are wholly vacant or have a vacancy rate of over 80%. These properties are temporarily vacant for various reasons, including the property pending or being considered for demolition, redevelopment or refurbishment. As for premises under SWD's purview, the former O Pui Shan Boys' Home is the only one with a vacancy rate of over 80%. SWD is now actively considering converting the premises into welfare facilities.
- (c) The Government adopts the "operating expenditure envelope" resource allocation approach for the purpose of providing individual Bureau Directors with more flexibility to redeploy resources among their relevant bureaux and departments for the delivery of policy objectives and services. Where necessary, departments can apply for sites, convert properties or seek additional funding for meeting the operating expenses of proposed additional services.

In general, departments may, having regard to their needs, apply for and be provided with additional resources to cover operating expenditure arising from major public works projects. The "operating expenditure envelope" approach does not in itself affect a department's application for Government, Institution and Community sites or converting vacant government properties in accordance with the established mechanism.

Problem of Youth Unemployment

11. **MR IP WAI-MING** (in Chinese): *President, according to the information of the Census and Statistics Department, while the overall youth unemployment rate gradually dropped last year from 28% for May to July to 21.6% for September to November, it has remained a double-digit figure. Some organizations have pointed out that even young people with high academic qualifications faced unemployment problem in recent years and such a situation has roused public concern. In this connection, will the Government inform this Council:*

- (a) *regarding the statistics on the overall youth unemployment rate for each of the past three years, of the respective numbers of unemployed young people with qualifications at sub-degree, higher diploma and bachelor's degree or above levels;*
- (b) *given that some countries (for example, Germany and Austria) have implemented apprenticeship programmes to address the problem of youth unemployment in their countries, whether the Government has any plan to amend the Apprenticeship Ordinance (the Ordinance) (Cap. 47) to meet the actual employment needs of young people, as well as increase the current number of designated trades under the Ordinance (including service industries such as beauty care and hairdressing), so as to facilitate employers to hire more young people who are under training or have completed training, so that they can undergo workplace attachment and undertake studies at the same time, with a view to facilitating their long-term career development and alleviating the problem of youth unemployment; and*
- (c) *whether the authorities have any plan to enhance employment support and counselling for young people who are socially isolated because they are unemployed for a long time, as well as living the hermit life, or implement other measures to encourage them to integrate into the community again; if they have such a plan, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): *President, the unemployment rate of young people aged 15 to 24 is often higher than the overall*

unemployment rate. This phenomenon, however, is not peculiar to Hong Kong and happens in economies at various stages of economic development. The unemployment situation of young people in Hong Kong has improved in recent months. The unemployment rate for the 15-19 age group fell by 1.5 percentage points to 20.1% in October-December 2009, while the unemployment rate for the 20-24 age group fell by 1.0 percentage point to 10.5% in the same quarter.

My reply to the questions of Mr IP Wai-ming is as follows:

- (a) According to the results of the General Household Survey conducted by the Census and Statistics Department, the numbers of unemployed youths (aged 15-24) with post-secondary education for 2007 and 2008 were 10 600 and 11 000 respectively. The corresponding figure for 2009 is still being compiled. Nevertheless, the figures for the first three quarters of 2009 were 11 700, 12 000 and 23 400 respectively. A notable increase in the number of unemployed youths in the third quarter of 2009 was observed, owing to the large number of fresh graduates joining the labour market.
- (b) The Vocational Training Council (VTC) administers the "Apprenticeship Scheme" in accordance with the Ordinance. The Ordinance provides that an employer is required to enter into a contract of apprenticeship with a youth aged between 14 and 18, employed in a designated trade and has not completed apprentice training. The contract has to be registered with the Director of Apprenticeship.

Voluntary registration under the Ordinance is open to the apprenticeship contracts of apprentices aged 19 or above employed in designated trades or apprentices in non-designated trades. Under the "Apprenticeship Scheme", regardless of whether they work in designated trades or non-designated ones, apprentices should receive systematic on-the-job training which includes day-to-day practical work and relevant educational courses, so that they can undertake studies while undergoing workplace attachment. Upon completion of apprenticeship, most apprentices have continued to serve in the respective trades.

Currently, the "Apprenticeship Scheme" covers around 120 designated and non-designated trades in an array of sectors including

automobile, electrical machinery, construction and jewellery, with relevant posts such as mechanics, technicians, project assistants and designers. The non-designated trades take up about two-thirds of the total number of trades under the "Apprenticeship Scheme", reflecting the industries' interest in participating voluntarily.

Apart from the "Apprenticeship Scheme", VTC has been providing a more flexible "Modern Apprenticeship" programme on a pilot basis in recent years. The programme aims to equip the youths with training and practical experience in order to enhance their employability for the service industries. The industries covered by the programme include beauty care, hairdressing, tourism, retail and customer service. In the 2009-2010 school year, about 3 300 apprentices receive training under the "Apprenticeship Scheme" and "Modern Apprenticeship" programme.

The Administration will continue to implement the "Apprenticeship Scheme" and other programmes that meet the needs of employers and apprentices so as to offer youths with different paths of on-the-job training. It will also closely monitor the situation and consider the need for adjustments to the trades covered by the "Apprenticeship Scheme" as well as amendments to the Ordinance.

- (c) To enhance the counselling, training and employment support for youths with special needs, including those "hidden youths" facing employment difficulties, the Youth Pre-employment Training Programme and Youth Work Experience and Training Scheme (YPTP • YWETS) of the Labour Department and the Community Investment and Inclusion Fund (CIIF) jointly launched a pilot project in the name of "新紮創奇職" in late 2008. The project capitalizes on the social and community networks of participating organizations and the use of innovative approaches. It flexibly integrates the pre-employment and on-the-job training elements of YPTP • YWETS with the social capital developmental strategies advocated by CIIF, with a view to reaching out to youths with special needs (including "hidden youths" facing employment difficulties), offering them services and assistance, cultivating among them positive attitudes and extending their social networks, so as to provide them with opportunities for sustainable development in the employment

market. Seven proposals with durations ranging from one to three years have been approved under the project. The proposals would provide a total of over 2 200 pre-employment training places and have been gradually rolled out since mid-2009.

In collaboration with its training bodies, YPTP • YWETS launches special training programmes tailor-made for youths with special needs (including hidden youths). Personalized career counselling, case management service and a wide variety of pre-employment training courses are available under these programmes.

