

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 12 December 2012

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

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

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

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

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

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

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

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

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

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

THE HONOURABLE TANG KA-PIU

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

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

THE CHIEF SECRETARY FOR ADMINISTRATION AND
SECRETARY FOR HOME AFFAIRS

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

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

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

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

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

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

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

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

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

- No. 36 — Fire Services Department Welfare Fund
Report on the Administration of the Fund and financial statements for the year ended 31 March 2012
- No. 37 — Hong Kong Tourism Board
Annual Report 2011/12
- No. 38 — The Prince Philip Dental Hospital
Annual Report by the Board of Governors 2011/12

Report No. 7/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Enhancing Quality of English Language Teaching and Creating a Bilingual Environment

1. **MR MICHAEL TIEN** (in Cantonese): *It has been learnt that the average overall band score of Hong Kong's candidates taking the "Academic module" test of the International English Language Testing System (that is, "IELTS") in 2011 was 6.4, which was the same as the score in 2007. However, during the same period of time, the scores attained by candidates from Taiwan, South Korea and Malaysia had increased by 0.2 to 0.3, getting closer to or even surpassing that of Hong Kong. This phenomenon indicates that the English proficiency of Hong Kong's candidates has not made any progress in recent years, but the candidates from neighbouring places have made progress. There are comments that Hong Kong people's English proficiency is very important for Hong Kong to maintain her status as a cosmopolitan city and thus the authorities should pay close*

attention to the quality of English language teaching and should create bilingual environment. In this connection, will the Government inform this Council:

- (a) as it has been found in research that, compared with a large class of 38 or more students, teaching English in a small class of 21 to 25 students can provide more opportunities for teachers and students to converse in English, and students also participate in class activities more actively, whether the authorities will consider setting a ceiling of 25 students for English classes so as to enhance the quality of English language teaching; if not, of the reasons for that;*
- (b) given that during my tenure as the Chairman of the Standing Committee on Language Education and Research, I found that the majority of students lacked the opportunities to be immersed in an English language environment, and English teachers in secondary schools currently had to teach more than 30 sessions per week, making it difficult to improve teaching in class, and some members from the education sector have also reflected to me that English teachers teaching 20 sessions per week will produce the most ideal teaching effect, whether the authorities will consider setting a reference benchmark of teaching around 20 sessions per week for English teachers of secondary schools; if not, of the reasons for that; and*
- (c) as it is provided in section 3 of the Official Languages Ordinance that both the English and Chinese languages are the official languages of Hong Kong and possess equal status, and Hong Kong is a cosmopolitan city, but some government documents are currently available only in Chinese without an English version (for example, the minutes of District Council meetings), whether the authorities will conduct a survey to find out if members of the public are supportive of the Government requiring all text displayed to the public (including notices, signage, names of buildings, and so on) be available in both Chinese and English, so as to create a bilingual environment; if not, of the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President, figures show that the English standard of our students has been steady over the last few years and compares favourably with our counterparts in nearby regions. In the last few years, many of our university graduates, who have taken part in the IELTS, have attained Level 6 (that is, Competent Users) or above. Hong Kong has been able to maintain a high ranking in the 2011 test and is way ahead other places such as South Korea and Taiwan.

Our reply to Mr TIEN's three questions is as follows:

- (a) The average class size of public sector secondary schools is 33.4 and most of them are implementing split-class teaching at the junior levels when conducting English lessons. The average size of such groups is 18 to 28 students.

The overall student-to-teacher ratio in public sector secondary schools has improved significantly in the past few years from 18.0:1 in the 2005-2006 school year to 15.3:1 in the 2011-2012 school year. These figures are comparable to those of other developed regions in Asia. To address their needs, schools are advised to deploy the resources allocated flexibly to enhance learning and teaching effectiveness. Further, we have relaxed the criterion for approving Secondary One classes in the 2012-2013 school year through adjusting the basis for calculating the number of approved Secondary One classes by reducing the number of students in each class from 30 to 25, enabling schools to operate three Secondary One classes with an intake of 51 Secondary One students. The relaxation of the criterion for approving Secondary One classes actually further improves the teacher-to-student ratio of those schools facing the pressure of under-enrolment. We firmly believe that schools will make good use of the opportunity, and better deploy the resources available for split-class teaching according to the learning objectives they set and the abilities of their students to improve learning and teaching effectiveness in the classroom.

In fact, the existing English Language curriculum framework allows space and flexibility for schools to provide a variety of activities to

enhance students' learning motivation and develop the integrated use of the four skills of listening, speaking, reading and writing. The learning of English is not confined to the classroom only. Through collaboration between local English teachers and native-speaking English teachers, an English-rich environment in schools can be created. Further, over the past years, the Standing Committee on Language Education and Research (SCOLAR) has also collaborated with different organizations in the community to create a conducive language environment and conduct activities to further enhance students' interest in learning English and the learning effectiveness.

- (b) We are aware that some teachers may have a teaching load of more than 30 sessions per week, but as mentioned earlier, most English lessons are conducted in split-class mode. We also encourage schools to deploy the resources disbursed flexibly to support teachers through such means as employing extra staff and hiring outside services. In addition, we have, over the past few years, introduced an array of support measures to help English teachers to improve classroom teaching, including:
- (1) providing in-service professional development programmes;
 - (2) providing on-site school-based support services (for example, services provided by the Language Learning Support Section and the School-based Professional Support Section);
 - (3) injecting \$800 million and \$300 million in 2006 and 2010 respectively to the Language Fund to enable schools to implement the English Enhancement Scheme and the Refined English Enhancement Scheme so as to strengthen the English-rich environment in schools, empower English teachers professionally to teach better, as well as facilitate collaboration between English teachers and content subject teachers to promote the learning of English across the curriculum;
 - (4) expending over \$500 million annually for the provision of a native-speaking English teacher for all public sector primary

and secondary schools operating six or more classes to enrich the English language environment in schools;

- (5) sponsoring and conducting various large-scale activities through SCOLAR to create a conducive English language environment to raise students' interest in learning English outside the classroom;
- (6) giving high priority to items relevant to the theme of "Effective Learning and Teaching of Languages" since 2009 to encourage schools to implement English enhancement plans, with so far 16 projects being financed by the Quality Education Fund; and
- (7) providing additional teachers to schools in need, including schools with Band 3 or the weakest students at Secondary One to Secondary Three.

We will further strengthen teacher development to improve teachers' English proficiency and their teaching skills. Since there is no evidence showing the number of teaching sessions per week and teaching effectiveness are necessarily related, we have no plans at the moment to impose a ceiling on the number of teaching sessions for secondary English teachers.

- (c) Under section 3(1) of the Official Languages Ordinance, Chinese and English are the official languages of Hong Kong for the purpose of communication between the Government and members of the public. As a general rule, therefore, Government documents meant for the public, including important documents such as Policy Addresses, Budget Speeches, Gazette notices, consultation papers and reports, as well as other written materials like Government webpages, notices and signs, and names of Government buildings, are in both Chinese and English. It is only in individual cases where there are strong operational or financial reasons that monolingual materials are issued. In such cases, the monolingual materials would generally include a bilingual caption, a summary in the other language, or a message in the other language directing

readers who may understand only Chinese or English to another source where further information in the other language can be obtained.

Though we have not conducted related surveys, we believe that the public expect written materials issued by the Government to be in both Chinese and English. Such expectation is in line with the Government's language policy, which attaches equal importance to the two official languages.

MR MICHAEL TIEN (in Cantonese): *President, after listening to the Secretary's response, I am really puzzled and do not understand. According to the Secretary's reply, the education department in Hong Kong has done a lot of work. But in my main question, I have pointed out that the English proficiency of Hong Kong's candidates has not made any progress compared with candidates from neighbouring countries. The scores in IELTS attained by candidates from three neighbouring countries have improved, and the Secretary said that the English standard of our candidates has been stable — let us use the word "stable" to describe their standard — can the Secretary explain why candidates from other countries have made progress, while the standard of our students remains stable instead of making progress? How can we be complacent with the standard of our students when it can only be described as "stable"? We certainly hope that it can be on a par with the others.*

Secondly, concerning the teaching sessions of teachers, the Secretary said that there is no causal relationship between the number of teaching sessions and teaching efficacy. Can the Secretary undertake to conduct an academic research by appointing some impartial scholars to study the enhancement in the quality of language education by reducing the teaching sessions of language teachers?

Thirdly, concerning the documents of District Council members, a foreigner has complained to me that he did not know what had happened in the district he lived. As far as I know, he can only keep himself informed of the situation of his district by reading the English summary of relevant documents. But after reading these summaries, he finds that he has no knowledge of the details. May I ask the Secretary how I should reply the foreigner's question?

PRESIDENT (in Cantonese): Mr TIEN, just now you commented on the Secretary's response to the three parts of your main question. Would you raise a supplementary question?

MR MICHAEL TIEN (in Cantonese): *I have to select one from these three questions, right?*

PRESIDENT (in Cantonese): You can only raise a supplementary question.

MR MICHAEL TIEN (in Cantonese): *If I can only ask a supplementary question, I would ask the first one. Although the score of our candidates remains the same for many years, the Secretary considers their English proficiency as stable. While students from other countries are making progress, why does the Secretary think that "stable" is acceptable?*

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to Mr TIEN for his supplementary question. Regarding students' English proficiency, let me explain by citing the IELTS scores. The average score of Hong Kong's students in 2008 and 2011 is 6.31 and 6.4 respectively; the average score of candidates from Taiwan in 2008 and 2011 are 5.66 and 5.9 respectively; and that for South Korea are 5.74 and 5.9 respectively. As I said just now, the crucial factor lies in the difference of the base, rendering different extent in progress. Nevertheless, we will continue to enhance an English-rich environment in Hong Kong.

For Members' information, most of the papers in the District Councils are written in Chinese, except in Southern District because there are relatively a large number of residents who are foreigners. Therefore, special arrangement has been made to provide papers in English as an extra support to them.

MR IP KIN-YUEN (in Cantonese): *President, just now when we talk about the students' progress in English proficiency, it is considered stable. However, I would like to draw the attention of the Bureau that the new international data for*

comparison will be released today. Our students' score in Mathematics is declining and the ranking has fallen from the top a few years ago to the third this year, while the ranking for science subject has also fallen for more than 10 grades. So, we should be vigilant of this.

The Secretary has provided us with a lot of figures, which, in my opinion, will be construed as a very beautiful picture. However, I hope Members who are not well-versed in the education system will not be dazzled, thinking that our education system is excellent. Is the Secretary aware of the actual situation of schools that the number of students in Secondary One is 34 while that of upper forms is 40? Regarding split-class teaching, schools may implement it on their own by using their own resources, meaning that resources for other areas have to be reduced, or teaching sessions of teachers have to be increased. Therefore, when split-class teaching is implemented, no substantive support will be provided by the Government

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

MR IP KIN-YUEN (in Cantonese): *My supplementary question is: Will the Government put in place a substantive and specific plan to review the current number of students in each class in secondary schools, including that of split-class teaching in English Language? Will there be any substantive financial support enabling schools to implement such measures? Will the teaching sessions of teachers be capped? I hope the Bureau can carry out a specific review and provide a schedule in this regard.*

SECRETARY FOR EDUCATION (in Cantonese): President, regarding the class-to-teacher ratio, I would like to highlight one point. The current ratio for junior forms is 1:1.7, while that for upper forms is 1:2.0. On the premise that upper forms students have to take more subjects and the standards required are also higher, different treatment will be given to class-to-teacher ratio.

Secondly, regarding the situation of upper forms in particular, as students can select different subjects among diversified options, such as four major subjects, four compulsory core subjects, 20 elective subjects, six language

subjects and 35 applied learning subjects, split-class teaching is more common in upper forms. In a class of 40 students who have chosen three subjects, we will see that the average number of students is very low. And this is also the characteristics of upper forms. Hence, we understand that special attention should be paid to the situation in this regard.

Further, as I mentioned just now, language environment is very important. Apart from classroom activities, the SCOLAR has also strengthened and created a more comprehensive and diversified environment for learning English. Extra-curricular activities have also been increased. We have also conducted more researches in the hope that the problems can be dealt with in a comprehensive manner, thereby improving the overall level of proficiency.

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

MR IP KIN-YUEN (in Cantonese): *President, the Secretary basically*

PRESIDENT (in Cantonese): Please repeat the part of your question that you think the Secretary has not answered.

MR IP KIN-YUEN (in Cantonese): *..... He has not answered my question at all. My supplementary question is: Will the Government put in place a specific and substantive plan to review the class size in the teaching of English Language, including split-class teaching? Will substantive financial support be provided? What is the schedule? Will the number of teaching sessions be capped? In this regard, does the Government have any specific plan and schedule to conduct a review?*

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

SECRETARY FOR EDUCATION (in Cantonese): President, let me tell Members that we will review the relevant circumstances from time to time. Regarding the number of students and classes, I have to emphasize that as far as we know, many schools have implemented split-class teaching for junior forms students, particularly in language subjects. As there are various language subject-related subsidy programmes, we have encouraged schools to make flexible use of the existing subsidies.

MR MARTIN LIAO (in Cantonese): *Secretary, it happens that I have also raised a written question on teaching of English at school today. After reading the Government's response, I have the impression that the main duty of native-speaking English teachers (NETs) is to provide training to local English teachers as they basically are not required to undertake classroom teaching.*

My question is: Although students cannot directly benefit from the teaching of NETs, it seems that both parents and students think that more incentive will be provided if teaching is undertaken by NETs, why does the Government not expand the NET Scheme by recruiting more teachers so that they can undertake some classroom teaching?

PRESIDENT (in Cantonese): Mr LIAO, you should raise a supplementary question on this oral question rather than the written question you have raised at this Council meeting. I will regard Mr LIAO's question as a supplementary question on this oral question. Secretary, please reply.

SECRETARY FOR EDUCATION (in Cantonese): President, the NETs mainly support and collaborate with local English teachers in facilitating the implementation of the curriculum and the development of subject-related tasks, which include assisting in the design of the school-based English Language curriculum, enriching the English learning environment in schools, enhancing the professional development of English teachers, developing teaching materials and establishing resource banks as well as organizing relevant extra-curricular activities.

When attending a relevant activity of a secondary school a week ago, I saw the NET teacher of the school. There are 24 classes in that school. If teaching duty is placed on the NET teacher alone, he will not be able to deal with the workload.

Secondly, the NET teacher has arranged some extra-curricular activities enabling students to use English while playing drama. The result is good. The learning incentive of students is also very high. From this, we can see that NET teachers can give full play to their roles.

MS CLAUDIA MO (in Cantonese): *President, it is most regrettable that emphasis is also placed on "stability preservation" when talking about English proficiency in Hong Kong. We can hold fast to it by relying on stability.*

Secretary, you have provided a lot of figures to us, saying that efforts will be made to improve this and that. Basically, you are trying to make yourself feel good. President, if you ask front-line teachers, including me — I teach English from primary school to secondary school and then university — you will see that many young people in Hong Kong have also read the works of Shakespeare, but they are very confused when facing everyday English. The phrase "He stood me up" means that one has failed to keep an arrangement to meet someone. Although they know the four words "he stood me up", they do not know the meaning of the phrase. Here is another example

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

MS CLAUDIA MO (in Cantonese): *..... "you come clean" is a phrase you use when asking people to tell the truth. But young people do not know the meaning though they know these three words.*

My supplementary question is: When teaching English — President, you have also taught English occasionally — we attach total importance to grammar in teaching English. Just now, I suddenly

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

MS CLAUDIA MO (in Cantonese): *yes, but I have to make a statement first. I suddenly asked a senior barrister the meaning of "past perfect progressive tense". He was also shocked by this question as he did not know what I was talking about. We have adopted such an approach in teaching young people English. They will also be scared. But I fully understand their problem. If I ask the Secretary the definition of "adverbial phrase", he will certainly have no idea*

PRESIDENT (in Cantonese): Ms MO, please do not teach English here.

MS CLAUDIA MO (in Cantonese): *regarding the approach of teaching English in Hong Kong, we really cannot pay lip service only. Regarding the so-called English learning environment, can practical measures be implemented so that students can really be immersed in an English language environment in their daily life rather than reading the works of Shakespeare only?*

PRESIDENT (in Cantonese): Ms MO's speech let us know why Hong Kong students' English is so good!

SECRETARY FOR EDUCATION (in Cantonese): President, regarding English proficiency, I share the views of Ms MO that students should learn English not only in classrooms, but also learn how to use English in their daily life and workplace.

Three weeks ago, I attended a large-scale activity which was held in a park where there were 800-odd students. They had to communicate in English with each other throughout the activity. Their conversation was about their daily life. After I had arrived, some students talked to me in English. Although they did not express themselves well in the first sentence, they did better in the second sentence because, with the support of the people around, they were bold enough to speak in English. This is a new initiative and programme launched by the SCOLAR in promoting learning English in everyday life. Similar activities will

be held jointly with schools in the future. Therefore, this is another form of support to enhance the English environment and the incentive to learn English.

I fully agree that we should not be complacent with the average score of 6.4 in IELTS by Hong Kong's candidates. I also hope that the score can continue to improve. We know that this is a very important indicator in our daily life and workplace. Concerning the proficiency and standard of English teachers, as we can see, many teachers have attained the standard of the Language Benchmark Assessment, showing that we have exercised very good quality management. We will continue to make efforts in this regard.