Moreover, to help non-engaged youths aged 15 to 20 better understand their career preferences, the Employees Retraining Board (ERB) has collaborated with VTC since the third quarter of 2008-2009 to organize courses under the pilot "Youth Training Programme" (YTP). YTP provides vocational training and foundation skills training while cultivating among trainees positive attitude to life and self-confidence. Upon completion of the courses, training bodies would provide trainees with job placement support services for six to nine months to assist them to secure employment or refer them for further study. Starting from the second half of 2009-2010, ERB has invited other training bodies to participate in YTP to offer more courses for non-engaged youths with different backgrounds.

Operation of Octopus Payment System

12. **MR ANDREW CHENG** (in Chinese): *President, regarding the operation of Octopus payment system, will the Government inform this Council whether it knows:*

- (a) *the total number of complaint cases received by Octopus Holdings Limited (OCL) relating to erroneous deductions of amounts from Octopus cards in each of the past two years, and the total amount of money involved;*
- (b) *the time normally taken by OCL to handle and settle cases relating to erroneous deductions of amounts from Octopus cards at present, and the time taken to complete refund arrangements;*

- (c) *if OCL has a mechanism to report on its own accord to the public on the details of cases of erroneous deduction of amounts at present; if so, of the details of the operation of mechanism; if not, the reasons for that; and*
- (d) *the total amount of deposits for Octopus cards as at the end of 2009?*

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

- (a) Most cases of wrongful charging on Octopus cards arose from operational mishandling by service providers, while a small portion of the cases were due to transaction procedures not correctly followed by cardholders. In 2008 and 2009, OCL received and handled 689 and 536 such cases, involving approximately HK\$36,000 and HK\$28,000 respectively.
- (b) According to OCL, over 95% of the valid cases of wrongful charging on Octopus cards were handled and arranged for refund to cardholders within seven business days.
- (c) As explained above, most cases of wrongful charging on Octopus cards arose from operational mishandling by service providers, while a small portion of the cases were due to transaction procedures not correctly followed by cardholders. Upon notification by service providers or inquiry by cardholders of such cases, OCL will take prompt and appropriate action to follow up on them.

If the cases of wrongful charging arise from errors in a service provider's charging system, OCL will discuss with the service provider concerned on arrangements to alert the public. However, if the cases are isolated incidents, there is no need to alert the public.

- (d) As at end 2009, the total of Octopus card deposits held by OCL amounted to about HK\$720 million.

Views of Young People

13. **MR CHAN HAK-KAN** (in Chinese): *President, there have been comments that with heightened education levels and civic awareness among young people, some of them have recently expressed various views on specific social policies, and this phenomenon has aroused the community's concern. Moreover, there have also been comments that the Government should take on board more and listen more to the views of young people in implementing its policies. In this connection, will the Government inform this Council:*

- (a) *of the current number of advisory committees to which persons aged 30 or below have been appointed (young members), and the percentage of such number in the total number of advisory committees;*
- (b) *among the advisory committees in (a):*
 - (i) *of the respective five committees with the largest number and highest percentage of young members, as well as the average age of members of these committees; and*
 - (ii) *whether there is any committee the chairman of which is a young member; if so, of the names of such committees; if not, the reasons for that, and whether the authorities will encourage advisory committees relating to youth affairs to implement the arrangement for their young members to serve as chairmen; if so, of the details; if not, the reasons for that; and*
- (c) *given that young people nowadays favour the Internet as the platform for expressing their views, how the authorities will act correspondingly in order to grasp their views and suggestions on specific policies?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President,*

- (a) *According to the information provided to the Central Personality Index (CPI) by the Government appointed non-officials members of*

advisory and statutory bodies (ASBs) on a voluntary basis, as at 30 November 2009, 25 (or 6.4%) out of these ASBs had appointed non-official members aged 30 or below.

- (b) (i) According to the information kept in the CPI, ASBs with the highest number of appointed non-official members aged 30 or below are as follows:
- (1) Panel of Film Censorship Advisers
 - (2) Award Council of the Hong Kong Award for Young People
 - (3) Commission on Youth
 - (4) Appeal Board Panel under the Rabies Ordinance (Cap. 421)
 - (5) Registration of Persons Tribunal
 - (6) Personalized Vehicle Registration Marks Vetting Committee

Note: The number of appointed non-official members aged 30 or below is the same for (4), (5) and (6).

The average age of appointed non-official members on these ASBs is around 47.

ASBs with the highest percentage of appointed non-official members aged 30 or below are as follows:

- (1) Dogs and Cats Classification Board
- (2) Committee on Services for Youth at Risk
- (3) Appeal Board Panel under the Rabies Ordinance (Cap. 421)

- (4) Award Council of the Hong Kong Award for Young People
- (5) Commission on Youth

The average age of the appointed non-official members on these ASBs is around 44.

- (ii) As at 30 November 2009, none of the chairpersons of ASBs were aged below 30. Each appointment to ASB is made on the basis of the merit of the individual concerned, including a candidate's ability, expertise, experience, integrity and commitment to public service, with due regard to the functions and nature of the board or committee concerned as well as relevant statutory requirements of the statutory bodies concerned to ensure that the composition of ASBs should broadly reflect the interests and views of the community. In appointing chairpersons to ASBs, the Administration will make suitable consideration under the principle of appointment by merit if young persons suitable for the chairmanship are identified as appropriate.
- (c) The Administration has always placed great importance on engaging the public during policy formulation. In order to engage Internet users, including young people, we have set up several online discussion forums, such as the one on the West Kowloon Cultural District. Nonetheless, we recognize that young people increasingly use other types of Internet platform — such as social media sites — to express their views. In the 2008 Policy Address, the Administration made a commitment to collect public opinion from the Internet more actively. Since then, we have carried out an internal study with a view to identifying various options and tools to motivate the public, especially young people, to provide views online on policy formulation. In the process, we have consulted the information and communication technologies industry through the Digital 21 Strategy Advisory Committee and its Task Force on E-government Service Delivery. We will continue to explore how to make the best use of Web 2.0 technologies to engage the public and will progressively implement various e-engagement initiatives.