PRESIDENT (in Cantonese): We have spent almost 25 minutes on this question. Second question.

Handling Applications for Naturalization as Chinese Nationals

(Ms Claudia MO was arranging the placard to be displayed)

PRESIDENT (in Cantonese): Ms MO, please expeditiously raise your main question.

2. **MS CLAUDIA MO** (in Cantonese): *President, some organizations that offer assistance to residents from the ethnic minorities have relayed to me that the Immigration Department (ImmD) always finds fault with ethnic minority residents (especially the Southeast Asians, South Asians and Africans who have dark skin colour) applying for naturalization as Chinese nationals, and the process and criteria for vetting and approving such applications lack transparency. These ethnic minority residents have been residing in Hong Kong for a long time and regard Hong Kong as their home, but their applications for naturalization as Chinese nationals have been refused. They are therefore not eligible for applying for the Hong Kong Special Administrative Region (HKSAR) passports as well. Such a situation not only undermines their sense of belonging to Hong Kong, but also very often causes them inconvenience when they go through immigration clearance while travelling, working or studying abroad. Also, they may be unable to receive assistance or protection from the Chinese*

consulates in the event of natural or man-made disasters encountered abroad. In this connection, will the Government inform this Council:

- (a) whether the ImmD has formulated internal guidelines on vetting and approving applications for naturalization as Chinese nationals to ensure that applicants of different ethnicity are treated fairly; if it has, of the details; if not, the reasons for that; whether the ImmD will, when vetting and approving applications for naturalization as Chinese nationals, take into consideration if the applicants are stateless persons, if they are non-ethnic Chinese children lawfully adopted by ethnic Chinese Hong Kong residents, as well as if they are of Chinese descent;*
- (b) of the specific details of the rejected applications for naturalization as Chinese nationals by non-ethnic Chinese Hong Kong residents each year since the establishment of HKSAR, including the number of applications received by the ImmD and the number rejected (with a breakdown by the ethnicity of the applicant and the reason for rejecting the application); and*
- (c) given that section 5(1)(b) of the Chinese Nationality (Miscellaneous Provisions) Ordinance stipulates that "any decision to approve or refuse the nationality application in the exercise of the discretion there shall be no need to assign any reason for the decision", whether the authorities will consider amending the provision, providing the applicants with the reasons for rejecting their applications, as well as putting in place an appeal mechanism; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, the reply is as follows:

- (a) According to Article 18 of and Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR), the Nationality Law of the People's Republic of China (CNL) shall be applied in the HKSAR from 1 July 1997. The Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of

the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region (Explanations) have been endorsed by the Standing Committee of the National People's Congress and the Government of HKSAR is authorized to designate it's the ImmD to handle applications related to Chinese nationality in the HKSAR in accordance with the CNL and the Explanations. Furthermore, the Government of HKSAR enacted the Chinese Nationality (Miscellaneous Provisions) Ordinance (Chapter 540) in 1997 to stipulate the implementation details of naturalization, form of application, charges, and so on.

Pursuant to Article 7 of the CNL, foreign nationals or stateless persons who are willing to abide by China's Constitution and laws and who meet one of the following conditions may be naturalized upon approval of their applications:

- (1) they are near relatives of Chinese nationals;
- (2) they have settled in China; or
- (3) they have other legitimate reasons.

Article 8 of the CNL stipulates that any person who applies for naturalization as a Chinese national shall acquire Chinese nationality upon approval of his application; a person whose application for naturalization as a Chinese national has been approved shall not retain foreign nationality.

The ImmD will consider each application for naturalization as a Chinese national on its own merits and will in general give consideration to the following factors:

- whether the applicant has a near relative who is a Chinese national having the right of abode in Hong Kong;
- whether the applicant has the right of abode in Hong Kong;
- whether the applicant's habitual residence is in Hong Kong;

- whether the principal members of the applicant's family (spouse and minor children) are in Hong Kong;
- whether the applicant has a reasonable income to support himself/herself and his/her family;
- whether the applicant has paid taxes in accordance with the law;
- whether the applicant is of good character and sound mind;
- whether the applicant has sufficient knowledge of the Chinese language;
- whether the applicant intends to continue to live in Hong Kong in case the naturalization application is approved; and
- whether there are other legitimate reasons to support the application.

Besides, as stated in section 5(1)(a) of the Chinese Nationality (Miscellaneous Provisions) Ordinance, where in connection with any nationality application any discretion may be exercised under or pursuant to any of the provisions of the CNL, as implemented in the HKSAR in accordance with the Explanations, the discretion shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise. This provision applies to the naturalization applications handled by the ImmD, including those from stateless persons, non-ethnic Chinese children being legally adopted by Hong Kong ethnic Chinese couples, and non-ethnic Chinese residents.

- (b) From the establishment of the HKSAR (that is, July 1997) to November 2012, the ImmD has received 15 518 applications for naturalization as Chinese nationals, of which 12 658 were approved, 1 293 not approved, and 193 withdrawn. The yearly breakdown is in Table 1.

The original nationality of applicants whose naturalization applications were approved from July 1997 to November 2012 is mainly Pakistani, Indonesian, Indian, Vietnamese and Filipino. Detailed application and approval figures are in Table 2.

The ImmD does not maintain statistics on refusal reasons.

- (c) Section 5(1)(b) of the Chinese Nationality (Miscellaneous Provisions) Ordinance applies only to decisions in the exercise of discretion. In exercising discretion to handle applications for naturalization as a Chinese national, the ImmD often needs to consider information such as whether the applicants are of good character. Therefore, it is not appropriate to disclose the reasons behind the decision. The decisions made after considering the above factors are in the exercise of discretion, rather than findings of the law or facts. If an appeal mechanism is set up for this kind of decisions, the final decision will be made by the appellate authority instead of the ImmD, which is designated by the Government of HKSAR as authorized by the Explanations. Moreover, pursuant to section 5(2) of the Ordinance, nothing in this section affects the jurisdiction of any court to entertain proceedings of any description concerning the rights of any person under the CNL.

Applicants who are not satisfied with the outcome of the applications may request the ImmD in writing to reconsider their applications. All reconsiderations will be handled on a fair basis.

Table 1

Applications for Naturalization as Chinese Nationals and Results

	<i>Number of Applications</i>	<i>Approved</i>	<i>Not Approved</i>	<i>Withdrawn</i>
1997 (July to December)	30	0	0	0
1998	240	157	4	3
1999	251	281	4	16
2000	409	309	6	6

	<i>Number of Applications</i>	<i>Approved</i>	<i>Not Approved</i>	<i>Withdrawn</i>
2001	360	327	5	6
2002	560	457	5	12
2003	702	635	24	22
2004	1 342	1 209	56	13
2005	1 719	1 354	47	8
2006	1 840	1 787	6	26
2007	1 567	1 538	38	23
2008	1 541	1 237	239	9
2009	1 295	955	222	13
2010	1 263	729	124	11
2011	1 219	940	356	13
2012 (January to November)	1 180	743	157	12
Total	15 518	12 658	1 293	193

Notes:

- (1) The number of applications in a particular year would in general not correspond exactly with the number of cases approved not approved or withdrawn in that year because the cases may not necessarily be submitted and determined in the same year.
- (2) "Approved" refers to those applications with certificate of naturalization issued.
- (3) "Withdrawn" refers to those applications being withdrawn by applicants or could not be processed further because of insufficient information provided by applicants.

Table 2

Top Five Original Nationalities
of Applicants Naturalized as Chinese Nationals
(from July 1997 to November 2012)

<i>Original Nationality</i>	<i>Number of Applications for Naturalization as Chinese Nationals</i>	<i>Number of Approvals for Naturalization as Chinese Nationals</i>
Pakistani	4 536	3 411
Indonesian	3 786	3 399

<i>Original Nationality</i>	<i>Number of Applications for Naturalization as Chinese Nationals</i>	<i>Number of Approvals for Naturalization as Chinese Nationals</i>
Indian	3 224	2 487
Vietnamese	1 593	1 115
Filipino	570	387

Note:

Number of approvals refers to those applications with certificate of naturalization issued.

MS CLAUDIA MO (in Cantonese): *President, the shirt that I am wearing was bought from the Hong Kong Unison Limited (the Unison), and this placard was also made by the Unison, not by me. Secretary, please do not leave so quickly later because I have to pass you a letter from the Unison.*

In his reply, the Secretary has basically read out some laws to us, which I have already learnt by heart and can even recite most of them. Nonetheless, he has failed to answer one question, which, unfortunately, could not be raised in my main question. I have originally mentioned the phrase "suspected racial discrimination", but it was deleted from my original question. Secretary, a group of people from the Unison was gathering downstairs, and one of them had applied for naturalization. His name is Philip KHAN, or KAN Ho-ming in Chinese. He has applied for naturalization as a Chinese national twice because he intended to run in the Legislative Council Election (Hong Kong Island Geographical Constituency) held in September 2012, but the Immigration Officer told him that he did not need to come again for his "bloodline" was not suitable.

I am going to ask the Secretary: Why applications from other people were accepted — we all know that Mr ZIMMERMAN had applied for naturalization on the same ground. Yet, another Hong Kong permanent resident of Pakistani nationality, whose families have been living in Hong Kong for three generations for 97 years, was rejected twice? Can he request for reconsideration?

SECRETARY FOR SECURITY (in Cantonese): I thank Ms MO for her supplementary question. I have also received a letter from the Unison lately in

which a similar question was raised. The points which I have just highlighted in my main reply are the basis on which applications are handled. When applications for naturalization as Chinese nationals are processed in accordance with to the CNL, we must abide by the law and the established procedures.

In fact, all applicants can get a relevant leaflet from the ImmD before submitting their applications, which clearly sets out the factors for consideration. With regard to the figures quoted by Member earlier on rejected applications from ethnic minority residents, there is no breakdown of such applications by races, but merely by nationalities. In the table of the main reply, I have already set out the figures of the more popular original nationalities of applicants, including Pakistani, Indonesian, Indian, Vietnamese and Filipino.

Article 7 of the CNL has set out a number of factors for consideration, including whether the applicant has settled in China, whether he has other legitimate reasons, and whether he has near relatives of Chinese nationals. The series of factors to be considered have been clearly set out in the leaflet, and will be considered in a comprehensive manner. Whether an applicant has the Chinese bloodline does not fall into any of these listed considerations. Since I have just elaborated the relevant factors for considerations in the main reply, I am not going to repeat again.

As for the individual case mentioned by Ms MO, we are not in a position to comment on individual cases here. And yet, as highlighted in the last sentence of my main reply, applicants who are not satisfied with the outcome of the applications may request the ImmD in writing to reconsider their applications. I have also consulted colleagues from the ImmD and they replied that requests for reconsideration have been dealt with.

DR CHIANG LAI-WAN: *President, according to Government's guidelines, the Immigration Department considers each application for naturalization as a Chinese national against a host of factors and criteria, including, as Secretary LAI has just mentioned, whether the applicant has a close relative who is a Chinese national with the right of abode in Hong Kong, and whether the applicant has a sufficient knowledge of the Chinese language. Would the Secretary inform the Council of the basis on which the Department has set these determining factors, including their purpose and relevance? Specifically, would*

he explain to the Council the relevance of whether an applicant's close relative being a Chinese national has anything to do with the applicant's own naturalization as a Chinese national? Should their close relative have the right of abode but not be naturalized as a Chinese national, how would the applicant be handled differently? And as Hong Kong is an international city, what is the purpose of requiring an applicant to have a sufficient knowledge of the Chinese language?

SECRETARY FOR SECURITY (in Cantonese): President, I thank Dr CHIANG for her supplementary question. The first thing which Dr CHIANG asked about is the provision of Article 7 of the CNL, which requires that the applicants must be close relatives of Chinese nationals. Whether or not an applicant is a close relative of Chinese nationals is a factor and also one of the factors for consideration. We can see clearly that there are a total of three conditions under the CNL. In addition to these three conditions, we will also examine an application with reference to a series of factors for consideration. Certainly, an applicant will be considered if he meets the condition of being a close relative of Chinese nationals. But being a close relative of Chinese nationals does not constitute a successful application.

The CNL sets out clearly that "..... who meet one of the following conditions may be naturalized upon approval of their applications". Therefore, in the leaflet, we have set out a series of factors that will normally be considered. In case an applicant suggests other factors which he considers relevant, we will consider after he has made the suggestion. Also, applicants may state in the application form why he wishes to do so.

With regard to overseas practices, we are aware that different countries have their own requirements when processing applications for naturalization, which generally include whether an applicant is familiar with the country concerned. I recall that some countries even require the applicants to sit for an examination to ascertain their knowledge about the country's history, background and origin. For language, whether an immigrant can integrate into the community after they settle hinges on his language ability. I wish to highlight out that this is a relevant factor and that is why it is included in the basket of factors.

MR ABRAHAM SHEK (in Cantonese): *President, I hope that the Hong Kong Government will fairly vet and approve all applications. As far as I can recall, applications from the rich and powerful or reputed persons were expeditiously approved, for example Mr Alan ZEMAN (that is, Mr Lan Kwai Fong), Mr ZIMMERMAN of the Civic Party and Mr Mike ROWSE. All their applications were successfully approved. Why grass-roots children of Indian or Pakistani nationalities find it so hard to have their applications for naturalization approved? Can the Secretary explain if a fair system has been put in place? Or, the authorities are fearful of the rich and powerful persons?*

SECRETARY FOR SECURITY (in Cantonese): President, first of all, I must make it clear to Members that when the ImmD processes an application, it will examine the merit of each case and the information provided by the applicant concerned, as well as the series of factors which we have stated in public.

The names given by the Member in relation to the successful applications are only a handful of them. We have actually approved a large number of applications since the reunification. Members may notice from Table 2 that many successful applications relate to people whom Members consider as ethnic minority residents, including those of Pakistani, Indonesian, Indian, Vietnamese and Filipino nationalities. There are indeed many such successful applications. Of course, not all successful applicants will disclose in public their names and details. Nor is this our practice. I nonetheless believe Members may notice from the number of applications and approvals that, in the course of processing applications, the ImmD would, after vetting most of the applications, exercise discretion to approve applications that meet the conditions and are appropriate.

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

MR ABRAHAM SHEK (in Cantonese): *President, I asked if special treatment would be given to the rich and powerful applicants.*

PRESIDENT (in Cantonese): Secretary, can you give a simple reply if preferential treatment would be given to the rich and powerful applicants?

MR ABRAHAM SHEK (in Cantonese): *Is there fair treatment? Is there a fair mechanism? Would the Secretary stop saying that there are many*

PRESIDENT (in Cantonese): Mr Abraham SHEK, your supplementary question is very clear, so let the Secretary reply.

SECRETARY FOR SECURITY (in Cantonese): President, the reply is that all applications are treated fairly regardless of the social status of the applicants, and all applications are measured against the same criteria.

MR ALBERT CHAN (in Cantonese): *President, many years ago, I had arranged a meeting between the ImmD and people of Indian or Pakistani nationalities about the rejection of their applications for naturalization. There are basically two issues which I hope the Government will carefully examine and consider. One is the language issue. Many rejected applicants are women of Indian or Pakistani nationalities, who are housewives and probably not fluent in or know little Chinese or English. And yet, their children were born in Hong Kong. These women's applications for naturalization as Chinese nationals were often rejected mainly because of the language requirement.*

Nonetheless, the ImmD would not state the reason for refusal in the relevant document and the applicants could only make wild guesses. First of all, will the Government consider stating specifically the reason for rejecting an application in its formal reply to applicants? I opine that the authorities should give all applicants a specific answer. Secondly, many applicants will apply for Hong Kong passports and naturalization as Chinese nationals at the same time. While the application fee for passport is some \$3,000 to \$4,000, application for naturalization is also charged. These often impose a heavy burden on applicants of Indian or Pakistani nationalities. In that case, will the ImmD develop a mechanism under which applications for naturalization as Chinese nationals will be pre-examined before application fees are formally paid, so that the rights of applicants will not be deprived of due to lack of means?

PRESIDENT (in Cantonese): Mr CHAN pointed out that there are two hurdles or thresholds obstructing applications from ethnic minority residents for naturalization as Chinese nationals. Secretary, can you give a reply with regard to this?

SECRETARY FOR SECURITY (in Cantonese): President, while an applicant's proficiency in Chinese is certainly a factor for consideration, it does not mean that an applicant who does not speak fluent Chinese will definitely be rejected. On the other hand, it does not guarantee that applications from applicants speaking fluent Chinese will be successful. According to Article 154 of the Basic Law, Hong Kong permanent residents with Chinese nationality may apply for HKSAR passports; in other words, one condition for issuing the HKSAR passport is that the applicant must be a Chinese national. Therefore, legally speaking, a non-Chinese Hong Kong permanent resident who has the right of abode in Hong Kong cannot obtain HKSAR passport direct. Looking from this perspective, applications for naturalization and passports are related, but they do have some differences.

With regard to the application for naturalization as Chinese nationals, the fee to be paid by applicants is calculated on the basis of resources involved in the relevant process. When an applicant submits an application, our staff will usually explain clearly the relevant details to them. As the Member has said earlier, given that an application fee will be collected when the application form is submitted and will not be refunded, an explanation will therefore be given to them in the first place. If they are willing to spend this sum of money after consideration, we will then process their applications in accordance with the established procedures.

MR ALBERT CHAN (in Cantonese): *President, the Secretary has completely distorted my question. In my supplementary question, I said that some people of Indian or Pakistani nationalities have problems in both Chinese and English, but not just Chinese. If they know English, their applications will be approved in most cases as proficiency in Chinese is not a necessity*

PRESIDENT (in Cantonese): Please state specifically the part that you think the Secretary has not answered.

MR ALBERT CHAN (in Cantonese): *My point is, as some \$3,000 to \$4,000 will be charged upon application, it will therefore cost those applicants of Indian or Pakistani nationalities a fortune if their applications were rejected time and again. Furthermore, as the ImmD would not state the reason for refusal, applicants could only make wild guesses. In fact, in many overseas countries, applicants for naturalization are usually provided with standard examination papers for reference*

PRESIDENT (in Cantonese): Mr CHAN, please stop making comment.

MR ALBERT CHAN (in Cantonese): *I want to ask the Secretary, with regard to applications for naturalization as Chinese nationals, will there be any pre-examinations or pre-tests for applicants to make an attempt before actually paying the high application fee.*

PRESIDENT (in Cantonese): Mr CHAN, you have raised a number of new questions. I wish to remind Members that they should be as concise and clear as possible in raising supplementary question. Secretary, Mr CHAN pointed out that as the authorities have not stated the reasons for refusal, applicants are at a loss of the preparation required. In this connection, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): First of all, we hope that all applicants will first carefully study our leaflets to gain a good understanding of the various factors that will be considered in respect of each applicant. If they have any questions, our staff will certainly explain the relevant details of the leaflets to them. However, the proposed pre-examination system may turn out to be what has been rumoured, and that is, we will be saying, "Sir, it seems that you are unable to meet the condition of a certain respect". If this is the case, it

may give rise to a misunderstanding that we do not want to or even do not accept applications from certain people, which is downright not our intention at all.

I therefore consider the existing practice appropriate, that is, applicants are required to carefully study the factors to be considered upon application; and if an applicant has any query about any of those factors, we will try our best to explain to them.

PRESIDENT (in Cantonese): This Council has spent more than 28 minutes on this question. Regarding today's first two oral questions, apart from the Members putting the main questions, only three Members can raise supplementary questions. While a number of Members who have waited for their turn to ask supplementary questions did not have a chance to do so in the end, the time spent on these two oral questions have far exceeded the limit allowed for an oral question under section 9A of the House Rules. Hence, I would like to remind Members that supplementary question should be as concise as possible, whereas replies from public officers should be to the point and avoid giving information that has no direct relevance to the supplementary questions raised by Members. Third question.

Changing Use of Sites and Premises of Industrial Buildings to Increase Housing Supply

3. **DR JOSEPH LEE** (in Cantonese): *President, earlier on, the Government announced a package of short to medium term housing and land supply measures to alleviate the problem of housing shortage, including changing the use of the sites or the premises of industrial buildings. For example, the renewal of old industrial areas will be accelerated to release more sites suitable for residential development and suitable industrial buildings will be converted into public rental housing (PRH) or "transitional accommodation", so as to increase housing supply. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the current number of vacant industrial buildings in Hong Kong, the number of such buildings which are located on sites suitable for rezoning to residential use, and the number of those suitable for conversion into PRH as well as the*

reasons for the sites of certain industrial buildings being unsuitable for rezoning to residential use; of the authorities' measures to facilitate changing the use of such industrial buildings and expedite their revitalization and, alternatively, what other means the authorities will adopt to minimize vacancy of industrial buildings as far as possible;

- (b) whether it has assessed the differences in terms of the time and resources required between redeveloping industrial buildings into PRH and constructing PRH on newly-formed land; if it has, of the details; if not, whether it will do so expeditiously; and*
- (c) as the authorities have said that they are exploring ways, under the policy on revitalization of industrial buildings, to facilitate wholesale conversion of industrial buildings to "transitional accommodation" use on an interim basis, whether they have assessed the number of industrial buildings whose owners will make such applications and the number of transitional accommodation units that can be provided; of the criteria for vetting and approving such applications; and whether they have formulated measures to monitor if the converted industrial buildings meet the safety standards?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President and Honourable Members, good morning. President, the Chief Executive announced on 30 August 2012 ten short to medium term housing and land supply measures, of which two were related to industrial land, including (1) to convert the Chai Wan Factory Estate for PRH use by the Housing Authority (HA) and to launch two redevelopment projects of industrial buildings by the Urban Renewal Authority (URA) for residential and office uses respectively; and (2) to explore the feasibility of allowing conversion of industrial buildings where appropriate for residential use under the town planning regime and the Buildings Ordinance. These two measures fall under the purviews of Transport and Housing Bureau and Development Bureau, and we are committed to taking forward the relevant work.

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

- (a) The Area Assessments of Industrial Land in the Territory (Area Assessments), completed by the Planning Department in 2009,

proposed to rezone about 60 hectares of industrial sites in various districts for non-industrial uses, among which a total of 16 sites (five are government sites) comprising about 30 hectares of land were proposed to be rezoned for residential use. The relevant authority is under the process of amending the Outline Zoning Plans concerned for implementing the said rezoning proposals. The Area Assessments, which also investigated the uses of industrial buildings located within "Industrial" and "Business" zones, found that the overall vacancy rates of these two zones in terms of floor area were about 6.5% and 8.4% respectively. When rezoning an industrial site for residential use, we have to take into account a series of factors, including whether the vacancy rate of the site is at a high level; whether the site is under single ownership; whether the industrial building(s) on the site has/have relatively high building age; whether the site is already built or committed for non-industrial uses; whether there are still active industrial activities in the industrial building(s) on the site; whether rezoning the site for residential use would give rise to industrial/residential interface problems in the aspects of environment and transport.

To encourage the provision of suitable premises through redevelopment or wholesale conversion of vacant or under-utilized industrial buildings to meet the current social and economic needs of Hong Kong, with a view to better utilizing the precious land resources, the Government has implemented the following measures for revitalization of industrial buildings (the revitalization measures) since April 2010:

(1) To encourage redevelopment

- (a) Lowering the application threshold for compulsory sale orders under the Land (Compulsory Sale for Redevelopment) Ordinance from 90% to 80% of ownership for industrial buildings aged 30 years or above situated in non-industrial zones to address fragmented ownership in flatted industrial buildings.

- (b) Allowing tailor-made lease modifications at "pay for what you build" premium.
- (c) Allowing owners who modify the lease for redevelopment to opt for payment of 80% of the land premium by annual instalments over five years at a fixed interest rate, if the total premium exceeds \$20 million.

(2) *To encourage wholesale conversion*

- (a) Owners may apply at a nil waiver fee for change of use of existing industrial buildings for the lifetime of the buildings or the current lease period, whichever is earlier. The following eligibility criteria have to be met:
 - (i) industrial buildings aged 15 years or above and situated in "Industrial", "Commercial" or "Business" zones;
 - (ii) joint application by all owners of the building;
 - (iii) there should not be any increases in building height, building bulk or total gross floor area (GFA) after the conversion;
 - (iv) the buildings cannot be reverted to industrial use during the waiver period; and
 - (v) full market premium is payable when the buildings are redeveloped in future.
- (b) Placing GFA-exempted utility installations (for example, machine room for lifts) on the main roof not exceeding 50% of the roof area of the floor below would not be regarded as increase in building height, while installation of claddings or curtain walls on the

external walls would not be regarded as increase in building bulk.

- (c) Allowing minor changes to the existing building frame, including variations to the internal and external structures, on the conditions that demolition of external structures should involve no more than 10% of the total GFA of the existing building and that there is no net increase in the total GFA after conversion.

The deadline for submission of applications under the above revitalization measures is 31 March 2016.

- (b) Government sites rezoned for residential use will be allocated for public or private housing development in accordance with their surrounding areas (for example, whether they are located near MTR or other major public transport facilities, their suitable development intensity, and so on). According to the Transport and Housing Bureau, the time and resources required for each individual PRH project vary and the HA does not have information on the relevant assessments of redeveloping industrial buildings into PRH and constructing PRH on newly-formed land. Generally speaking, having regard to the land characteristics, infrastructure facilities, planning requirements and local objections of individual PRH development projects, the HA will have to carry out various technical studies, provide the required infrastructure facilities, obtain the necessary planning permissions where appropriate, and maintain close communication with the relevant government departments, district councils and local communities.
- (c) In converting industrial buildings for residential use, the Town Planning Ordinance and statutory plans, the Buildings Ordinance and its subsidiary legislation (including those safety-related standards), and the conditions in the relevant land leases have to be complied with. Currently, the Government is studying possible ways in the context of the policy on revitalization of industrial buildings to facilitate wholesale conversion of suitable industrial buildings to "transitional accommodation" use on an interim basis as a stop-gap

measure. The relevant study is still in progress. Whether private industrial buildings will be converted for such use will depend completely on the intention and circumstances of individual owners, such as their ownership status and return considerations, and so on. We are not in a position to assess in this stage the possible market response to the relevant measure upon its introduction. Once the measure is introduced, the authorities concerned will ensure the compliance of relevant safety standards in the converted industrial buildings.

DR JOSEPH LEE (in Cantonese): *President, just now, the Secretary indicated in the main reply that he could not assess the market response to the introduction of the "transitional accommodation" measure. I would like to ask the Secretary whether he is aware that many industrial buildings of this type have already been converted to "sub-divided units" privately? Does the Secretary have any data in this regard, and what measures are available to guarantee the safety of residents after they have moved into such accommodation?*

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, regarding the number of residents living in "sub-divided units" in industrial buildings, we do not have the most stringent set of statistical data in this respect. Regarding the safety of residents living in industrial buildings, we are extremely concerned about it and hence, we will boost the strength of enforcement. Dedicated officers are deployed by the Buildings Department to carry out inspections and take enforcement actions when "sub-divided units" are found.*

MR LEUNG KWOK-HUNG (in Cantonese): *President, Dr Joseph LEE has indeed raised an apt question. Secretary, do not just engage in chit-chat. You are also suspected of operating "sub-divided units" and have yet to give us an account of it; your action can be described as taking advantage of other people's plight, disregarding moral principles in pursuit of profit*

PRESIDENT (in Cantonese): *Mr LEUNG, please ask your supplementary question in relation to the main question.*

MR LEUNG KWOK-HUNG (in Cantonese): *This is a question of integrity.*

PRESIDENT (in Cantonese): Mr LEUNG, if you make further remarks unrelated to the main question, I will stop you from raising the question.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I have found it. According to the Secretary, the HA does not have any statistical data on changing the use of industrial buildings into private housing or PRH, that is, no information is available and nobody knows what the situation is; hence, I have reasons to believe that if a person who takes advantage of other people's plight, disregards moral principles in pursuit of profit, and builds his own greed and happiness on the difficulty faced by the general public in renting accommodation*

PRESIDENT (in Cantonese): Mr LEUNG, please stop expressing your opinions and ask a supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I get it. Secretary, before you give an account of your problem relating to "sub-divided units", do you need to declare your interest in the Legislative Council today? What qualifications do you have to talk about the conversion of industrial buildings in this Chamber? Because it is common to convert industrial buildings into "sub-divided units", and you are the policy formulator. Now, I am going to ask you a very simple question*

PRESIDENT (in Cantonese): Mr LEUNG, you are not asking a supplementary question. Please sit down and stop speaking.

MR LEUNG KWOK-HUNG (in Cantonese): *Why that is not a supplementary question. I was asking him* You did not allow me to finish my question. *In the course of formulating this policy, have you declared your interest? In the*

course of formulating this policy, have you declared your interest in the Executive Council? This is a very simple question: Have you or have you not?

PRESIDENT (in Cantonese): The question asked by Mr LEUNG is unrelated to the main question.

MR WONG KWOK-HING (in Cantonese): *President, in the preamble of the main reply, the Secretary mentioned that the Chai Wan Factory Estate will be converted into PRH. Here, I wish to thank the Administration for taking on board the demand made by me, other Honourable colleagues as well as the local residents. Here is the supplementary question I want to ask. According to the main reply, applications for wholesale conversion must be made jointly by all owners, but this is in fact a very difficult obstacle. In fact, for many industrial buildings, it might be difficult for all owners to reach a consensus on applying for revitalization, and the majority of owners would wish to have some flexible arrangements available to revitalize their industrial buildings. Hence, I would like to ask the Administration whether a cross-departmental working group or office would be set up to assist the owners of these industrial buildings, so that applications for the revitalization of industrial buildings can be dealt with through a simplified procedure within a shorter time frame, instead of having to go through many different departments for processing?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the reason for requiring joint application by all owners for the revitalization of industrial buildings is that the presence of industrial undertakings and domestic activities within the same building is undesirable, given that there are various health and safety considerations, for example, requirements on fire safety, and so on. Hence, if an industrial building is to be converted for residential use, it must be undertaken for the whole building. Regarding the problem of fragmented ownership, if there is a certain consensus among the owners, the lowering of the application threshold for compulsory sale orders from 90% to 80% of ownership as I have just mentioned can also be one of the facilitating measures. In addition, as I have just mentioned in the main reply, the URA is now undertaking a number of pilot projects, and one of them has already commenced. It is hope

that the urban renewal strategy can facilitate the conversion of industrial buildings with fragmented ownership to other uses.

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

MR WONG KWOK-HING (in Cantonese): *No, President. The Secretary has not replied whether consideration will be given to setting up a cross-departmental working group or office to assist those owners who intend to revitalize their industrial buildings?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we have not made such consideration for the time being primarily because all along, the authorities have speedily handled the vetting and approval process on submitted applications for the revitalization of industrial buildings. Of the 88 applications received so far, only a dozen or so are still being processed.

MR CHARLES PETER MOK (in Cantonese): *President, since the introduction of the policy on revitalization of industrial buildings, the price of industrial buildings has been spiralling due to the imbalance between supply and demand. Nonetheless, if industrial buildings are to be converted into other uses, there is the problem of inadequate supporting measures, resulting in inconsistencies in respect of enforcement and handling due to the different locations of the industrial buildings concerned or the different levels of familiarization of the persons-in-charge of the policy. For instance, with regard to the provision of data centres in the industry to which I belong, there is not even a classification for this particular use, such that many sites intended to be converted into data centres can only be classified as office use. May I take this opportunity to ask the Secretary whether the authorities will keep pace with the times by reclassifying the types of land use to cater for the emerging land uses, so as to avoid industrial buildings being classified for other uses under the existing classification, thereby having to meet various unfair and unsuitable requirements made by different departments in planning? If revitalization of industrial*

buildings is indeed to be taken forward, they should be revitalized in a pragmatic manner.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we will review the situation continuously and examine the scope of improvement in terms of land use planning. Hence, I will go back and revisit the situation just mentioned by Mr Charles Peter MOK.

MISS CHAN YUEN-HAN (in Cantonese): *President, regarding this question today, I share the same view as those expressed by some Honourable colleagues just now. The policy on revitalization of industrial buildings was first proposed by the Government when Donald TSANG was the Chief Executive with the primary objective of facilitating the development of creative industry. Nonetheless, the Government has taken a long time to proceed. Under the current situation, the Government proposed to convert industrial buildings into hotels or residential development, I am concerned about the people now engaging in creative industry in industrial buildings, who must face the housing problem while operating their creative businesses. As I see it, the Government's existing policy is too piecemeal with no clear objective. While the then intention was to develop creative industry, the people engaging in the creative industry must now face the adverse problem of accommodation or all kinds of oppression from the Government due to the housing problem. Now the Government proposes the revitalization of industrial buildings again for converting into hotels, I consider that it is all very confusing*

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

MISS CHAN YUEN-HAN (in Cantonese): *President, I would like to ask the Secretary whether the Government has clearly contemplated that the revitalization of industrial buildings was originally intended to assist people who engage in the creative industry? Now, the Government is giving me the impression that it is muddled; what will the Government do to deal with the long-existing problems of industrial buildings in a uniform manner?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, if people engaging in creative industry activities in the industrial buildings are allowed to live there, it will result in the problems which I have just mentioned. If other activities and domestic activities take place in the same building, it will actually create problems relating to hygiene and fire safety. As far as I know, among the industrial buildings approved for wholesale conversion, 10 applications involve new uses including the conversion into places of recreation, sports or culture, and suitable floor area can be provided for the culture and creative industry. On the other hand, the Government announced in October last year that resources will be allocated to the Hong Kong Arts Development Council for the provision of arts space at suitable industrial premises, and such space will be available for rent by artists at concessionary rates.

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

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary has not answered my supplementary question.*

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

MISS CHAN YUEN-HAN (in Cantonese): *Under the premise of a large-scale revitalization of industrial buildings now, all sorts of problems will arise, and I have the feeling that the Government has not formulated a comprehensive policy*

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

MISS CHAN YUEN-HAN (in Cantonese): *My supplementary question is: Given that its policy is so confusing, how can the Government formulate afresh a set of relevant measures? As just mentioned by the Secretary, regarding the*

revitalization of the creative industry, the Government does not have any policy to cater for the artists

PRESIDENT (in Cantonese): Miss CHAN, please repeat your supplementary question in a simple way.