Regulating Activities of Recovery Agents

14. **MS MIRIAM LAU** (in Chinese): *President, some members of the transport industry have relayed to me that the activities of recovery agents have become more rampant in recent years, and these agents abet the injured in traffic accidents to exaggerate the degree of injuries sustained so as to claim for a higher amount of compensation, resulting in insurance fraud becoming an undesirable trend. As a result of an increase in the amount of compensation payout, insurance companies have also significantly increased the insurance premiums (for example, the insurance premiums for taxi have been increased by 50% within a short period of time). Some insurance companies even plan to cease to underwrite insurance for commercial vehicles. Moreover, those injured in traffic accidents may have to pay high service charges to recovery agents. In this connection, will the Government inform this Council:*

- (a) *whether it has looked into the causes for the activities of recovery agents becoming more rampant in recent years, and whether they include the failure of many of those injured in traffic accidents in meeting the eligibility criteria for the Supplementary Legal Aid Scheme (SLAS), which has resulted in their seeking help from recovery agents; if so, whether the authorities will consider reviewing and relaxing the eligibility criteria for SLAS;*
- (b) *of the latest progress in combating activities of recovery agents by the authorities, and the specific plan for the next two years; of the latest progress of the review of the need to introduce legislation to regulate recovery agents; and*
- (c) *whether it has assessed if the number of prosecutions instituted in respect of combating activities of recovery agents in the past three years is on the low side; if the number is on the low side, of the reasons for that, whether it is because it is more difficult to prove such activities, and how the authorities overcome such difficulties?*

SECRETARY FOR JUSTICE (in Chinese): President,

- (a) There are multiple causes for the activities of recovery agents. According to the findings of the 2008 Reports of the Consultancy Study on the Demand for and Supply of Legal and Related Services,

one of the reasons for the use by households of claims agents was that they could not afford or did not want to spend money or time resolving their problems through other means. Affordability is therefore only one of the many reasons for the public to engage the services of recovery agents. Another reason is the lack of awareness of the nature of recovery agents by members of the public.

The Home Affairs Bureau and the Legal Aid Department are in the process of formulating proposals for the five-yearly review of the criteria of assessing the financial eligibility of legal aid applicants. The Administration will consult the Legal Aid Services Council and the Legislative Council Panel on Administration of Justice and Legal Services by mid-2010.

- (b) The Administration is addressing the problems caused by recovery agents by enhancing public education and law enforcement through investigation and prosecution.

In the case of *HKSAR v Cheung Oi-ping and Winnie Lo* (DCCC 610/2008), a recovery agent and a solicitor were convicted of offences related to champerty and maintenance and sentenced to 15 months' and 16 months' imprisonment respectively. The convicted solicitor has lodged an appeal and a hearing date has not been fixed yet.

In the verdict dated 25 June 2009, the trial judge has clearly spelt out the elements of the common law offences of champerty and maintenance. In dealing with these offences, the court has to look at the facts of each case to determine whether an offence has been committed. The court has to take into account the competing public policy considerations, such as the risk to the integrity of the court's system and access to justice.

Therefore, attempting to provide rigid statutory definitions of champerty and maintenance may not be required or desirable. The Administration will continue to monitor the development of the relevant common law offences and review the need for legislation accordingly.

- (c) Apart from the successful prosecution in DCCC 610/2008, five suspected cases are under Police investigation. Where fraud (including insurance fraud) is involved and substantiated, those perpetrating the fraud may also be prosecuted for fraud-related offences.

One of the reasons for the low number of reports received by the Police is that the general public may not be aware of the nature of the offences of maintenance and champerty and that the relevant activities of recovery agents are unlawful. As a result, some victims might still be under the mistaken belief that recovery agents are able to help them and are thus unwilling to co-operate with the Police in their investigations.

The Department of Justice has stepped up publicity through the media to enhance public understanding of the activities of recovery agents and the offences of maintenance and champerty. The public is reminded to be vigilant with regard to the activities of recovery agents which may be unlawful and may also jeopardize their own interest. The frequency of broadcasts of these messages has been increased since the successful prosecution in DCCC 610/2008 in June 2009. The number of time slots for TV and radio channels have increased by 64% and 11% respectively.

The Law Society has since 15 June 2009 operated a telephone helpline to assist claimants pursuing personal injury compensation to seek proper legal assistance directly from lawyers and to avoid engaging the services of recovery agents. Over 100 solicitors have joined the programme to provide up to one-hour legal consultation free of charge.

Assistance for Elite Athletes

15. **DR LAM TAI-FAI** (in Chinese): *President, the Government has provided additional resources to strengthen the financial assistance for elite athletes since 2007-2008, and young athletes with potential are selected by the Hong Kong Sports Institute (HKSI) for focused training. Yet, some members of the community have pointed out that athletes in general lack protection for their livelihood, and it is obvious that when they develop their athletic career full-time, they do not have time to develop other skills, resulting in the lack of protection for*

their livelihood upon retirement. In this connection, will the Government inform this Council:

- (a) whether it knows the numbers of elite athletes and elite sports as well as the average retirement age of such athletes in each of the past five years;*
- (b) apart from providing grants to cover the medical and insurance expenses for elite athletes through the Elite Training Grant scheme, whether the Government will consider setting up an independent medical and life insurance scheme for them; if it will, of the details; if not, the reasons for that;*
- (c) whether it will consider providing interest-free mortgage loans for elite athletes, so as to reduce the burden on their livelihood; if it will, of the details; if not, the reasons for that;*
- (d) whether it will consider waiving the personal income tax for elite athletes and providing them with pension grant upon their retirement; if it will, of the details; if not, the reasons for that;*
- (e) whether it will consider paying all the tuition and textbook fees for elite athletes who are studying in schools; if it will, of the details; if not, the reasons for that;*
- (f) whether it will consider collaborating with various public transport operators to launch a scheme on free rides on public transport for elite athletes; if it will, of the details; if not, the reasons for that;*
- (g) whether it will consider giving priority to retired elite athletes in recruitment of civil servants (for example, in various disciplined forces); and*
- (h) whether it will consider adopting the operation mode of Hong Kong Trade Development Council and establishing a sports development council and recruit sports professionals to be responsible for co-ordinating sports development and formulating policies to ensure that serving and retired athletes receive more comprehensive protection?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, developing elite sports is one of the SAR Government's three strategic directions for sports development. The Government provides annual funding to the HKSI to train elite athletes. This includes direct financial support to qualified athletes, which aims to help them focus on training thereby allowing them to perform at their best in competitions. Support is also available in other areas including education and employment advice to help athletes prepare for life after retirement from competition.