MISS CHAN YUEN-HAN (in Cantonese): *I want to ask the Secretary whether the Government has a set of comprehensive policies to cater for the needs of different people?*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): President, regarding persons engaging in the cultural industry and the arts, I have just replied that under the policy on revitalization of industrial buildings, barriers have been removed in the hope of facilitating the conversion of industrial buildings into other uses, but we will not impose any hard-and-fast target, such that various ratios of floor area in an industrial building must be allocated for different uses. That is because we must firstly consider market forces, and secondly the intention as well as commercial consideration of property owners or owners of interests in the building. The Government's role is to remove barriers and leave it to the market to seek the right balance.

DR KWOK KA-KI (in Cantonese): *President, while we can understand that the Government must resort to changing the use of industrial buildings, given the problems in its housing and land policies, a considerable impact would be created if reckless measures are adopted. I am absolutely disappointed by the Secretary's reply that he does not even have any statistics on the number of "sub-divided units" in industrial buildings. My supplementary question is: Many sitting tenants of industrial building premises are small and medium enterprises (SMEs) in Hong Kong, including those in the creative industry. With the Secretary's move to implement the policy of allowing the change of land use of industrial buildings, including their conversion into residential development or*

hotels, the rent of properties originally designated for industrial use will increase by folds. Does the Secretary have any statistics or findings which indicate the number of SMEs that will be wiped out by such a move, that is, those SMEs whose survival depends on a relatively low level of rent? What impact will be created as a result?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we also note the substantial increase of rental of industrial buildings, which can be attributable to many different causes. We will closely monitor the problem in this regard. Nonetheless, on the other hand, persons engaging in different economic activities in industrial buildings will move to other districts when rental of industrial buildings increases. I have no information in hand to indicate the actual number of SMEs which have moved to other districts or disappeared from the district.

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

DR KWOK KA-KI (in Cantonese): *My supplementary question is whether there are any statistics or findings in this respect? I wish to ask the Secretary through the President whether the authorities have not conducted any study in this regard or they have no relevant statistics?*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we do not have the figures just mentioned by Dr KWOK Ka-ki. In fact, since the introduction of the policy on revitalization of industrial buildings to date, we are also concerned about the figures mentioned by Honourable Members in their supplementary questions, including the number of occupants of "sub-divided units" in industrial buildings, and we are now studying the relevant issues.

PRESIDENT (in Cantonese): This Council has already spent 23 minutes 30 seconds on this question. Fourth question.

Tax Exemption Granted to Private Hospitals

4. **MR CHAN KIN-POR** (in Cantonese): *President, quite a number of middle-class people have relayed to me their dissatisfaction that while they hope to have access to the quality healthcare service of local private hospitals, the significant increase in service charges in recent years has deterred them from doing so and they can only seek medical treatment in public hospitals instead. Most of the private hospitals are charitable institutions which are exempt from tax under section 88 of the Inland Revenue Ordinance (section 88). They must be established solely for charitable purposes recognized by the law. The Inland Revenue Department (IRD) will conduct reviews periodically and ask those private hospitals to submit their account statements and other relevant documents so as to ascertain whether their activities have deviated from their charitable objects, and whether their business and profits derived therefrom meet the requirements under section 88. The IRD will then decide whether their tax exemption status should continue or be revoked. In this connection, will the Government inform this Council:*

- (a) *of the details of the reviews conducted by the IRD in the past decade on whether the tax-exempt private hospitals were still eligible for tax exemption, including the frequency of such reviews, the years in which the reviews were conducted and the outcome for each hospital;*
- (b) *of the criteria based on which the IRD determines if the uses of the private hospitals' income and assets have deviated from their charitable purposes, and whether their business meets the requirements under section 88; in cases where deviations have been identified, whether the IRD will first issue a warning to the hospital concerned and revoke its tax exemption status only when the situation has not been rectified; whether the IRD had issued any such warning and revoked the tax exemption status of any private hospital in the past decade; and*

- (c) *whether there are differences between the criteria applicable to private hospitals mentioned in part (b) and those adopted by the IRD for other charitable institutions or trusts; of the number of charitable institutions or trusts, other than private hospitals, whose tax exemption status was revoked by the IRD in the past decade; whether the IRD will review if the relevant criteria are too lax?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, my replies to the questions raised by Mr CHAN Kin-por are as follows:

- (a) At present, among the 11 private hospitals in Hong Kong, nine of them are operated by seven charitable bodies which have obtained tax exemption status in accordance with section 88 of the Inland Revenue Ordinance (IRO). Over the past 10 years, the IRD conducted a total of 19 reviews of the abovementioned charitable bodies. Owing to the secrecy provisions in the IRO, the IRD could not disclose information of any tax cases, including the details and results of the reviews concerning the abovementioned charitable bodies which operate private hospitals.

- (b) and (c)

Currently, there is no statutory definition of what constitutes a charity or a charitable purpose in Hong Kong. In handling charitable bodies and charitable purposes, the IRD has all along made reference to the cases in the common law as the determining criteria. According to past case law, charitable purposes include relief of poverty, advancement of education, advancement of religion and other purposes of charitable nature that are beneficial to the community. Relief of sickness is also a charitable purpose as ruled by the Court. The above criteria are applicable to all charitable bodies with tax exemption status under section 88 of the IRO, including charitable bodies which operate private hospitals.

Apart from the above criteria, according to the requirements under section 88 of the IRO and same as other charitable bodies carrying

on trade or business, charitable bodies which operate private hospitals have to comply with the following conditions in order to maintain their tax exemption status:

- (i) their trade or business shall serve to carry out the objects stated in their governing instruments, or such trade or business are mainly carried on by persons benefiting from such charitable purposes; and
- (ii) the profits derived from such trade or business are solely used for charitable purposes and are expended substantially in Hong Kong.

For revenue protection, the IRD conducts from time to time reviews of tax-exempt charitable bodies. Same as the treatment for other tax-exempt bodies, the IRD would require charitable bodies operating private hospitals to furnish account statements, financial reports, annual reports and any other information related to their activities, and so on, to verify if they are still in compliance with the legal requirements.

If any tax-exempt charitable bodies are found to be carrying out activities incompatible with the charitable objects stated in their governing instruments, or if their income and assets are found not wholly used for the charitable purposes stated, the IRD would require them to provide further information so as to decide whether their tax exemption status should be retained or revoked. Generally, the IRD would allow the charitable bodies concerned to give an explanation and take appropriate remedial measures, including termination of all activities not relating to the charitable objects of their governing instruments, before revoking their tax exemption status. If they fail to comply on or before the deadline, the IRD would revoke their tax exemption status. In the 10 financial years between 2002-2003 and 2011-2012, the IRD revoked the tax exemption status of a total of 909 charitable bodies.

Currently, the abovementioned seven charitable bodies which operate private hospitals are all on the list of tax-exempt bodies

under section 88 of the IRO. Owing to the secrecy provisions in the IRO, the IRD could not disclose if it has ever issued warning letters to any of the charitable bodies which operate private hospitals.

Section 88 of the IRO serves to provide tax exemption for organizations which have fulfilled specified eligibility criteria. The scope of that provision is mainly confined to the determination of whether or not an organization is liable to tax. From the taxation perspective, we consider that the relevant provision has served the dual purposes of granting appropriate tax exemption for various types of charitable bodies and protecting revenue.

MR CHAN KIN-POR (in Cantonese): *In the main reply it pointed out that in the past decade, the IRD conducted a total of 19 reviews of the seven charitable bodies which operate private hospitals. By a simple calculation we can see that the IRD only conducted one review in about three years. However, as private hospitals are reaping huge profits, if the authorities continue to grant them the tax exemption status, the Government will incur a great loss in tax revenue. I would like to ask whether the IRD will step up the review and conduct, say, at least one review a year.*

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Perhaps I will reply first. The IRD reviews all charitable bodies from time to time. If there are cases that call our special attention, we will of course review more frequently. We will continue to collaborate with other relevant Policy Bureaux, and we also welcome any person to convey any information to the relevant Policy Bureaux. We will increase the frequency of reviews as appropriate.

MISS ALICE MAK (in Cantonese): *President, even though many private hospitals have followed the lease conditions by providing some low-charge beds,*

their service charges are still very high, which are hardly affordable by the general public. Will the authorities consider requiring private hospitals to increase the transparency of their charges within a short time to balance the public demand for public and private medical services?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Food and Health, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Code of Practice for Private Hospitals requires that the charges of private hospitals must be transparent and before receiving medical treatment and undergoing medical procedures, patients have the right to know the required charges. Hospitals are required to prepare a schedule of charges at the admission office, cashier and where appropriate for reference by patients. Upon receiving complaints about hospital charges, the Department of Health will investigate if the hospital concerned has complied with the Code of Practice with respect to charges. To further improve the transparency of private hospital charges, the Government will make reference to overseas experience in this respect, such as packaged charging, quotation system and a platform for publishing the charges of various private hospitals, with a view to protecting patients' right to know, so that patients can choose medical services that meet their needs.

DR KWOK KA-KI (in Cantonese): *President, private hospitals are charitable and non-profit making bodies, are they not? Let me take two hospitals as an example. The relevant statistical data of these hospitals can be obtained from public channels. The first is Baptist Hospital. In 2009, the turnover of Baptist Hospital amounted to \$1.68 billion with a profit of \$0.34 billion and a net profit margin of 20%; in 2010, the Baptist Hospital's turnover was \$1.76 billion with a profit of \$0.28 billion and a net profit margin of 16%. According to the data available to the public, the Baptist Hospital has a fiscal reserve of \$2.4 billion in 2010. The second is St. Teresa's Hospital. The figures available to the public show that in 2010, the St. Teresa's Hospital's turnover was \$1.72 billion with a profit of \$0.44 billion and a net profit margin of 25%; similarly, it also has a fiscal reserve of \$2.4 billion.*

President, if a charitable and non-profit making body has a net profit margin of 25% and a financial reserve of over \$2 billion, first, why does the Government still tolerate this situation; second, if a non-profit making body has a net profit margin of 25% or 20%, does it still satisfy the criteria of a non-profit making body? How can a non-profit making body accumulate such a large fiscal reserve? Has the Government taken any actions against non-profit making bodies which have huge fiscal reserves and very high net profit margins in the past?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Perhaps I answer first. As I have pointed out in the main reply, as long as the charitable body complies with our requirement, that is, the profits derived from its trade or business are solely used for charitable purposes and are expended substantially in Hong Kong, it meets our requirement for tax exemption. As regards how to determine the charitable purposes, the bodies concerned can use their profits on achieving other charitable purposes stated in their governing instruments, including using the profits for other relevant charitable purposes such as advancement of education and religion. As long as these activities meet the definition of charitable activities, they also meet the exemption criteria of the IRO.

Does Dr KO have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, in respect of the regulation of private hospitals, our other consideration is whether the private hospitals have discharged the lease conditions. For example, for some private hospitals, their leases stipulate that their profits have to be injected back to the hospitals or used for fulfilling other related charitable purposes.

Since 2010, the Department of Health has requested private hospitals, with land granted by way of private treaty grant with financial requirements as a condition, to submit audit reports and other financial information to the

Government. The Department of Health is studying this information in consultation with the Lands Department to see if the grantees of the hospital land have complied with the conditions of the land grant. If the Department of Health suspects that any hospitals have violated the lease conditions, it will transfer the case to the Lands Department to follow up.

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

DR KWOK KA-KI (in Cantonese): *No, President, he has not answered my question. I heard the Secretary say that if an organization meets the requirements*

PRESIDENT (in Cantonese): Please repeat the part that you think the Secretary has not answered.

DR KWOK KA-KI (in Cantonese): *President, because in his reply, the Secretary said*

PRESIDENT (in Cantonese): You only need to repeat the part that you think the Secretary has not answered.

DR KWOK KA-KI (in Cantonese): *The part that he has not answered is: if an organization has a net profit of over \$2 billion and it has not violated the extremely lax requirements under the IRO, will the authorities do nothing then? I asked the Secretary just now what he has done to follow up the implementation of the restriction on non-profit making bodies imposed by the IRO. The Secretary has not answered my question.*

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I have already answered. The IRO has set down some requirements. I have said in my reply that according to those requirements, if a body concerned uses its profits for charitable purposes, according to the IRD, it has already complied with section 88 and can be exempted from tax.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I will not deviate from the subject this time.*

President, in his main reply, the Secretary said that, "If they fail to comply on or before the deadline, the IRD would revoke their tax exemption status. In the 10 financial years between 2002-2003 and 2011-2012, the IRD revoked the tax exemption status of a total of 909 charitable bodies." I know that a total of 909 charitable bodies have been revoked of their tax exemption status. I would like to ask the Secretary whether there are cases whose revocation was considered unnecessary after deliberation by the authorities. Are there any data in this respect? Apart from revoking the 909 charitable bodies of their tax exemption status, how many cases have the authorities received? Are there cases that the revocation of tax exemption status has been determined to be unnecessary?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I do not have these data.

MR LEUNG KWOK-HUNG (in Cantonese): *Why do you not have the data? Is it that there are no such cases or there are such cases but the data have been lost? Or there is no such a category?*

PRESIDENT (in Cantonese): Mr LEUNG, you asked if the Secretary had such data and he has clearly answered you.

MR LEUNG KWOK-HUNG (in Cantonese): *No, President, you listen to me. I am really following up my question. He gave a big set in his answer and I then ask about a sub-set of the big set.*

PRESIDENT (in Cantonese): Mr LEUNG, you can follow up your question but please sit down first and wait for your turn to ask again.

MR PAUL TSE (in Cantonese): *President, from the recent Report of the Director of Audit and the relevant hearings, I find that the profit arrangements of some hospitals are indeed quite suspicious.*

My supplementary question is: Apart than revoking the tax exemption status granted under section 88 in accordance with the relevant procedure, have the authorities considered recovering taxes that can be recovered on the profits of these hospitals accumulated over the years or what are the factors for considerations? If criminal liability is involved, will the hospitals be held liable?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Perhaps I will try to answer this. If a body obtains the tax exemption status by complying with section 88, why should there be a tax recovery case? I do not understand this supplementary question.

MR PAUL TSE (in Cantonese): *President, let me clarify my supplementary question. If a certain charitable body has its profits transferred elsewhere through various inappropriate means but is able to retain its tax exemption*

status, will the authorities investigate where the profits have been transferred to or can they do so under such circumstances? Apart from revoking the tax exemption status of the body, are there other ways to recover the taxes involved?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): According to the existing procedure, as I have pointed out in the main reply, if section 88 is breached, such as the profits have not been used for charitable purposes, we can revoke the body's tax exemption status. This is the approach that we can take.

PRESIDENT (in Cantonese): Mr TSE's supplementary question is whether it is possible to recover the taxes that the body has not paid before?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): If it involves taxes that should have been paid but not paid, we can take action against the body involved.

MR PAUL TSE (in Cantonese): *President.*

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

MR PAUL TSE (in Cantonese): *I am not just asking the Secretary whether the authorities can look into the case; I am also asking whether criminal liability is involved and whether the case should be or can be pursued. My question involves a rather wide scope and I hope that the Secretary will not just answer that it "can be pursued". If he is not clear, I can accept his written reply after the meeting.*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The situation in each case is different. In cases involving tax matters, it all depends on the particular situation of each case. Therefore, I can only answer the Member's question by saying that it "can be pursued" and "will be pursued".

PRESIDENT (in Cantonese): The Member asked whether criminal liability is involved.

MR PAUL TSE (in Cantonese): *In respect of the principle and reason, can the authorities pursue the case and should they do so?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): In principle, if it involves taxes that should be paid but the body concerned has not done so, of course we can and will hold the body responsible.

MR ALBERT HO (in Cantonese): *President, from Members' supplementary questions, I believe we are all concerned that while these bodies have obtained their tax exemption status in accordance with section 88, have they truly used their profits for charitable purposes? The Secretary's answer seems to tell us that if the authorities have established a case, they will look into it. In other words, the authorities do not seem to have in place a standing mechanism for monitoring or reviewing the situation, but only rely on other people's reporting. Concerning this point, this is what we understand.*

However, we are more concerned about the way these bodies operate their business. Charitable bodies are established for charitable purposes but their practices, such as profiteering in their operation and charging unduly high charges, do not seem to meet the charitable purposes.

My supplementary question is: has the Secretary monitored the operation of these charitable bodies? As these hospitals do the work of charity by providing medical services, why do they charge very unreasonable and very high charges? Is it a problem that the authorities do not regulate them? I would

like to ask the Secretary, if a regulatory regime is not in place, should the law be amended in order to improve the policy on the regulation of charitable bodies?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Food and Health, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, perhaps I will try to answer. I have already said that the Department of Health is responsible for monitoring the operation of private hospitals. A Member has also mentioned that the Director of Audit has published a report recently. When following up the report, we had already given an account to the Public Accounts Committee and I have mentioned again just now that from late 2010 onwards, the Department of Health has asked private hospitals to submit all their account records if there are financial requirements in their lease. At present, we are studying their accounts in detail in collaboration with the Lands Department to find out the details of these records and see if there are violations of the land lease. If there are, the Lands Department will follow up the cases in respect of the violation of land leases.

On the other hand, it seemed that Mr HO has also asked about the regulation of charges. Here I clarify again that the Government will not control the charges of private hospitals, but we will adopt a number of measures, including reviewing Cap. 165, to improve the regulation of all private hospitals. One of our endeavours is to increase the transparency of the hospitals' charges to protect the rights and interests of the public and the patients, so that they are better informed to choose the services that suit their needs.

MR ALBERT HO (in Cantonese): *My supplementary question is not on land lease or private hospitals, but on charitable bodies established under section 88 with problems in operation approach. Should the authorities impose regulation? Why no regulation has been imposed?*

PRESIDENT (in Cantonese): Secretary, the Member asked how to regulate the operation of charitable bodies.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Let me reiterate that section 88 only determines whether a relevant body is required to pay tax or whether it meets the criteria for tax exemption. The stance of the IRD is, of course, to levy taxes whenever it is right to do so but if a body meets the criteria for tax exemption under the law, it will be exempted from tax.

As regards their operation approach, there are governing clauses for the charitable bodies. As for the operation of individual bodies, if they are monitored by Policy Bureaux, they will be governed by the relevant authorities.

MR ALBERT HO (in Cantonese): *I asked whether improvements should be made but the Secretary was beating about the bush. As regards the operation of the bodies, have the authorities carried out any regulation at all?*

PRESIDENT (in Cantonese): Mr HO, the Secretary has replied. We have spent 23 minutes 30 seconds on this question. Fifth question.

Handling of Unauthorized Building Works

5. **DR KWOK KA-KI** (in Cantonese): *On 21 June this year, the media uncovered a number of unauthorized building works (UBWs) in the mansion of the Chief Executive who was about to assume office. In a written statement issued on 23 November in relation to the issue of UBWs in his mansion, Chief Executive disclosed that an extension part of some 200 sq ft on the lower ground floor of House 4 of the mansion had been demolished in November last year, and the space in question had been bricked up. He had not made any application or given notification to the Buildings Department (BD) before carrying out such works. In reply to press enquiries, Chief Executive said that "his understanding was that the UBWs already dealt with no longer existed". Meanwhile, the BD indicated on 27 November that, during a site inspection of the aforesaid mansion on 26 June, its staff had found on the lower ground floor of House 4 an external wall which did not match the original building plans, and that on 27 June, it had issued a letter to Chief Executive and the authorized person (AP) appointed by him, requesting them to provide information about that wall. The BD had issued*

three written reminders thereafter, but no response had been received. In this connection, will the Government inform this Council:

- (a) given that neither Chief Executive nor the AP appointed by him had responded to the four letters from the BD, whether the BD has taken law-enforcement actions in accordance with the existing policy; if it has, of the details; if not, the reasons for that;*
- (b) during the period from 21 to 30 June this year, whether the former Secretary for Development had summoned the key persons involved in the aforesaid UBWs case, and requested Chief Executive to open up the wall to enable the authorities to investigate if there was any extension part behind that wall; whether the incumbent Secretary for Development had summoned such key persons since he took office; if they had not done so, of the specific reasons for that; and*
- (c) in accordance with section 14 of the Buildings Ordinance, of the circumstances under which a property owner may carry out the aforesaid works to demolish extension parts and brick up the space in question without obtaining the Building Authority's approval and consent; whether "an UBWs already dealt with no longer existed" is one of those circumstances; whether the Government has received the relevant application from Chief Executive since 21 June this year; if it has, of the date of application, details of the processing of the application and the date of approval; if not, whether the BD will take law-enforcement actions (including instituting prosecutions); if it will, of the details?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the Government attaches great importance to building safety. In handling UBWs, the BD has been following the principle of acting in accordance with the law and being impartial to all to take appropriate actions pursuant to the Buildings Ordinance (Cap. 123) (BO) and the prevailing enforcement policy. In respect of each case involving UBWs, the BD will take enforcement actions in an impartial manner, without making any special arrangements for enforcement actions because of the identity of the owner. In gist, the BD will not be particularly

stringent or lenient in its enforcement actions because the owner is a senior Government official or celebrity.

I would also like to reiterate that both the former Secretary for Development and I are responsible for policy work. Enforcement of the BO falls under the purview of the BD. The BD staff have been handling each UBW case independently and professionally in accordance with the BO and the prevailing enforcement policy. Both the former Secretary for Development or I did not and will not give any instructions to the BD regarding enforcement work in individual cases.

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

(a) and (b)

In response to media reports on 26 June this year that there might be an "unauthorized servant's room" on the lower ground floor of House 4 at No. 4 Peel Rise (hereunder referred to as "House 4"), the BD conducted on-site inspection on the same day. At that time, the BD did not identify any "unauthorized servant's room" or new UBWs, but noticed that the position of part of the external wall of the original store room did not match with that shown on the original approved plan. In accordance with the practice, on the following day, that is, 27 June, the BD issued a letter to the owner and the AP requesting for information on the construction and purpose of the external wall concerned.

When replying to media enquiries on 28 June, the BD responded according to the facts that it did not identify any "unauthorized servant's room" or new UBWs mentioned in the media reports during the inspection on 26 June. In its reply, the BD also pointed out that it was following up with the AP appointed by the owner because while it did not identify any "unauthorized servant's room" as reported, it noticed that the position of part of an external wall did not match with that shown on the original approved plan, and therefore needed to follow up with the AP appointed by the owner. In accordance with the established practice, the BD will not announce investigations that have yet to be completed; therefore, in

its reply to media enquiries on 28 June, it did not mention the above external wall, which was still under investigation.

Further to its letter of 27 June to the owner and AP requesting for information on the construction and purpose of the external wall, the BD thereafter issued three written reminders to the AP urging him to provide the information. As according to the inspection on 26 June it was yet to be confirmed whether that external wall was a UBW, and there was no sign of obvious danger, the BD, in accordance with the established practice, requested the owner and AP to provide information with a view to determining the necessary follow-up action. This practice was no different from the established practice of the BD in handling other cases.

As mentioned above, the Secretary for Development is responsible for policy work, and will not take part in enforcement work in individual cases. The BD is the enforcement department for enforcing the BO and enforcement work falls under its purview. Both the former Secretary for Development and I did not summon the concerned owner or the AP appointed by the owner in any cases.

- (c) Different rectification works for UBWs are subject to different requirements under the BO. Some works are exempted works which may be carried out without the need for making application to the BD. Some works fall under the scope of the Minor Works Control System. Owners may carry out rectification works through the simplified requirements of the system; depending on the type of works, reports may be submitted to the BD after the works have been carried out. Pursuant to section 14(1) of the BO, some works require the prior approval of plans and consent to commencement of works from the BD before the works are carried out.

In respect of the floor space on the lower ground floor of House 4, the owner issued a statement on Friday, 23 November, which included information on that floor space. The BD conducted on-site inspection on the first working day that followed (that is, Monday, 26 November), and immediately requested the AP appointed by the owner to provide information and arrange for the

opening up of that wall as soon as possible for detailed inspection. During the BD's subsequent site inspection on 29 November, an opening had been made in the wall, and the BD staff identified that there was an extended floor space of about 30 sq m behind the wall. After inspection and assessment, the BD confirmed that the floor space concerned was an actionable UBW and issued an advisory letter to the owner on 3 December, advising him to remove the UBW as soon as possible. The owner and AP are required to submit a remedial proposal in respect of the removal works to the BD, and the works may only commence after the BD has given its consent. As regards the external wall itself, as it was erected within the area of the lower ground floor of the original building, and did not involve the structure of the building, upon assessment it is confirmed to be an exempted works, which does not require the BD's approval before erection. The BD staff will continue to analyse and assess the information obtained in the inspection and follow up with the AP appointed by the owner with a view to determining the further enforcement action that should be taken.

DR KWOK KA-KI (in Cantonese): *President, yesterday, there was a news report stating that two villagers of the Kam Tsin Village were fined \$26,300 for their UBWs. The magistrate criticized them for "knowingly violating and disregarding the law". The villager said, "The Chief Executive, a senior official, has done the same thing, why am I the only one being punished?" Now, I understand what his words mean. At first, I thought that the UBWs problem would just cause the integrity of the Chief Executive to go bankrupt. Unexpectedly, this problem has also hurt the integrity of the entire Government and Directors of Bureaux. This is something I never want to see. Yet, according to the reply of the Secretary, while the BD had issued four letters to the Chief Executive after 26 June, it did not take any other actions until the Chief Executive issued a written statement in November. I clearly remember that when the UBWs incident was first revealed, the former Secretary for Development clearly stated that the authorities would be impartial to all in the enforcement actions. After that, we saw the authorities sending a troop of officers to Henry TANG's house to deal with his UBWs.*

My question is: The BD found that the wall did not match with the plan in June. As we and the media know, the BD can make use of a number of technologies, including the ultrasound and various wall removal tools, to conduct further investigation. However, it did not do so.

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

DR KWOK KA-KI (in Cantonese): *President, the ways that the BD dealt with the UBWs mentioned above have given people an impression that the Government is giving him preferential treatment. The BD is treating the two persons with two different sets of standards but it keeps denying. What is more, the Government passes the buck to their front-line officers. Is it acting irresponsibly?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, colleagues of the BD always treat everyone equally and fairly in law enforcement and adhere to the same set of standard. Being the Secretary for Development, I am responsible for formulating policies and will not be involved in enforcement work in individual cases. As stated in my main reply, both the former Secretary for Development and I did not take part in enforcement work in individual cases or give any instructions to the BD.

The case just mentioned by Dr KWOK which concerns the UBWs of a village house in Kam Tsin Village, Sheung Shui, cannot be compared with the case in question. This is because, as early as January 2009, the BD had confirmed that this supposedly three-storey village house had illegally built an additional storey. In February of the same year, that is, February 2009, the BD issued a removal order to the owners, requiring the removal of the relevant UBWs. However, the owners had all along not taken any corresponding action. It was until December 2011, that is, December of last year, that the BD instituted a prosecution against them.

President, I will give two more examples so that Members can have a better understanding of our established enforcement policy. Concerning the first example, it was reported in June last year that a house on the Hong Kong Island

was suspected to have an unauthorized basement. The BD has all along followed up this case and repeatedly issued letters to the house owner to request for on-site inspection. The BD is now waiting for the arrangement of the owner. In this case, as the BD staff did not identify any obvious safety risks when they inspected the house from outside, they did not break into the house or apply to court for a search warrant.

President, concerning another example, it was reported in April this year that some of the houses in a multi-block housing estate in the New Territories are suspected to have unauthorized basements. Over the past few months, the BD has followed up this case and issued letters to the owners concerned to request for on-site inspection. Although the BD has tried to reach the owners time and again, its staff still cannot gain entry to some of these houses to conduct on-site inspection. As the BD staff did not find any obvious safety risks when they inspected these houses from outside, they did not break into the houses out of resource consideration, nor did they apply to court for search warrants.

We hope you would understand that the BD receives tens of thousands of reports or complaints on UBWs every year. For example, in 2011, it received more than 40 000 UBWs cases in total. Out of resource consideration, the BD, when dealing with UBWs, must put the safety of buildings in the first place and take actions according to priorities. They cannot break into the premises or apply to court for search warrants for every case. Unless those cases involve obvious safety risks, the BD will usually encourage the owners concerned to co-operate with it.

As for senior officials and celebrities

MR LEE CHEUK-YAN (in Cantonese): *President, a point of order. Can you ask him not to waste our time here by saying something meaningless? Please ask him to answer the question.*

PRESIDENT (in Cantonese): Mr LEE, the Secretary was responding to the supplementary question just raised by Dr KWOK Ka-ki. Dr KWOK said that the BD adopted different standards for different cases. The Secretary was giving other examples to respond to this point.

DR KWOK KA-KI (in Cantonese): *President, the question I just asked the Secretary was that the BD had treated the two Chief Executive candidates with two different sets of standards. Yet, he then gave a detailed account on other issues. President, it is true that he was not answering my question.*

PRESIDENT (in Cantonese): Dr KWOK, this is not a point of order. Secretary, please make your answer brief and concise.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, as that is a serious accusation, I must provide Members with additional information for their reference. President, we think the BD has dealt with the two cases just mentioned by Dr KWOK Ka-ki in the same way, and we do not have two different sets of standards.

MR TONY TSE (in Cantonese): *President, the Secretary just said that when the BD inspected House 4, it noticed that there was a wall on the lower ground floor which did not match with the building plan. The BD then issued four letters to follow up the case, and there was almost a period of five months between the issuance of letters and November. My question for the Secretary is: For cases where owners adopt the delaying tactics and refuse to co-operate, is there any stipulation under the existing legislation empowering the BD staff to enter the premises by force to conduct on-site inspection and collect evidence when the owners refuse to provide information as requested or adopt the delaying tactics?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I have already given an account of the general policy. As for the question raised by Mr Tony TSE, according to the BO, we may apply to court for a search warrant, if necessary, or even break into the premises.

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

MR TONY TSE (in Cantonese): *Is there any specified time frame in the legislation? As stated just now, owners may procrastinate for long.*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): There is no specific time frame in the legislation. The BD will act according to its established practice in law enforcement.

MR CHAN KAM-LAM (in Cantonese): *President, the Secretary emphasized in his main reply that the BD will not be particularly stringent or lenient in its enforcement actions on the ground that the owner is a senior Government official or celebrity, and that it would be impartial to all in its enforcement actions. Yet, a fellow Member just said that the BD had handled the UBWs problems of the Chief Executive LEUNG Chun-ying and Henry TANG with two different sets of standards. In response, the Secretary only stated how some other cases had been dealt with. I would like to know whether the BD has dealt with these two cases in the same way. Can the Secretary illustrate how these two cases have been dealt with, so that we can all come to a conclusion that there is no question of having two sets or even three sets of standards?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, according to me understanding, the BD has handled these two cases in the following way: Firstly, regarding UBWs cases involving senior officials or celebrities, the policy of the BD is that upon receiving relevant complaints or noting relevant media reports, it will give priority in deploying staff to conduct on-site inspection. After inspection, it will announce the findings to the public and take necessary actions expeditiously. The ways that the BD deals with the York Road case and the Peel Rise case are more or less the same. In the York Road case, the BD staff could not gain entry into the premises during their first visit. No entry was allowed until a few days later. In the Peel Rise case, we could enter the premises once contact was made. This is the first point.

Secondly, in these two cases, there is something which cannot be directly compared. In the York Road case, the first entry was made on the fourth day after media reports. President, at that time, a number of media had provided us with information which included photos taken during the construction of UBWs and some relevant layout plans. Such information indicates that people like APs or registered structural engineers who bear statutory liabilities under the BO might have knowingly violated the law or made misrepresentation to the BD as they should know that the BD's approval and consent were needed for these works. Therefore, the initial information available at that time was sufficient for the BD to decide whether it should conduct further investigation.

As for the Peel Rise case, I have already spoken a lot on that. Here, I just want to add one point, that is, the BD will continue to analyse and evaluate the information obtained from inspection, and follow up the case with the owner and his appointees to determine the most suitable enforcement action.

PRESIDENT (in Cantonese): There are still seven Members waiting for their turns to ask questions but this Council has already spent more than 23 minutes on this question. Please follow up this issue through other avenues. Last question seeking an oral reply.

Hong Kong Coliseum

6. **MR MA FUNG-KWOK** (in Cantonese): *President, the Hong Kong Coliseum (HKC) in Hunghom is a major venue for large-scale sports events, entertainment programmes, pop concerts and conventions. Some hirers of HKC have relayed to me that although the Government has carried out large-scale renovation works in HKC for a number of times, the equipment acquired is outdated and unable to meet their needs. They have also pointed out that the terms and conditions for hiring HKC and the related policy, which have been adopted for years, are rigid and outdated. Besides, the daily rent for HKC's Arena is \$55,100 or 20% of the gross ticket proceeds on that day (whichever is higher), which is among the highest in the world, with numerous other costly charges such as charges for visual recordings of performances, and hirers are also required to make extra payment for broadcasting sponsors' advertisements in HKC. On the other hand, the Stadia Office has the right to broadcast during*

hirers' events advertisements which it has solicited. In this connection, will the Government inform this Council:

- (a) whether it has formulated criteria and procedures for determining the renovation projects needed to be carried out in HKC and the equipment to be upgraded or acquired; if it has, of the details, including whether venue users from the performing arts sector and the sports sector, and so on, need to be consulted so as to ensure that the equipment in HKC meets users' needs; if consultation needs to be conducted, of the details; if consultation need not be conducted, the reasons for that;*
- (b) whether it has planned to review the terms and conditions for hiring HKC and the related policy to ensure that they are kept abreast of the times and facilitate users in organizing activities; if it has, of the details; if not, the reasons for that; and*
- (c) of the criteria based on which the levels of HKC's venue rental and various charges are set; whether promoting the development of the performing arts and sports industries is one of such criteria; if not, of the reasons for that; whether it reviews HKC's various charges on a regular basis; if so, of the details?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I thank Mr MA Fung-kwok for his question. Opened in 1983, the HKC is currently the largest indoor multi-purpose stadium in Hong Kong. It can also be used as a performing venue for large-scale events such as celebratory events, pop concerts, and entertainment and cultural activities.

In almost three decades since the opening of the HKC, the Leisure and Cultural Services Department (LCSD) has reviewed the terms and conditions of the HKC's hiring policy, and upgraded and enhanced its facilities in the light of users' feedback collected through different channels, with a view to providing a quality venue for the sports sector, the entertainment and performing arts sector as well as the public.