As at the end December of 2009, the HKSI was training and providing support to 863 athletes in 14 elite sports and 10 non-elite sports, of which about 100 were in residence at the institute. The numbers of athletes receiving training and support from the HKSI and the sports concerned, as well as the numbers of retired athletes and their average retirement ages, in the past five years are listed below.

		2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Number of athletes	Elite sports ⁽¹⁾	450	581	484	466	655
	Non-elite sports ⁽²⁾	95	125	182	234	208
Number of sports	Elite sports	13	13	11	11	14
	Non-elite sports	7	9	12	15	10
Number of retired athletes		21	33	35	44	31
Average retirement age		25.7	28.7	26.4	25.6	26.1

Notes:

- (1) Elite sports are defined every four years. Currently there are 14 elite sports, namely athletics, badminton, billiard sports, cycling, fencing, karatedo, rowing, squash, swimming, table tennis, tenpin bowling, triathlon, windsurfing and wushu.
- (2) Non-elite sports include those sports under the Individual Athletes Support Scheme and the two sports associations for athletes with disabilities. Examples are bodybuilding, cycling-mountain bike, cycling-BMX, equestrian, gymnastics, shooting, skating, weightlifting and power-lifting, and sports for athletes with disabilities, that is, boccia and lawn bowls.

The Government has helped elite athletes meet their daily expenses by raising their direct financial support by way of significant increases in allocations for the HKSI since April 2007. The funding concerned has increased from \$15.5 million in 2006-2007 to \$56.5 million in 2009-2010. The new allocation has not only made additional training places for elite athletes possible, but also allowed more athletes to train on a full-time basis. Also in August 2009, the Sports Commission endorsed increases in incentive awards for medalists at major games to provide material support to athletes who achieve outstanding results.

At present, apart from direct financial support, the HKSI takes out insurance policies for athletes who train there full-time. Coverage includes life, accident, travel, medical (hospitalization and out-patient service) and dental care. There are also resident doctors and a medical team stationed at the HKSI to provide medical support to athletes.

As for the suggestion of providing interest-free mortgage loans for athletes, the Government is of the view that the decision as to whether or not to buy a home is up to individual members of the public (including athletes) based on preference and affordability.

Regarding the suggestion of waiving personal income tax for athletes, it has always been the Government's policy to maintain a fair and neutral tax system. Waiving taxes for certain categories of people would violate the principle of fairness and neutrality. Besides, athletes eligible for direct financial support already make contributions under the Mandatory Provident Fund Scheme. Upon retirement from competition, they may claim their benefits in accordance with the provisions of the Scheme.

As for the suggestion of paying the tuition and textbook fees for elite athletes who are studying in schools, the Government already provides nine-year universal primary and junior secondary education, as well as senior secondary education (starting from the 2008-2009 school year) free of charge to all young people (including elite athletes) through public sector schools. The HKSI also supports athletes' study needs focusing in particular on preparation for retirement, through a number of programmes, as detailed below:

(i) *Hong Kong Athletes Fund*

Athletes enrolled in approved certificate, diploma or degree courses offered by Hong Kong educational institutions may apply for tuition grants and subsistence allowance from the fund.

(ii) *Elite Athletes Education Subsidy*

Athletes studying in approved continuing education institutions and vocational training institutes (for degree, diploma or certificate courses) may receive reimbursement of the tuition fees.

(iii) *Elite Athletes Tutorial Support*

Flexible arrangements are provided for athletes requiring tuition in languages, mathematics, and other arts, science and business subjects. Subject tutors align classes with athletes' training schedules and provide one-to-one study guidance.

(iv) *Athlete Development Programme*

This is a comprehensive programme providing athletes with extra learning opportunities. It offers workshops on themes such as communication and public speaking skills, goal-setting and time management, financial planning and image building. Athletes receive help in developing personal management skills through learning experiences, and the programme aims to enrich athletes' life as sportsmen and women and improve their professionalism.

(v) *Elite Athletes Apprenticeship Programme*

This is a programme tailor-made for athletes who will retire from competition in two years. Under the programme, athletes gain actual work experience, thus preparing them for life after retirement.

Concerning the proposal to allow elite athletes to ride free of charge on public transport, the direct financial support currently provided to elite athletes through the HKSI already takes into account daily expenses, including those of transportation. Whether or not to provide fare concessions to elite athletes is a commercial decision for public transport operators.

To address the needs of retired elite athletes and help them integrate into society, since 2008, the Government has provided a subvention to the HKSI to allow it to run the Enhanced Athletes Educational and Vocational Development Programmes, which provide diverse educational and career development support to athletes. The HKSI also offers tailor-made coach training programmes through the Elite Coaching Apprenticeship Programme to help elite athletes wishing to become coaches after retirement.

In July 2008, we allocated \$8.5 million to the Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) to establish the Hong Kong Athletes Career and Education Programme (HKACEP) to provide education and career

development support for current and retired athletes. The business sector has responded to the programme and 10 corporations have agreed to offer vocational opportunities to retired athletes.

Regarding recruitment of civil servants, we welcome retired athletes joining and working in the Government after going through the necessary assessment procedures. It is the aim of the Government, as an equal opportunities employer, to appoint the best person for the job on the basis of merit. Appointment to the civil service is based on open and fair competition. In assessing applicants' suitability for civil service jobs, the recruiting bureaux or departments will take into account academic or professional qualifications, technical skills, work experience, language proficiency, and other qualities or attributes as may be required for particular jobs. As the aim is to appoint the best person for the job on the basis of merit and in accordance with the principle of open and fair competition, it is not appropriate to accord priority to retired elite athletes when recruiting civil servants.

As for the suggestion to establish a sports development council, we note that the Sports Commission and its Elite Sports Committee already include representatives from the sports community, whilst the Board of Directors and the management of the HKSI also comprise a number of seasoned sports professionals who advise on elite sports development policy and the implementation of measures to support athletes. We will give due regard to measures that may provide more comprehensive protection to athletes. We consider that the existing framework for sports development policy is effective and that there is no need to establish a sports development council.