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

- (a) Apart from regular minor maintenance and upgrade works, the HKC underwent a major renovation for six months in 2008-2009 since its opening, to mainly dovetail with the staging of the basketball and volleyball competitions in the HKC during the 2009 East Asian Games hosted in Hong Kong. In planning the renovation works, the LCSD had consulted sports associations which held major sports events in the HKC, including the Volleyball Association of Hong Kong and the Hong Kong Basketball Association. Taking into account the views of the disabled, the number of wheelchair seats in the venue had been increased. As for the entertainment and performing arts sector, the LCSD collected their views through regular customer liaison meetings and operation meetings attended by regular hirers of the HKC, including representatives from the presenters of pop concerts. Upon the requests of the sports sector as well as the entertainment and performing arts sector, the HKC replaced the video broadcast and electronic scoreboard system for enhanced video display, renovated the VIP Lounge, changing rooms, dressing rooms and function rooms, and provided broadband Internet connections, and so on. In addition, the HKC also provided additional warm-up areas for athletes and standard facilities for certain sports events such as doping control room and media room, and enhanced the lighting system in line with the requirements of sports events. Ancillary facilities for the public such as seats, foyer, staircases, platforms and wheelchair platforms were also upgraded to provide a more comfortable environment for the enjoyment of the audience.

The LCSD has always observed the standards for international sports events and consults sports associations in acquiring sports equipment for the HKC. For performing arts events, it is the common practice that each performance has its own unique stage design and creative elements. The HKC provides basic ancillary facilities so as to give flexibility for the presenters to plan their own stage design for creating special effects for their performances. This mode of

operation is widely accepted by the entertainment and performing arts sector.

- (b) Since its opening, the HKC has updated the terms and conditions of hire to meet the needs of the sectors and development of society in a timely manner. The current 23rd version of the terms and conditions of hire was revised in 2008.

In response to the requests of the sectors and the audience, the terms and conditions of hire have been updated recently, including the enhancement of measures to protect intellectual property rights, the arrangement for hirers to choose the ticketing system, as well as a substantial increase in the number of consignment tickets for hirers, and so on.

The existing venue management policy of the HKC stresses on both the flexibility for presenters in organizing activities, as well as balancing the requirements among different users. The venue management has maintained close liaison with the relevant parties to meet the needs of hirers as far as practicable. The venue management will make every effort to facilitate the organization of events, provided that public safety requirements (for example, the stage and auditorium are designed according to fire escape regulations; activities are arranged properly to avoid public disorder and accidents, and so on) are fulfilled. The venue management is always willing to communicate with presenters and to review the terms and conditions of hire in a timely manner so as to cater for the needs of the sectors. The venue management will continue to hold regular customer liaison meetings and operation meetings to collect the views of users.

- (c) The Government makes reference to the charging schemes of similar venues in the local market as well as those adopted by major overseas venues when setting the charging criteria for the HKC. The hire charges of the HKC have three parts, namely (i) basic venue hire charges, that is, a daily minimum charge or 20% of the gross

ticket proceeds on that day; (ii) reimbursable charges collected in accordance with the actual use of services (for example, the provision of security guards, ushers, stage equipment, sports equipment, sound services, seating arrangement, cleaning services, and so on); and (iii) rights fees (for example, television broadcasting, audio/visual recording, display of commercial advertisements, location filming, and so on).

Levying hire charges as a percentage of the ticket proceeds as mentioned in item (i) is a charging policy widely adopted in similar venues around the world. It has the merit of being flexible in reflecting the market condition, especially for commercial activities, thereby upholding the "user pays" principle. The charging criteria for sports and performing arts events are basically the same, but as the ticket proceeds of most sports events are not high, some presenters are only required to pay the basic venue hire charges. The LCSD will sponsor the hire charges for the venue for certain major sports or celebratory events such as the 2011 FIVB World Grand Prix and the International Military Tattoo, so as to promote sports and the performing arts.

Regarding item (ii), the reimbursable charges are collected to cover the actual expenses incurred in the provision of services for the hirers whilst reflecting the market condition.

For item (iii), in order to promote sports events, concessions on individual items of the HKC will be given to sports events. For example, given that television broadcasting helps promote sports events, the right fees of television broadcasting for sports events are lower than those for non-sports events. The charges for sound services for sports events are also lower than those for small scale concerts or variety shows.

The above charging mode takes into account both the market condition and the HKC's basic operation cost.

The LCSD examines from time to time the hire charges and the related policy of the HKC in accordance with the needs of the sectors as well as the social development. The Department is now conducting a review on a flexible approach for hiring the VIP Lounge and the adjustment to the rights fees. The review is scheduled for completion by the middle of next year.

In fact, the basic hire charges and other charges of the HKC have not been raised despite the inflation and the increase in the actual expenditure since 1997 (except that the hire charges of the VIP Lounge have been adjusted since its area has almost been doubled after the renovation project in 2008). The usage rate of the HKC in the past three years was nearly 100%, which reflects that the current operation and the charging mechanism can meet the practical needs of the market.

MR MA FUNG-KWOK (in Cantonese): *President, just now the Secretary pointed out in his reply in part (c) that the current basic venue hire charge is 20% of the gross ticket proceeds. He also pointed out that the ticket proceeds of most sports events were not high. Some could only pay the basic venue hire charges, and many of them were sponsored.*

I have reason to believe that a vast majority of the revenue came from pop concerts and music-related events. In 2011-2012, the HKC's total revenue was \$128 million while its expenditure was \$40 million, representing a surplus of almost \$90 million. I believe such a surplus mainly came from music events. According to another report published by the International Federation of the Phonographic Industry, the total value of the music market in Hong Kong had dropped from \$2 billion in 1996 to only about \$400 million in 2009. The Government recorded a profit of nearly \$900 million from a single coliseum, relying mainly on music, yet the overall size of the music market was worth only \$400 million. As we can see from this, the industry has been under great pressure.

I would like to ask if the Government intends to lower this rate, especially when it was mentioned in the reply just now that it had drawn reference from international practices. However, let us look at the neighbouring regions. The Taipei Arena charges only 10% of the ticket proceeds, whereas the Indoor Stadium in Singapore charges only 15%. In the light of our practical situation in Hong Kong, such a rate is in fact exorbitant. How can we support the development of the cultural industry then?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the charges which we are now talking about comprise two parts. One is the basic charges levied with regard to attendances. The other part concerns the sale of music, such as individual charges for special items like copyright for visual or audio recordings.

Regarding the charge of 20% of the gross ticket proceeds currently imposed by the HKC, the revenue concerned mainly came from pop concerts. Other places in the world have also adopted this rate of 20%. In comparison, the overall conditions of the Taipei Arena are different from those of the HKC. Their number of seats and actual usage are not the same.

As for the music market in Hong Kong, just now Mr MA Fung-kwok cited some figures about the value of the market having dropped from \$2 billion to \$400 million. That represented the revenue from the sales of records or CDs. In fact, this is the international trend. There is an overall reduction in the sale proceeds of records because of various reasons such as the Internet or copyright issues, thereby leading to an overall shrinkage of the market. Just now when I said in the main reply that a study would be conducted on adjusting the charges, I was referring to this kind of rights fees for pop concerts held in the HKC which we intend to adjust.

MR CHAN CHI-CHUEN (in Cantonese): *President, the question brought up by Mr MA Fung-kwok today was raised from the perspective of venue hirers. Yet I would like to raise my supplementary question from the perspective of consumers. However, before putting my supplementary question, I request a headcount.*

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 returned to the Chamber)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please raise your supplementary question.

MR CHAN CHI-CHUEN (in Cantonese): *President, the Secretary has pointed out in the second paragraph of part (b) in the main reply that "the terms and conditions of hire have been updated recently, including a substantial increase in the number of consignment tickets for hirers". From the hirers' perspective, this policy enables them to control ticket sales more easily. For example, they can conduct internal sale for credit card holders, increase the number of performances more flexibly and so on. I know that the proportion of internal sale for the HKC is particularly high — the Secretary can correct me if I am wrong — for instance, for ordinary venues, it is 49%, whereas for the HKC, it reaches 85%. However, from the consumers' perspective, many people are still unable to buy tickets with better seats even if they queue up overnight. As such, is this policy tilted towards venue hirers but unfavourable to consumers, Secretary?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have indeed followed and incorporated the venue hirers' views in formulating this policy. Should we hear from users that they find this unfavourable to them, we are willing make further studies. Nevertheless, it is the Stadia Office's intention to dovetail with the venue users as far as possible so that their performances and activities can be held successfully.

MR MARTIN LIAO (in Cantonese): *President, as we all know, the HKC is often fully booked, which shows that the community has a strong demand for this*

type of large-scale multi-purpose venue, and this may also be one of the reasons for the high charges mentioned by Mr MA Fung-kwok just now. In that case, has the Government conducted any study and planning on the demand for and supply of local large-scale multi-purpose venues, so as to promote and dovetail with the long-term development of the relevant industry?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, at present, there is really a strong demand for bookings of the HKC. People and organizations failing in their applications to hire the HKC far outnumbered successful hirers. It can be said that the number of unsuccessful applicants for hiring the venue was many times higher than that of successful applicants. Being aware of such a situation, the Government has done some work, including the provision of a major performance venue which can accommodate 10 000 seats in the overall planning of the West Kowloon Cultural District. As you know, a multi-purpose stadium which can accommodate 50 000 seats will also be provided in the whole Kai Tak Sports City project. It will primarily be used for sports activities, but it can also be used for cultural and entertainment events as well as other integrated activities.

MISS CHAN YUEN-HAN (in Cantonese): *President, the HKC has always been a popular venue among the community and professional bodies, but they have been greatly vexed by the HKC because even if they submitted the application in advance, very often their application would still be rejected. When asked about the reason for the rejection, the Stadia Office would not tell them, and there was no mechanism to make the reasons known. Many people in the cultural and performing arts sectors have made such a complaint to me. May I ask the Secretary, actually is there any mechanism in place, or on what grounds were their applications rejected? What were the reasons for rejection? I hope he can give us a clear reply.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): The HKC's application procedures are rather open and transparent. It will receive booking applications starting from 12 months before the date of the activity. The time slots available

for application will be published and updated at its website every month for public perusal. The present major problem is that there are indeed circumstances where supply falls short of demand, as several parties may apply for the same time slot. We have a committee responsible for assessing and selecting which applicants should be granted the relevant time slots to carry out their performances or competitions. All these will be conducted in an open and transparent manner.

PRESIDENT (in Cantonese): Miss CHAN, has your supplementary question not been answered?

MISS CHAN YUEN-HAN (in Cantonese): *He has not answered my question. He did not provide any tables to set out clearly circumstances where individual applicants made booking applications and were rejected. Nor did he tell us the reasons for such rejection. The organizations concerned had actually submitted their applications in advance, but very often, even though they had done so, they were still unable to get*

PRESIDENT (in Cantonese): Are you of the view that the authorities should provide the reasons for rejection?

MISS CHAN YUEN-HAN (in Cantonese): *He has not answered my question. He absolutely has not set them out clearly.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, actually the main reason for rejection is simply that there were too many applicants, so it was necessary to select one out of the numerous applicants.

MR NG LEUNG-SING (in Cantonese): *President, speaking of the HKC's problems, an Honourable colleague immediately thought of calling for a quorum*

to invite more people for the performances. What I would like to ask is that the HKC's original purpose is to serve as a stadium, but I have heard that the industry seems to have some opinions on the floor surface in the HKC, which is rather uneven for doing sports activities. Sometimes there is the need to pave the floor with planks beforehand to solve the problem of the venue in order to avoid injuries to athletes. I would like to ask whether the Bureau has received this kind of complaints against the HKC, the approximate number of complaints concerning its facilities or management, as well as how it has handled and responded to these complaints?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, it has not come to my knowledge that there were complaints about the uneven floor surface of the HKC. Of course, if the HKC is to be used for holding gymnastic events, the floor will be paved with mats needed for doing gymnastics. In the past, the HKC was mainly used for holding volleyball and basketball competitions. In view of the East Asian Games, we had spent a long period, which was about six months, to retrofit and renovate the venue beforehand, and we had particularly added a badminton court. To facilitate the hosting of badminton events, we had made adjustments to the lighting and air ventilation. Before or at the beginning of these adjustments, we had received complaints that the relevant lighting was unsuitable for holding badminton events, and we had made some alterations on the basis of such views.

MR PAUL TSE (in Cantonese): *President, the Secretary has just verbally confirmed that regarding the present utilization rate of the HKC, supply falls short of demand. As the HKC is called a coliseum, is there any order of priority between sports and music? Has the HKC set any order of priority between commercial organizations and NGOs? Has the HKC also accorded priority between frequent users and occasional users? When supply falls short of demand, such priority is highly important. Will the Administration consider implementing a priority arrangement with a higher degree of transparency?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Concerning priority, as Mr TSE has said, first of all, this is a coliseum, and the original purpose of its construction was to promote sports. Of course, it is also an integrated facility which can hold other activities, but we will give priority to sports. Hence, as I have mentioned in the main reply earlier, our various charges for sports events are relatively low, especially if they are the major sports events which we wish to promote. We have adopted an "M" Mark Scheme. That is, if the Home Affairs Bureau considers that a certain major international sports event needs promotion and has awarded it the "M" Mark status, the LCSD will support it by waiving its charges for hiring the HKC.

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

MR PAUL TSE (in Cantonese): *He has answered one third of my question about the order of priority between sports and music, but he has not replied to the other two parts about the priority between NGOs and purely commercial organizations, and between frequent users and rare users. As in the case when we bring up questions, those who seldom raise any questions will probably have the chance to ask more.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have put in place an assessment committee which will take a series of factors into account, such as the nature of the programmes and the impact of such programmes on the public, in setting the priority. What Mr TSE has brought up in this connection is right. When supply falls short of demand, it is important to establish the priority.

PRESIDENT (in Cantonese): This Council has spent more than 23 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Measures to Prevent Theft and Snatching of Mobile Phones**

7. **MR SIN CHUNG-KAI** (in Chinese): *President, it has been learnt that, owing to the high resale value of smart mobile phones, the number of cases of theft and snatching of mobile phones has risen substantially in recent years. There were 5 787 cases of such crimes in 2011, representing an increase of 18% as compared with 4 892 cases in the preceding year. In order to crack down on such crimes, quite a number of overseas countries, for example, Singapore, the United Kingdom, Australia, France and Germany, have set up databases to keep the International Mobile Equipment Identity (IMEI) numbers of lost or stolen mobile phones, and the local mobile phone service operators in those countries will not provide services to such mobile phones. In this connection, will the Government inform this Council:*

- (a) *as setting up an IMEI database may reduce the recycling value of stolen or snatched mobile phones because they cannot be used locally, and thus may help reduce such crimes, whether the authorities will reconsider setting up such a database and making it public, so that members of the public and recyclers may access it for reference before purchasing second-hand mobile phones;*
- (b) *whether the authorities will consider amending the Telecommunications Ordinance (Cap. 106) or the Theft Ordinance (Cap. 210) to expressly prohibit the alteration of IMEI numbers of mobile phones; and*
- (c) *as there is a condition in the licences of mobile phone service operators which prescribes that the licensees shall, where directed by the Communications Authority (CA), refuse to provide service to any person who possesses or uses a radiocommunications apparatus which is stolen or suspected stolen, whether CA (or its predecessor, the Office of the Telecommunications Authority) has ever issued such directions; if not, of the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): *President, part of the Member's question relates to the programme areas*

of the Security Bureau. Having consulted the Security Bureau, my consolidated reply is as follows:

- (a) The Administration is aware that some overseas government departments or communications service providers have set up central databases of the built-in IMEI numbers of mobile phones to prevent the reuse of stolen mobile phones. As early as in 2004, the police approached the former Office of the Telecommunications Authority (now the Office of the Communications Authority (OFCA)) to understand the technical feasibility of setting up an IMEI database to prevent the reuse of stolen mobile phones in Hong Kong. After understanding from the police the *modus operandi* of culprits and conducting preliminary technical assessment, the OFCA informed the police that the effectiveness of setting up an IMEI database in reducing the culprits' incentives for theft and snatching of mobile phones by preventing the reuse of stolen mobile phones was in doubt. The reasons include:

Firstly, the IMEI number of a phone can be changed easily. Hence, it may not be effective to rely on the original IMEI numbers of the stolen mobile phones to prevent them from being reused;

Secondly, some of the mobile phone manufacturers do not embed valid IMEI numbers in the mobile phones (for example, all mobile phones manufactured in the same lot may share the same IMEI number or may be embedded with non-unique IMEI numbers). Therefore, if mobile service operators refuse to provide service to a mobile phone with a particular IMEI number, users of other mobile phones which share the same IMEI number may also be affected; and

Thirdly, mobile phones lost in Hong Kong may likely be shipped out of Hong Kong for use. Thus, the setting up of an IMEI database in Hong Kong would not be effective in reducing the crimes of theft and snatching of mobile phones.

Meanwhile, with the increasing pervasiveness of smart phones and the advancement of relevant technologies, users of such phones may

install mobile security software by themselves or subscribe to security service plans provided by mobile service operators in order to locate their lost or stolen smart phones, lock the devices or remotely delete the data on the lost phones. As the applications of such software and plans become increasingly popular, not only would it become more difficult to reuse stolen mobile phones, but it would also improve the protection against theft of personal information. In addition, the security effects of these alternatives will continue even when the stolen mobile phones are shipped out of Hong Kong, making them more effective solutions than setting up an IMEI database and relevant systems by which the mobile phones can only be made inoperable locally.

- (b) As mentioned above, even if the IMEI database is set up, stolen mobile phones can still be used outside Hong Kong without the need of altering the IMEI numbers. Moreover, some mobile phone manufacturers do not embed unique IMEI numbers in mobile phones, rendering the IMEI numbers ineffective in identifying individual mobile phones. As a result, prohibiting the alteration of IMEI numbers of mobile phones cannot effectively prevent the theft of mobile phones. Hence, the Administration currently has no intention to make relevant amendments to the Telecommunications Ordinance (Cap. 106) nor the Theft Ordinance (Cap. 210).
- (c) As mentioned in part (a) of the reply, verification and identification of stolen mobile phones by means of IMEI numbers involve various kinds of technical problems. Therefore, the CA has not issued any directions to prohibit the provision of services under the licence condition mentioned in the question.

Strengthening Teaching of English at School

8. **MR MARTIN LIAO** (in Chinese): *President, according to an international survey on English proficiency conducted between 2009 and 2011 the results of which were published recently, among 54 non-English-speaking countries or territories around the world, Hong Kong people's English proficiency ranks 25th (having dropped 13 places compared with the ranking in*

the same survey conducted between 2007 and 2009) and 7th in Asia, which is below the rankings of South Korea and Japan. This indicates that Hong Kong people's English proficiency is only of a moderate level and is declining. With regard to strengthening the teaching of English at school to address the aforesaid situation, will the Government inform this Council:

- (a) whether the Government has conducted regular studies and surveys on students' English proficiency since the introduction of the Native-speaking English Teacher (NET) Scheme in public sector primary and secondary schools in 1998, in order to assess the effectiveness of the Scheme and to make adjustments accordingly; if it has, of the details; if not, the reasons for that; and*
- (b) of the average numbers of NETs currently employed by each subsidized and government primary school as well as secondary school with English as the medium of instruction; whether it has assessed if the numbers of NETs are sufficient to cope with the needs for teaching the English Subject in all classes at all levels and to achieve the objective of enhancing students' English proficiency; if the assessment result is in the affirmative, of the details; if the assessment result is in the negative, whether the Government will consider allocating more resources to needy schools in order to employ additional NETs?*

SECRETARY FOR EDUCATION (in Chinese): President, the international survey mentioned by Mr LIAO must be the Education First English Proficiency Index, which was established in 2011. Since test takers are self-selected and self-recommended, instead of selected through representative sampling methods, we believe that each batch of test results only reflects the English proficiency of that particular group of test takers and may not necessarily provide a true picture of the English standards of the participating countries. Further, since the tests are administered online and non-Internet users are inevitably excluded, the test results are not necessarily reflecting the English proficiency of the actual population (including students), and the tests results are not representative.

The Bureau gives due attention to the English standards of local students and attaches great importance to the provision of an array of support measures to

enhance the quality of the learning and teaching of the English Language subject. Apart from providing a suitable curriculum for both primary and secondary schools, we have put in place a stringent mechanism to ensure the quality of learning and teaching in schools. This includes, among others, requiring newly recruited English teachers to fulfil the relevant language proficiency requirements, using the Territory-wide System Assessment to find out about students' proficiency level in Hong Kong, and requiring schools to conduct self-evaluation, make use of the Territory-wide System Assessment Report to enhance learning and be regularly inspected by staff from the Bureau. The Bureau also aims for continuous enhancement in the professional standard and teaching efficiency of local English teachers and the effectiveness of learning and teaching by providing a range of support measures and resources. Among them are professional development programmes for teachers, school-based support services, the English Enhancement Scheme, the Refined English Enhancement Scheme and the NET Scheme. The NET Scheme allows local English teachers to collaborate with the NETs in providing a more conducive environment for English learning and to further enhance the effectiveness of learning and teaching. Besides, Standing Committee on Language Education and Research collaborates with different organizations in the community to create an English-rich environment and organize various English activities.

Our reply to the two questions raised by Mr LIAO is as follows:

- (a) The Education Bureau implemented the Enhanced NET Scheme in Secondary Schools in public-sector secondary schools in the 1998-1999 school year, and from 1998 to 2000 and in 2008, The Hong Kong Institute of Education and The University of Melbourne were commissioned by the Bureau to conduct an evaluation study of the Scheme. In the first study, data were mainly collected through students' assessment tasks, survey questionnaires and case studies, whereas in the second study, data were collected through survey questionnaires, case studies and focus groups. The following are the main findings of the two studies:
 - According to the first study, the NETs were able to fulfil their role as a resource teacher by, for example, designing and developing learning and teaching materials, introducing a wide range of teaching strategies, promoting English as a

second language in schools through different contexts and providing more opportunities for students to use English as a tool for classroom learning and daily communication.

- The second study reveals that the Enhanced NET Scheme in Secondary Schools created more opportunities for students to use English and enabled them to know more about different cultures and broaden their global outlook. It also indicates that the NETs fared better than local English teachers in encouraging students to use English for communication. In addition, they were able to help students develop a proactive and positive attitude towards learning English, and played a vital role in enriching the English environment in schools.
- Both studies show that through professional collaboration among teacher communities, enriching the English environment in schools and improving the efficacy of English learning and teaching, the NETs were effective in boosting students' interests and confidence in learning English and enhance their speaking, listening and phonics skills.

The Education Bureau implemented the NET Scheme in Primary Schools in public-sector primary schools in the 2002-2003 school year, and during the period from 2004 to 2006, The University of Melbourne was commissioned by the Bureau to conduct a three-year territory-wide evaluation study of the Scheme. The data of the evaluation study were collected through student survey questionnaires, interviews and tests, and the data were analysed to evaluate students' academic achievements and learning attitudes, leading to the following conclusions:

- The Scheme helped to facilitate the professional development of English teachers at the primary level. By having professional discourse and collaboration with the NETs and Advisory Teachers of the Bureau's NET Section as well as adopting the learning and teaching resources and strategies recommended by them, not only could the English teachers

help raise their students' language proficiency, but their professional development was also enhanced.

- The introduction of the NETs could help to nurture students' positive attitudes towards learning English, which in turn had a positive impact on students' language proficiency and development.
- (b) Under the NET Scheme, every public-sector primary school operating not less than six classes and every public-sector secondary school is normally allocated with one NET post, irrespective of whether the mother tongue or English is used as the main medium of instruction. NETs are additional manpower for the English Language subject in their schools and serve as resource teachers for the subject. They mainly support and collaborate with the local English teachers in facilitating the implementation of the curriculum and the development of subject-related tasks, which include, among others, assisting in the design of the school-based English Language curriculum, enriching the English learning environment in schools, enhancing the professional development of English teachers, developing teaching materials and establishing resource banks as well as organizing relevant extra-curricular activities. Classroom teaching is still primarily undertaken by the local English teachers. Having regard to the special job arrangements for the NETs, the Bureau considers the current manpower deployment of NETs appropriate.

Prevention of Health Hazards of Electromagnetic Radiation

9. **DR CHIANG LAI-WAN** (in Chinese): *President, it has been reported that many types of common household electrical appliances, including television sets, computers, blowers, microwave ovens, and so on, generate electromagnetic radiation (ER), and that prolonged exposure to ER will affect human body's central nervous system and functional capabilities. There have been comments that since the residential units in Hong Kong are generally small, the level of such ER to which Hong Kong people are exposed is higher than that in other places. On the other hand, the World Health Organization (WHO) studied the*

issue of "electromagnetic hypersensitivity" (EHS) in 2005; and last year the International Agency for Research on Cancer (IARC) under WHO classified the electromagnetic fields (EMF) produced by mobile phones as "possibly carcinogenic to humans" and is conducting research on the acceptable level of exposure to EMF for humans. In this connection, will the Government inform this Council:

- (a) whether it has assessed the indoor ER level when the electrical appliances, electronic devices and mobile communications devices, and so on, in a household are all in use at the same time, and whether such level will be hazardous to health;*
- (b) whether the authorities will consider drawing up ER safety standards for household electrical appliances, and requiring that household electrical appliances shall meet such standards for them to be put up for sale, so as to ensure that consumers can pick safer products; if they will, of the detailed arrangements; if not, the reasons for that; and*
- (c) given that while at present many countries have conducted studies on the impact of ER on health, such studies have different purposes, approaches and conclusions (for example, in respect of the safe distance and duration for humans' exposure to ER sources), whether the authorities have carried out studies on this subject; if they have, of the findings; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, according to the WHO, EHS is characterized by a variety of non-specific symptoms, which were attributed by the affected individuals to exposure to EMF. These symptoms include dermatological symptoms, fatigue, dizziness, palpitation, nausea, and so on. However, according to WHO, EHS is not a medical diagnosis and is not part of any recognized syndrome. There has been no scientific evidence establishing any connection between these non-specific symptoms and exposure to EMF.

On the other hand, the IARC launched in 2000 an international study named "Interphone" to research into whether there was any association between

mobile phone use and brain tumours. It has been the largest study of its kind to date. In 2010, the Interphone study concluded in its report that there were no data indicating any increased risk of glioma and meningioma among those people who had used mobile phones for over 10 years; and there was no consistent trend showing that the risk increased with the use of mobile phone. While the 10% of the sampled population with the highest cumulative call time had a higher risk of glioma statistically, the limitations in the study methodology could have led to data bias and error.

In sum, the Interphone study did not come to any conclusive views suggesting a causal relationship between mobile phone use and brain tumours. Based on the study, IARC classified radiofrequency EMF⁽¹⁾ as a Group 2B cancer-causing agent (that is, "possibly carcinogenic to humans") in 2011. But it should be noted that many agents found in our daily lives have also been given the same classification, such as coffee, pickled vegetables, and so on. Moreover, the risk of radiofrequency EMF is far lower than that of asbestos, smoking, second-hand smoking and nicotine, and so on.

With consolidated input from the Department of Health, the Office of the Communications Authority (OFCA) and the Electrical and Mechanical Services Department, our responses to the questions are as follows:

(a) and (b)

Based on scientific literature and related health risk assessments, the International Commission on Non-ionising Radiation Protection (ICNIRP) has developed the "Guidelines for Limiting Exposure to Time-varying Electric, Magnetic, and Electromagnetic Fields" (ICNIRP Guidelines), which are recognized by the WHO. The ICNIRP Guidelines have set exposure limits for EMF to offer adequate protection against any possible acute health effects. The WHO has recommended that national authorities should adopt the ICNIRP Guidelines, and considered that at present, there is insufficient evidence to suggest that EMF exposure under the

(1) When telecommunication devices operate by transmitting radiofrequency signals, they generate radiofrequency EMF. Both radiofrequency EMF, and EMF caused by electrical appliances, are of lower frequencies in the EMF spectrum.

exposure limits set out in the ICNIRP Guidelines would cause any adverse health effects.

Hong Kong has adopted the EMF standards under the ICNIRP Guidelines to ensure public safety. The Electrical Products (Safety) Regulation (Cap. 406G) (hereinunder "the Regulation") applies to all electrical products designed for household use and supplied in Hong Kong. All electrical products are required to fulfil the essential safety requirements as stipulated in the Regulation, including the requirement that they would not produce any temperatures, arcs or radiation likely to cause a danger. Suppliers of electrical products should ensure that the products they supplied comply with the applicable safety requirements of the Regulation. In respect of EMF, those generated by an electrical product should conform to the standards set by the International Electrotechnical Commission or other equivalent organizations, and these standards have been set with reference with to the ICNIRP Guidelines on EMF.

On the other hand, all mobile phones sold in the Hong Kong market must comply with the HKTA2001 specification issued by the Communication Authority, namely "Compliance Test Specification - Safety and Electrical Protection Requirements for Subscriber Telecommunications Equipment". The specification is set according to internationally recognized standards and covers the electrical safety requirements for telecommunications equipment, as well as the safety standards on radiofrequency EMF for mobile phones. According to the above specification, the level of radiofrequency EMF from mobile phones must comply with either the safety limits imposed by the ICNIRP or those by the American National Standards Institute/Institute of Electrical and Electronics Engineers (IEEE).

At present, the OFCA operates the Telecommunications Equipment Evaluation and Certification Scheme to better provide for the evaluation and certification of telecommunications equipment. Under the scheme, manufacturers and suppliers apply on a voluntary basis for certification of mobile phones to prove that such products comply with the technical specifications concerned. The vast

majority of mobile phone brands sold in Hong Kong have applied for and acquired the certification. Consumers may look up the list of certified products at the website of the OFCA.

We are not aware of any international studies which suggest that the EMF generated by different household electrical products and telecommunication devices on concurrent use would cause adverse health effects. In fact, the international testing standards as mentioned above assume that the concerned products are used in very close distance. Given the strength of EMF decreases with distance, so long as the electrical products and telecommunication devices in question meet the specified safety standards, the EMF so generated by their concurrent use should not cause any health risks under normal circumstances.

- (c) The Government has been paying close attention to studies on the effect of EMF on health. Various international authorities, including the WHO, the IEEE and the ICNIRP, have been closely monitoring and reviewing relevant researches conducted by international research and academic institutions. While we have not conducted any study in this aspect, we will continue to keep in view the findings of researches on EMF-related health effects as well as relevant reports published by other authorities, in order to keep abreast of the latest development and conduct assessments of risk to public health.

Woman Health Services Provided by Government

10. **DR ELIZABETH QUAT** (in Chinese): *President, breast cancer and cervical cancer ranked third and ninth respectively among the cancers causing deaths of females in Hong Kong in 2010. According to the statistics of the Hong Kong Breast Cancer Foundation and the United Christian Hospital, education and screening are conducive to early diagnosis of breast cancer. However, there are only three Woman Health Centres (WHCs) providing woman health services in the entire territory at present, while all the 10 Maternal and Child Health Centres (MCHCs) with ancillary woman health services provide such services for only about three to six hours each week. Some members of the*

public have relayed to me that as there are few WHCs and MCHCs providing woman health services, their service hours are short and publicity is inadequate, most women have not used such services provided by the Government. In this connection, will the Government inform this Council:

- (a) of the details (including whether screening services for breast cancer and cervical cancer and vaccinations against cervical cancer are available) of the various woman health services provided by WHCs and MCHCs at present as well as the service charges, broken down in tabulated form by District Council (DC) district;*
- (b) of the average waiting time for each of the woman health services provided by each WHC and MCHC, together with the number of women using each service and the percentage of such number in the female population of the district in which the WHC/MCHC is located, in each of the past three years; whether it knows if these figures are comparable to the relevant figures of neighbouring countries and areas, such as Japan, Taiwan, Singapore, and so on; if they are not comparable, whether it has examined the reasons for that;*
- (c) whether it will consider extending the scope of the coverage of woman health services (for example, free screening services for breast cancer and cervical cancer) and providing free or subsidized vaccinations against cervical cancer; if it will not, of the reasons for that;*
- (d) whether it will consider setting up at least one WHC or MCHC providing whole-day woman health services in each DC district in Hong Kong so that all women in Hong Kong can, on average, be provided with free and comprehensive woman health services once every three years; and*
- (e) whether it will explore the introduction of a voluntary scheme which subsidizes all students of the relevant age cohort in Hong Kong to receive vaccinations against cervical cancer for early prevention of the cancer; if it will not, of the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Government has always attached importance to woman health and put in place a comprehensive woman health programme through the provision of promotive, preventive, curative and rehabilitative services. To enhance women's awareness and concerns about their health, a number of service units under the Department of Health (DH) have provided women with accurate information on woman health issues as well as relevant community resources through different channels in an effort to empower women to make choices that are conducive to their health and seek appropriate health care or social services where necessary. On clinical services, there are currently three WHCs (operated on a full-time basis) and 10 MCHCs (operated on a sessional basis) under the DH's Family Health Service, which serve to provide woman health service for women aged 64 or below.

In formulating policies concerning disease screening programmes or vaccination, the Government makes reference to the recommendations put forward by experts, including consulting the Scientific Committees under the DH's Centre for Health Protection and the Cancer Expert Working Group on Cancer Prevention and Screening under the Cancer Co-ordinating Committee. This can ensure that the Government's public health policies are grounded in fact, scientific evidence and public interest, and that the policy gives due consideration to the actual circumstances, such as its cost-effectiveness and acceptability by the community, and so on.

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

- (a) The Woman Health Service aims to promote the health of women and provide women with health education, assessment and counselling services according to their needs at various stages of life. If necessary, doctors will arrange women to receive appropriate tests, including blood test, cervical smear test and screening mammography (generally for women aged 50 or above, or individual women with high risk of breast cancer). A cervical screening service is offered by all 31 MCHCs in the territory to women aged 25 or above who have ever had sexual intercourse. WHCs and MCHCs have not offered any cervical cancer vaccination. The health services provided by the DH to women are heavily subsidized by the Government. Hence, the fees charged for such services can be maintained at a low level as follows:

<i>Services</i>	<i>Eligible Persons*</i>	<i>Non-eligible Persons</i>
Woman health service	\$310 (Annual fee)	\$850 (Annual fee)
Screening mammography	\$225 (per screening)	\$510 (per screening)
Cervical screening service	\$100 (per screening)	\$205 (per screening)

Note:

* Patients falling into the following categories are eligible for the rates of charges applicable to Eligible Persons:

- (i) a holder of Hong Kong Identity Card issued under the Registration of Persons Ordinance;
- (ii) children who are Hong Kong residents and under 11 years of age;
- (iii) other persons approved by the Director of Health.