Housing Needs of Low-income Persons

16. **MR LEE WING-TAT** (in Chinese): *President, regarding the Government's measures to assist low-income persons in meeting their housing needs, will the Government inform this Council:*

- (a) *about singletons applying for public rental housing (PRH), of the average waiting time and the number of those awaiting at present, as well as the number of those who were allocated PRH flats in each of the past three years, with a breakdown by age groups (that is, 18 to 30, 31 to 45, 46 to 59, and 60 years old or above) of the applicants;*

- (b) *of the number of elderly singletons in each of the past three years who rejected the Housing for Senior Citizens (HSC) Types II and III units allocated to them; whether the authorities allow elderly singletons to state their preference when applying for PRH, including whether they will consider such types of units, so as to expedite the allocation of suitable units to applicants; and whether they will consider converting the 460 HSC Types II and III units which are vacant at present into self-contained flats;*
- (c) *of the number of cases in each of the past three years in which the persons concerned were allocated PRH flats through "compassionate rehousing";*
- (d) *of the current occupancy rate of the singleton hostels of the Home Affairs Department (HAD); whether occupants are required to move out after three years of occupancy; if so, whether it knows the types of housing to which they will generally move; of the highest, lowest and average rent currently paid by the occupants; the percentage of occupants who have already applied for PRH, and the average time for which they have been waiting;*
- (e) *given that the Housing Department (HD) has earlier visited and through non-government organizations contacted occupants of all licensed private bedspace apartments, of the number of occupants of such bedspaces and partitioned cubicles; whether it has looked into the current occupancy rate of bedspace apartments, the highest, lowest and average rent paid by the occupants; their average income; among them, of the number of those who have already applied for PRH; and the average time for which they have been waiting; and*
- (f) *whether the authorities have assessed the need to set a minimum standard regarding the area of bedspaces and partitioned cubicles in licensed bedspace apartments, so as to safeguard the environmental hygiene and safety of the occupants inside the apartments?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, having incorporated the input of the HAD, my reply to the six-part question is as follows:

- (a) As at the end of December 2009, the numbers of one-person applicants in the 18-30, 31-45, 46-59 and 60 or above age groups on the Waiting List (WL) were 21 300, 17 400, 11 000 and 5 700 respectively.

As at the end of December 2009, the average waiting time for PRH for elderly one-person applicants was 1.1 years. For non-elderly one-person applicants, their relative priorities for PRH allocation are determined by the points they receive under the Quota and Points System (QPS). The average waiting time of non-elderly one-person applicants allocated PRH under the QPS is 1.8 years.

Eligible WL applicants may also apply for the Express Flat Allocation Scheme (EFAS) for earlier rehousing. As the allocation for 2009-2010 is in progress, we provide the number of one-person WL applicants by age group who were allocated PRH in 2006-2007 to 2008-2009 (including one-person WL applicants allocated PRH through the EFAS):

<i>Age</i>	<i>One-person WL applicants allocated PRH</i>		
	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>
18-30	650	300	350
31-45	810	510	580
45-59	2 010	1 730	2 020
60 or above	1 850	1 480	3 050

- (b) There were about 340, 670 and 530 elderly one-person applicants in 2006-2007, 2007-2008 and 2008-2009 respectively who did not accept the HSC after they were allocated with HSC Types II and III units.

The HD would arrange for the elderly applicants who had been allocated HSC to visit the units so that they could see for themselves the actual living environment. After making such site visits, some elderly applicants indicated their satisfaction with and accepted the HSC Types II and III units offered. If elderly applicants indicated after the visits that they did not wish to accept HSC units, the HD would not offer such types of units to them again.

As HSC Types II and III units are located mainly in the Urban and Extended Urban Districts and are provided with 24-hour warden service, they are to a certain degree attractive to applicants. The overall average vacancy rate is below 5%. The Hong Kong Housing Authority has gradually included HSC blocks with a higher vacancy rate, mainly HSC Type I units, in the ongoing conversion programme with a view to converting them to normal flats for letting in the long run.

- (c) Eligible one-person applicants with pressing housing needs may apply for compassionate rehousing through recommendations by the Social Welfare Department for advance allocation of PRH flats. For the past three years, over 600 one-person applicants were allocated PRH flats through compassionate rehousing each year.
- (d) Currently, a total of 580 bedspaces, with monthly charges ranging from \$700 to \$1,260 per person, are provided in the two singleton hostels run by the HAD under the Singleton Hostel Programme (the Programme). As at December 2009, the occupancy rate of the hostels was around 85%.

Before the end of the occupancy period, hostel lodgers may apply for extension to meet individual needs. According to the information provided voluntarily by lodgers, about 30% of those leaving the two hostels in 2009 moved to PRH flats.

The HD does not require one-person PRH applicants to provide information on the types of their accommodation and therefore has no information on the PRH waiting time for lodgers of HAD's singleton hostels.

- (e) HD staff had visited and contacted through non-government organizations all the licensed bedspace apartments. During the visits, PRH application forms together with notes on application were distributed to the occupants. Since the purpose of the visits was to provide information to those who had not yet submitted PRH applications, instead of conducting an inquiry and a survey, the HD has no data on the occupants' PRH applications, their income and the rent they pay.

Nevertheless, according to the Office of the Licensing Authority under the HAD, as at December 2009, the number of occupants of licensed bedspace apartments (including the two hostels under the Programme) was about 790 and the occupancy rate was around 79%.

- (f) To safeguard the safety of the occupants of bedspace apartments, the Bedspace Apartments Ordinance enacted in 1994 provides that any flat in which there are 12 or more bedspaces used as sleeping accommodation for individuals under rental agreements must obtain licences before commencing operation, so as to ensure building and fire safety, and that sanitation of the apartments conform to the standards stipulated therein. The HAD carries out periodic inspections to make sure that bedspace apartments comply with the licensing requirements.

Regulation of Private Columbarium Facilities

17. **MS STARRY LEE** (in Chinese): *President, it has been reported that some property owners have, in exploitation of the grey areas of existing legislation, renovated their units in tenement buildings on land zoned as Residential (Group A) and, without obtaining the license for operating a temple or applying for changes in land use, operate them in the form of Taoist monasteries to provide hundreds of private columbarium niches. It has also been reported that in the absence of any licensing regime for the regulation of private columbarium facilities at present, the Government has indicated that it will examine setting up a voluntary registration system. However, the effectiveness of such a registration system is open to question. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the authorities in respect of operation of temples in different forms in tenement buildings in each of the past three years and, among them, the number of complaints involving columbarium niches, the nature of such complaints, and how the authorities followed up the complaints;*
- (b) *given that the problem of operating columbarium facilities in tenement buildings falls within the scope of work of various government departments such as Planning Department (PD), Lands Department (LandsD) and Food and Environmental Hygiene*

Department (FEHD), whether the Government will consider designating a government department to deal with the problem in a uniform manner; if it will, of the details; if not, the reasons for that; and

- (c) *whether it will consider afresh the setting up of a licensing system for the regulation of private columbarium facilities, so as to put the operation of private columbarium facilities onto the right track; if it will not, of the reasons for that?*

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

- (a) As advised by the Development Bureau, among the complaints received by the LandsD concerning flats of old multi-storey buildings in urban areas in the past three years, six were suspected cases of operation of columbarium niches in breach of the land lease. The PD received five complaints about the use of flats of tenement buildings in urban areas for the purpose of temples over the same period, all of which involved columbarium niches. Besides, the FEHD received nine complaints of similar nature and seven of them were related to columbarium niches.

The government departments concerned have handled matters, enquiries and complaints involving temples and private columbarium niches in accordance with their respective mandates and relevant legislations, or referred the cases to other responsible departments for follow-up. As advised by the Development Bureau, the LandsD has examined the land leases concerned with regard to the complaints received and confirmed that there is no restriction on columbarium niches or related uses. For the PD, it can only take enforcement and regulatory actions in respect of land use in areas covered by Development Permission Area Plans (that is, the rural areas in the New Territories). As such, the areas involved in the above cases do not fall within its purview.

The FEHD has, upon receipt of the complaints, sent its staff to investigate the cases. However, no unlicensed operation of undertaker of burials business or environmental nuisances has been found.

Moreover, the Home Affairs Bureau also received two complaints about the operation of different types of temples in buildings, but neither of them involved columbarium niches.

These complaints mainly concern the issues of building safety, land use, environmental nuisances (such as noise and air pollution), fire safety and psychological stress, and so on.

- (b) As the operation of private columbarium niches is an issue that involves the work of a number of bureaux and departments, they will continue to handle cases falling within their respective portfolios and work in close liaison. In this connection, the Food and Health Bureau has set up a task force in conjunction with relevant bureaux and departments, including the Development Bureau, the Home Affairs Bureau, the LandsD, the PD and the FEHD to co-ordinate the relevant work on the supply of columbarium niches and the operation of private columbarium niches.
- (c) The operation of all trades in Hong Kong, including that of private columbarium niches, must be in compliance with statutory requirements, planning requirements, building design and construction standards, as well as conditions of the land leases. It must also be pointed out that human ashes do not give rise to public health or environmental hygiene concerns. The Administration calls on the trade to raise public confidence through self-discipline and enhanced transparency. The Government is currently working on measures to promote information transparency in the trade and strengthen consumer protection. The setting up of a voluntary registration system is one of the measures under consideration.

District Support Scheme for Children and Youth Development

18. **MR CHEUNG KWOK-CHE** (in Chinese): *President, since 2005, the Social Welfare Department (SWD) has been provided with an annual recurrent provision of \$15 million for implementing the District Support Scheme for Children and Youth Development (the Scheme) through District Social Welfare Offices to address the developmental needs of disadvantaged children and youth aged 0 to 24. Some of the money is used for implementing individual projects in various districts, while some is granted to the children and youth in need in the*

form of direct cash assistance (DCA). In this connection, will the Government inform this Council:

- (a) of the number of projects which have been approved in various districts since the Scheme was launched, the content of such projects, total amount of funds involved, number of children and youth to whom cash assistance has been granted, the per capita amount of assistance granted and standard for granting the cash assistance; and*
- (b) whether it will review the effectiveness of the Scheme and increase the provision?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, since the 2005-2006 financial year, the SWD has been provided with an annual recurrent provision of \$15 million for implementing the Scheme through the District Social Welfare Offices. The Scheme aims to address the developmental needs of disadvantaged children and youths aged 24 or below in the districts. The provision comprises two parts: around 40% of the funding is used to support district projects and cover related programme expenses, whilst the remaining 60% is DCA distributed to individual deprived children and youths according to their developmental needs.

The Administration's reply to the two parts of the question is set out below:

- (a) Since the inception of the Scheme, over 900 territory-wide projects involving around \$27 million have been approved. These projects can be broadly categorized into the following three groups: (i) organizing small group activities to address the developmental needs of those children and youths who have strong interests and talents in sports and arts (such as music, painting and drama, and so on); (ii) implementing mentorship, job skills training programmes, and so on, relating to self-employment/job-hunting to enhance the self-reliance of the unemployed youths; and (iii) arranging volunteer services, leadership skills training and youth exchange programmes, and so on, to enrich the social experience of young people.

DCA provides one-off financial assistance for those deprived children and youths receiving services from the welfare service units

under SWD or SWD-subsented non-governmental organizations, so as to meet their individual developmental needs. Beneficiaries are mainly from families with financial difficulties or disadvantaged groups, such as non-engaged or at-risk youths. The caseworkers of the children and youths in need will decide on the amount of assistance according to their family background and financial conditions, personal development, items required for assistance, and so on. DCA is mainly used to purchase academic items, reference books or participate in extra-curricular activities. Over 27 000 children and youths have been granted with DCA since the implementation of the Scheme. The average amount granted was around \$1,390 per person. Each beneficiary can only receive the grant once a year, and the maximum amount is \$1,500 per person per year.

- (b) In 2008-2009, the utilization rate of the Scheme was about 94%. According to the service output evaluation, over 95% of the DCA beneficiaries indicated that the cash assistance could meet their individual needs, while more than 90% of the Scheme participants reported that the projects could facilitate their personal development. All these reflected the satisfactory results of the Scheme. SWD will continue to regularly review the Scheme to examine the utilization of resources and its effectiveness.

Unlawful Taking of Water

19. **MR LEUNG KWOK-HUNG** (in Chinese): *President, it has been reported that last year, some members of the public reported to the Water Supplies Department (WSD) that the management company of a private housing estate in the New Territories had been diverting fresh water to flush toilets without authorization since early last year. The company was eventually convicted of violating the Waterworks Ordinance (the Ordinance) (Cap. 102). A member of the public working in that housing estate has complained to me that for as long as 10 years, the management company has in fact taken water which had not passed through the meter, and this practice is very common in the trade as it can save water charges, which causes financial losses to the Government, and may even affect the water quality in the fresh water tank and cause detriment to the health of the residents as the pump used for pumping water for toilet*

flushing is placed in the tank for extended periods of time; and the owners' committee concerned has all along been kept in the dark. In this connection, will the Government inform this Council:

- (a) of the number of complaints received by WSD concerning unlawful taking of water in private housing estates/buildings in the past five years; among them, the respective number of cases in which the people involved were prosecuted and convicted;*
- (b) whether regular inspections of the water supply systems in private housing estates/buildings were conducted by WSD in the past five years for the prevention of the aforesaid unlawful acts; if so, of the number of inspections conducted;*
- (c) whether it has assessed if WSD has sufficient statutory powers to inspect, regulate and prosecute the aforesaid unlawful acts in private housing estates/buildings; if such an assessment has been made, of the results; and*
- (d) whether, upon receipt of complaints about the aforesaid unlawful acts, WSD will, regardless of whether evidence can be successfully obtained, notify the owners' committees or owners' corporations of the housing estates concerned for follow-up actions, so as to avoid causing detriment to the health of the residents; if it will, of the total number of notifications issued in the past five years?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the WSD has always been deeply concerned about the problem of illegal water tapping and has strived to curb such behaviour through ongoing publicity and education initiatives. The maximum fine for unlawful taking of water was revised in 2006 for deterrent effect. WSD also looks out for signs of illegal water tapping in its daily operations. Upon discovery of illegal water tapping and with sufficient evidence in hand, the Department will initiate prosecution under the law.

My reply to the four points raised by Mr LEUNG Kwok-hung is as follows:

- (a) WSD has received a total of 61 complaints about illegal diversion of drinking water for toilet flushing in private housing estates/buildings

over the past five years. Prosecutions were initiated in 26 cases with successful convictions in all the cases.

- (b) WSD staff conduct inspections on various water supply issues, including water pipe leakage, weak water pressure, water quality and customers' complaints. In the course of inspection, the field staff will also check for signs of illegal water tapping. If any irregularity or sign of irregularity is found, the Department will probe into the case.

WSD staff conduct about 30 000 inspections on water supply issues in private housing estates/buildings per year.

- (c) Under the Ordinance, a registered consumer and his agent are responsible for the custody and maintenance of an inside service or a fire service of his premises. Anyone who takes water unlawfully without permission from the Water Authority commits an offence and is liable to prosecution by the WSD under the Ordinance.

The Ordinance empowers the Water Authority to enter a private premises to inspect waterworks and, where necessary, require the consumer concerned to repair the inside service on his premises properly or suspend water supply to the consumer concerned. In addition, the Government raised substantially the maximum fine for unlawful taking of water from \$5,000 to \$25,000 in 2006 for deterrent effect.

- (d) Upon receiving a complaint about the illegal practice mentioned above, the WSD will investigate the case. For any case that involves irregularity, the Department will, upon the conclusion of its investigation, inform in writing the owners' committee, owners' corporation or management company of the housing estate concerned about the irregularity and take follow-up action. Among the 61 complaints⁽¹⁾ mentioned in part (a), 46 cases involved irregularities. The WSD has advised or urged in writing all the persons concerned to carry out improvement work.

Note:

- (1) The remaining 15 complaints include (i) two cases under investigation; (ii) six cases in which the complaints could not be substantiated; and (iii) seven cases that involved minor defects which were rectified in the course of investigation.

Provision of Low-charge Beds by Private Hospitals

20. **DR JOSEPH LEE** (in Chinese): *President, the Government has granted land by way of private treaty to private hospitals for medical and health purposes, and also stipulated in its conditions of grant that such hospitals shall provide low-charge beds. In this connection, will the Government inform this Council whether:*

- (a) *there are land leases of private hospitals at present, apart from St. Teresa's Hospital (STH), which stipulate that such hospitals shall provide a certain number of low-charge beds; if so, of the details;*
- (b) *any such private hospitals has violated the aforesaid conditions of grant; if so, what solutions the Government has put in place to ensure that the hospitals comply with such conditions; whether it will consider imposing fines as punishment; if it will, of the details; if not, the reasons for that; and*
- (c) *it has considered, when granting land to private hospitals (especially at low land premiums) in the aforesaid manner in the future, requiring such hospitals to provide a certain number of low-charge beds so as to promote public-private partnership (PPP) in health care and provide the middle class with more choices of medical services; if it has, of the details; if not, the reasons for that?*

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

(a) and (b)

The STH was given a land grant by the Government in 1996 for expansion. According to the Conditions of Grant, not less than 20% of beds in the new wing of the hospital should be low-charge beds. There are 425 beds in the new wing of STH and there are 100 low-charge beds within the hospital. Service targets of these beds are customers with lesser means or patients referred by the Hospital Authority (HA).

It is also provided in the Conditions of Grant of Tsuen Wan Adventist Hospital (TWAH) that TWAH must provide free or low-charge beds. Among the 130 beds provided in TWAH, the daily fees of 107 beds is around \$500 to some \$600, which are lower than the costs of its ward services.

The Department of Health (DH) is vested with the power to regulate private hospitals under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), and conducts regular and surprise inspections to all private hospitals. During its annual inspections of the private hospitals, DH will examine whether the standard of service of these low-charge beds meets the requirements laid down in the Ordinance and the relevant Conditions of Grant. DH will request the hospitals to make improvements in case of non-compliance with the relevant requirements. Under the Conditions of Grant, the Government can re-enter upon and take back possession of the land upon failure by the Grantee to comply with the relevant lease conditions.

- (c) The Government actively promotes the development of private hospitals to increase the overall capacity of the healthcare system in Hong Kong, so to address the existing imbalance between the public and private sectors in hospital services. The middle-class with higher affordability would benefit from the private hospital services while the grassroots could also benefit from the service capacity so spared in the public sector, thereby achieving the objective of this healthcare reform initiative.

We have reserved four sites (at Wong Chuk Hang, Tseung Kwan O, Tai Po and Lantau respectively) for the development of private hospitals. The Government has invited the market to express their interest in the development of the private hospitals at these sites by the end of March 2010.

These new private hospitals should provide services of good quality and their service charges should be highly transparent. The development of new private hospitals should meet a number of special requirements covering the areas of land use, types of specialties services in hospitals, bed capacity and price transparency. We will specifically require the private hospitals to make available a

certain percentage of bed days for services provided at packaged charge, so as to offer more choices to the general public.

In addition, it is our policy to promote PPP in hospital services in order to provide more choice for patients, encourage collaboration between the public and private sectors for improvement on service and professional standards, and enable the provision of services in a more efficient and effective manner. Considering that the reserved site in Lantau is adjacent to the site reserved for the development of phase two of the North Lantau Hospital project, we also take the opportunity of this EOI exercise to solicit market interest in developing the site at Lantau by PPP.

PERSONAL EXPLANATIONS

PRESIDENT (in Cantonese): Personal Explanations. I have given leave for Mr WONG Yuk-man, Mr LEUNG Kwok-hung, Mr Albert CHAN, Miss Tanya CHAN and Mr Alan LEONG to make personal explanations respectively concerning their resignation from office as Legislative Council Members.

In accordance with Rule 28A(2) of the Rules of Procedure, no debate may arise on such explanations but I may in my discretion allow short questions to be put to the Members making the explanations for the purpose of elucidating the contents of their explanations. However, I would like to remind Members that in putting short questions to seek elucidations, the Member seeking an elucidation or the Member giving explanations are not allowed to make use of the occasion to open a debate. Meanwhile, after a Member has made a personal explanation, any Member who wishes to seek an elucidation should make the request immediately after that Member has made the explanation. After another Member has begun to make a personal explanation, Members may not make a request for elucidation from the Member who has already made an explanation.

PRESIDENT (in Cantonese): First personal explanation. Mr WONG Yuk-man.

(Mr CHAN Kam-lam raised his hand in indication)

PRESIDENT (in Cantonese): Mr WONG Yuk-man, please hold on. Mr CHAN Kam-lam, is it a point of order?

MR CHAN KAM-LAM (in Cantonese): President, according to Rule 28A of the Rules of Procedure, which is on personal explanations, a Member who wishes to make an explanation must seek the agreement of the President in writing before he can do so.

President, normally when the Government wishes to make a statement or the like, it will give us advance copies of the relevant documents. But today, we do not see on our tables any documents on the personal explanations. President, could you ask those Members to give us copies of their personal explanations before they proceed to making the same? Otherwise, how can we know or assure that what they are going to do is in order?

PRESIDENT (in Cantonese): The five Members who have tendered resignations from their office have already given me copies of their explanations before the meeting. I consider them in order, so I have given them leave to speak.

And those Members making personal explanations do not mind distributing copies of their speeches to Members. Staff will now distribute the copies to Members.

(Mr TAM Yiu-chung raised his hand in indication)

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, is it a point of order?

MR TAM YIU-CHUNG (in Cantonese): President, we are greatly dissatisfied with five Members using their resignations to induce a so-called referendum, uprising and using the Legislative Council for publicity purposes. We now walk out in protest.

(Some Members left the Chamber)

MR WONG KWOK-HING (in Cantonese): Shame on you, misusing public funds for by-election. Shame on you, misusing public fund for by-election.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, please observe the Rules of Procedures.

MR WONG KWOK-HING (in Cantonese): Instigating a referendum, independence of Hong Kong, mean of you.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing

(Mr LEUNG Kwok-hung pointed at Mr WONG Kwok-hing in his seat)

MR LEUNG KWOK-HUNG (in Cantonese): WONG Kwok-hing.

PRESIDENT (in Cantonese): Mr WONG Yuk-man, please make your personal explanation.

(Mr CHAN Kam-lam raised his hand in indication)

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, is it a point of order?

MR CHAN KAM-LAM (in Cantonese): President, it appears a quorum is not present. I request a headcount.

PRESIDENT (in Cantonese): Clerk, please ring the bell.

NEXT MEETING

(After the summoning bell had been rung for 15 minutes)

PRESIDENT (in Cantonese): As a quorum is not present, I now adjourn the Council. We will continue to deal with the unfinished business at the next meeting.

Council will meet again at 11.00 am on Wednesday, 3 February 2010.

MR JAMES TO (in Cantonese): President, point of order.

PRESIDENT (in Cantonese): I have adjourned the Council already.

Adjourned accordingly at twenty-nine minutes to Two o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Education requested the following post-meeting amendment in respect of Question 3

Line 2, third paragraph, page 24 of the Confirmed version

To amend "..... We have observed that, in some schools, there is even the problem of zero intake" as "..... We have observed that, in some schools, there is only a single-digit intake of S1 students" (Translation)

(Please refer to line 3 to 4, last paragraph, page 4638 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Education to Mr LAU Kong-wah's supplementary question to Question 6**

As regards whether there is any triad infiltration in schools, the Education Bureau has sought advice from the Security Bureau. According to the information of the police, there is no evidence suggesting that triad societies are conducting organized activities to infiltrate into schools. Currently, the police adopt a cross-sector collaborative approach to work closely with schools, parent-teacher associations, youth organizations, Social Welfare Department and the Education Bureau. The police make use of the Police School Liaison Programme as a platform and collaborate with the school management to prevent juvenile crime in schools. The School Liaison Officers of the aforementioned Programme maintain regular contacts with District Anti-triad Sections and organize lectures and seminars on triad problems for teachers and students. District Anti-triad Sections also carry out anti-crime patrols with front-line police officers in places frequented by young people. Law-enforcement actions will be taken when necessary to mitigate undesirable influence on students.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Education to Mrs Regina IP's supplementary question to Question 6**

As regards "one school, one sergeant", the police have implemented the Police School Liaison Programme and assigned School Liaison Officers to all primary and secondary schools to undertake the liaison work with schools. Through establishing a good relationship with the school community, including students, teachers and parents, the Programme enhances students' understanding of the role of the police, the help they could offer, and understand the importance of respect for law and order. The Programme aims not only to prevent students from committing crime, but also to enable early identification and provision of counselling services for the youth at risk through communication with students and other communities. At present, all School Liaison Officers are of sergeant rank. Besides, to better support anti-drug and crime prevention work in schools, the Government approved resources in 2008-2009 to increase 27 posts of School Liaison Officer, making a total of 85. The increase amounts to about 50%. The police have been reviewing the Police School Liaison Programme in consultation with schools, parents, social workers and other stakeholders. The feedback received has been very positive so far.