Comprehensive Social Security Assistance recipients are entitled to receive the above services free of charge.

- (b) There is no area restriction for the woman health services provided by the WHCs or MCHCs under the DH. Women can choose to go to any one of the WHCs or MCHCs for such services. The numbers of persons registered for woman health services in the past three years are as follows:

<i>WHC/MCHC</i>	<i>Number of persons registered per annum</i>		
	<i>2009</i>	<i>2010</i>	<i>2011</i>
Chai Wan WHC	4 800	4 701	4 503
Lam Tin WHC	5 563	5 571	5 672
Tuen Mun WHC	5 692	5 283	5 459
Ap Lei Chau MCHC	232	232	211
Fanling MCHC	430	425	453
Lek Yuen MCHC	1 149	1 303	1 533
Ma On Shan MCHC	425	390	413
Sai Ying Pun MCHC	76	78	48
South Kwai Chung MCHC	179	227	235
Tseung Kwan O Po Ning Road MCHC	230	232	239
Tsing Yi MCHC	162	161	172

<i>WHC/MCHC</i>	<i>Number of persons registered per annum</i>		
	<i>2009</i>	<i>2010</i>	<i>2011</i>
Wang Tau Hom MCHC	211	194	182
West Kowloon MCHC	210	273	236
Total	19 359	19 070	19 356

The waiting time for woman health service at each WHC and MCHC is as follows:

<i>WHC/MCHC</i>	<i>Waiting time as at October 2012 (Week)</i>
Chai Wan WHC	1
Lam Tin WHC	10
Tuen Mun WHC	2
Ap Lei Chau MCHC	5
Fanling MCHC	4
Lek Yuen MCHC	19
Ma On Shan MCHC	5
Sai Ying Pun MCHC	2
South Kwai Chung MCHC	2
Tseung Kwan O Po Ning Road MCHC	11
Tsing Yi MCHC	1
Wang Tau Hom MCHC	14
West Kowloon MCHC	22

As mentioned above, WHCs and MCHCs provide an array of health services to women members, and after assessment by healthcare personnel, each member will receive appropriate medical examinations or tests. WHCs and MCHCs do not maintain comprehensive statistics on the individual examinations and tests that women members receive.

In addition, while the DH is one of the woman health service providers, there are also other service providers, such as the non-governmental organizations (NGOs), private hospitals and

doctors, providing a wide array of health programmes for women. As such, the DH does not have the number of women having received body check by districts and their percentage in the population of the respective districts.

Given the fact that the disease burden, healthcare system and social institution are different between places and their service targets and policy objectives also vary, it is difficult to draw a direct comparison with other countries on the statistics of individual service items.

(c) and (e)

On the prevention of breast cancer, the Cancer Expert Working Group on Cancer Prevention and Screening takes the view that currently, there is insufficient evidence to recommend for or against population-based breast cancer screening in Hong Kong. In fact, in recent years, a number of studies have cast doubts on the effectiveness of conducting population-based breast cancer screening by mammography, as it may generate more harm than good to women due to unnecessary check-ups and treatment due to over-diagnosis. The Working Group suggests that women with higher risk of developing breast cancer (such as women with associated family history or personal history) should seek medical advice on breast cancer screening. Generally speaking, doctors of the Woman Health Service may arrange mammography for women aged 50 or above or those at high risk.

On the prevention of cervical cancer, the Government has been actively promoting the Cervical Screening Programme launched in 2004 to encourage women to have cervical smears on a regular basis. The human papillomavirus vaccine (commonly known as "HPV vaccine") is not infallible and thus cannot eliminate the need of cervical screening. At present, the relevant Scientific Committee has not recommended the introduction of a population-based cervical cancer vaccination programme.

(d) The Government will make reference to the demand for services of WHCs and MCHCs and the primary care development strategy in

planning the long-term development of various healthcare services (including woman health services). The Government currently has no plan to extend the woman health services, but will continue to enhance its collaboration with other service providers, including private doctors and NGOs, so as to enhance the primary care services for local women.

Law Enforcement Actions Against Money Laundering Activities and Public Education

11. **MR ALBERT HO** (in Chinese): *President, under section 25 of the Organized and Serious Crimes Ordinance (OSCO) (Cap. 455), a person commits an offence if he knows or suspects that any property represents any person's proceeds of crime and still deals with that property (commonly known as "money laundering"). In this connection, will the Government inform this Council:*

- (a) *of the number of persons penalized for breaching the aforesaid provision in the past three years, together with the amounts of crime proceeds involved in those cases in general; the penalties imposed by the Court on the convicted in general; and*
- (b) *of the resources deployed by the authorities (including the amounts of actual expenses) in the past three years for promotion and public education to educate the public on how to avoid breaching the aforesaid provision, together with the details of the relevant promotion and education activities (including the number of seminars held); and whether reviews have been conducted to ascertain if the resources deployed by the authorities were adequate?*

SECRETARY FOR SECURITY (in Chinese): President, in accordance with section 25 of the OSCO (Cap. 455), a person commits an offence, if, knowing or having reasonable grounds to believe that any property in whole or in part directly or indirectly represents any person's proceeds of an indictable offence, he deals with that property. The maximum penalty is a fine of \$5 million and imprisonment for 14 years.

In Hong Kong, the Financial Services and the Treasury Bureau is the overall co-ordinator for anti-money laundering/counter financing of terrorism (AML/CFT) policies and for the formulation of improvement measures, as well as relevant publicity and education programmes. The Security Bureau shares part of the AML/CFT work, for example, in respect of the implementation of AML requirements concerning Designated Non-Financial Businesses and Professions (DNFBPs).

In consultation with relevant Policy Bureaux and departments, our reply to the question is as follows:

- (a) Since 2009, the number of persons who have been convicted under section 25 of OSCO are as follows:

	2009	2010	2011	2012 (up to October)
Number of persons convicted	307	360	246	148

The above convicted persons were sentenced for imprisonment terms ranging from one year to six years. There is no record of the amount of crime proceeds involved in these cases.

- (b) The Policy Bureaux, law-enforcement agencies and relevant regulatory authorities responsible for AML policy and money laundering offence have all along attached emphasis on organizing a full spectrum of publicity and educational programmes to promote awareness of relevant legal requirements. These include collaboration with the financial services sector and the DNFBPs in drawing up sector-specific guidelines or practice circulars, as well as in conducting training to enhance practitioners' awareness and understanding of relevant legislation. About 100 seminars were organized between 2009 and 2012 in collaboration with relevant sectors.

The Administration and relevant regulatory authorities have also produced publicity materials, including posters, pamphlets and Announcements in the Public Interest, explaining requirements of

AML legislation, for example, obligations to file suspicious transactions reports, and practitioners' obligations concerning customer due diligence and record-keeping pursuant to relevant legal requirements, practice circulars or guidelines applicable to relevant sectors.

The Administration and relevant regulatory authorities will continue publicity and education concerning AML legislation, and will continuously review the effectiveness of such work to meet changing needs of the day.

Subsidized Child Care Services

12. **DR HELENA WONG** (in Chinese): *President, regarding child care services subsidized by the Government, will the Government inform this Council:*

- (a) *of the details of child care services currently subsidized by the Government, broken down by District Council district (set out in the table below);*

District Council district	2012-2013 Estimate of expenditure	Total number of children receiving services	Number of service units						
			Creche (Whole-day child care services)	Creche (Half-day child care services)	Child care centre (Whole-day child care services)	Child care centre (Half-day child care services)	After-school child care services	Home child care project	Others (Please specify)
Central and Western District									
Southern District									

- (b) *whether it has compiled statistics on the existing number of parents who are the main child carers and the number of children concerned, and provide a breakdown by District Council district and the age of the children (set out in the table below);*

<i>District Council district</i>	<i>Type of carers</i>	<i>Number of parents whose children belong to the following age groups</i>		
		<i>Zero to two</i>	<i>Three to five</i>	<i>Six to 11</i>
<i>Central and Western District</i>	<i>Father and/or mother are/is the main child carer(s)</i>			
	<i>Both parents are not the main child carers (including dual-income parents)</i>			
<i>Southern District</i>	<i>Father and/or mother are/is the main child carer(s)</i>			
	<i>Both parents are not the main child carers (including dual-income parents)</i>			

<i>District Council district</i>	<i>Number of children belonging to the following age groups</i>		
	<i>Zero to two</i>	<i>Three to five</i>	<i>Six to 11</i>
<i>Central and Western District</i>			
<i>Southern District</i>			

- (c) *of the numbers of child care centres and kindergartens (including whole-day and half-day ones) subsidized by the Government in various districts, as well as the average waiting time by children for such places and the number of children involved, broken down by District Council district; and*
- (d) *of the Government's total expenditure on child care services in the 2011-2012 financial year and a breakdown of such expenditure?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, to support parents who are unable to take care of their children temporarily because of work or other reasons, the Social Welfare Department (SWD) provides subvention to non-governmental organizations (NGOs) to run a variety of day child care services, and has endeavoured to enhance the flexibility of such

services. Families with financial difficulty may apply for different service subsidies or fee waiver.

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

(a) and (c)

Child care centres provide day-time care services to children below the age of three. Many child care centres are attached to kindergartens and operated in the form of kindergarten-cum-child care centres, providing education and care services to children aged six or below.

Some child care centres and kindergarten-cum-child care centres also provide occasional child care services, ranging from full day, half day to hourly sessions, to support parents who need to deal with urgent or important matters. Some centres also provide extended hours services to assist parents who are in need of longer hours of child care services.

For children aged six to 12, the SWD has launched the After School Care Programme (ASCP) which is run by NGOs on a self-financing and fee-charging basis. Services provided include homework guidance, parental guidance and education, skills learning, meal service and other social activities. The SWD has also introduced a fee-waiving subsidy scheme for families with social needs.

In addition, in 2008-2009, the SWD launched the three-year Neighbourhood Support Child Care Project (NSCCP) for children aged under six on a pilot basis in order to enhance the flexibility and accessibility of the services, and at the same time promote community participation and mutual assistance in the neighbourhood. NSCCP consists of two service components: the home-based child care service which operates from 7 am to 11 pm, and the centre-based care group which usually operates till at least 9 pm on weekdays, and covers some weekends and some public holidays. Low-income families with social needs may apply for half or full fee waiver. Under special circumstances, children aged six or above may also use the service so that they will not be left unattended. The review conducted upon completion of the pilot

NSCCP in March 2011 indicated that NSCCP had achieved the aim of promoting community participation and neighbourhood mutual help, while providing flexible child care support to families in need. Upon the regularization and extension of NSCCP by the SWD to all 18 districts in October 2011, the minimum number of places of child care services was increased by 64%, that is, from at least 440 places to at least 720 places (including 468 home-based child care places and 252 centre-based care group places). In order to meet the community's demand for child care services, service operators would increase the number of home-based child care places on a need basis and develop child carers' network to promote mutual help in the neighbourhood.

The numbers of places and utilization rates or numbers of beneficiaries of various services are tabulated at Annex 1. The estimated expenditure of 2012-2013 on child care services is \$236.1 million. The Administration does not maintain a breakdown by district of the waiting time and number of applicants.

- (b) In planning its services, the SWD assesses the service needs of individual districts having regard to their local characteristics, such as the population of children, relevant socio-economic factors, availability and utilization of existing child care services, and so on. The Administration does not maintain a breakdown by district of the number of full-time carers at home. District Social Welfare Offices of the SWD consult district organizations, District Councillors and local residents on the needs for child care services in the districts. The respective numbers of children in age groups "below three", "three to below six", "six to below 12" and "12 to below 17" in 2011 broken down by the 18 District Council districts in Hong Kong are listed at Annex 2.

- (d) In the 2011-2012 financial year, government expenditure on child care centres (including standalone child care centres and those attached to kindergartens) was \$159.6 million; expenditure on NSCCP amounted to \$26.4 million; and the fee-waiving subsidy scheme under the ASCP amounted to \$13.6 million. The Government's total expenditure on the above services amounted to \$199.6 million.

Annex 1

Places for various services and their utilization/number of beneficiaries
(1 October 2011 to 30 September 2012, unless otherwise specified)

Administrative Districts of SWD	Standalone child care centres				Child care centres attached to kindergartens (As at September 2011)				Occasional child care service		Extended hours service		After-school care service (As at September 2012)		Neighbourhood Support Child Care Project	
	Full-day		Half-day		Full-day		Half-day		Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Minimum places	Number of children beneficiaries ⁽²⁾
	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)								
	Places	Utilization rate (%) ⁽¹⁾	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Places	Utilization rate (%)	Minimum places	Number of children beneficiaries ⁽²⁾
Eastern/Wan Chai	96	97	182		713	74	2 843	83	28	54	152	100	658	78	80	345
Central/Western/Southern and Islands	40	100	260		869	59	2 188	60	33	82	124	77	604	87	120	751
Kwun Tong	0	N.A.	216		591	83	836	86	40	75	122	85	366	81	40	696
Wong Tai Sin/Sai Kung	0	N.A.	42		1 058	69	1 756	60	46	69	140	88	547	86	80	1 125
Kowloon City/Yau Tsim Mong	144	100	1 100		672	89	1 308	96	44	65	124	68	351	89	80	1 322
Sham Shui Po	62	100	0		384	81	328	80	25	82	76	106	239	92	40	876
Sha Tin	70	97	0		556	79	1 240	78	26	57	82	79	464	95	40	503
Tai Po/North	48	100	119		651	64	882	64	35	63	124	82	596	71	80	704
Yuen Long	64	100	0		481	85	694	84	29	61	70	64	404	92	40	1 112
Tsuen Wan/Kwai Tsing	102	100	196		959	82	2 625	84	49	83	138	82	575	94	80	836
Tuen Mun	64	99	74		463	76	619	76	28	82	78	86	472	94	40	1 022
Total/Average utilization rate	690	99	2 189		7 397	75	15 319	77	383	70	1 230	84	5 276	87	720	9 292

Notes:

(1) As most of the half-day standalone child care centres are run on a self-financing basis, the SWD does not request provision of their utilization rate.

(2) Each child benefiting from NSCCP in a month is only counted once.

Number of kindergartens and kindergarten-cum-child care centres
by District Council in 2012-2013 school year

<i>District Council District</i>	<i>Number of kindergartens and kindergarten-cum-child care centres (including whole- and half-day) participating in Pre-primary Education Voucher Scheme in 2012-2013 school year</i>
Central and Western	23
Wan Chai	15
Eastern	59
Southern	18
Sham Shui Po	39
Kowloon City	44
Wong Tai Sin	44
Kwun Tong	67
Yau Tsim Mong	29
Kwai Tsing	58
Tsuen Wan	30
Tuen Mun	57
Yuen Long	65
North	41
Tai Po	26
Sha Tin	56
Sai Kung	42
Islands	22
Overall	735

Annex 2

Number of children by District Council District in 2011

<i>District Council District</i>	<i>Age Group</i>			
	<i>Below three</i>	<i>Three to below six</i>	<i>Six to below 12</i>	<i>12 to below 17</i>
Central and Western	5 700	6 000	11 100	9 300
Wan Chai	3 400	3 500	5 200	5 700
Eastern	11 000	11 800	23 000	29 600
Southern	6 500	5 300	12 500	14 100

<i>District Council District</i>	<i>Age Group</i>			
	<i>Below three</i>	<i>Three to below six</i>	<i>Six to below 12</i>	<i>12 to below 17</i>
Sham Shui Po	8 300	7 700	18 700	19 800
Kowloon City	8 400	8 000	17 100	18 200
Wong Tai Sin	6 100	7 700	17 700	21 600
Kwun Tong	10 900	14 000	30 300	33 200
Yau Tsim Mong	7 900	8 200	13 300	14 300
Kwai Tsing	8 400	11 100	23 300	27 200
Tsuen Wan	7 100	7 600	14 600	16 600
Tuen Mun	10 000	9 700	20 400	26 700
Yuen Long	11 900	13 400	31 100	39 900
North	6 300	6 200	14 700	17 800
Tai Po	5 100	5 600	11 300	14 900
Sha Tin	11 600	12 900	27 300	31 000
Sai Kung	10 000	10 800	21 500	24 700
Islands	3 400	3 800	8 700	8 800
Overall ⁽¹⁾	142 300	153 400	321 500	373 400

Note:

- (1) Figures above are rounded to the nearest hundreds, and thus may not add up to the total due to rounding.

Source: General Household Survey, Census and Statistics Department

Measures to Combat Parallel Trading Activities

13. **MR JAMES TIEN** (in Chinese): *President, many residents of the North District have relayed to me that although the Government has implemented a number of measures to combat parallel trading activities since September this year, such activities still exist and have caused nuisances to the residents. It has been reported that recently, there is a trend that parallel trading activities are reviving, with the area outside Sheung Shui MTR Station constantly packed with Mainland people waiting to go through the gate and queuing up for the station staff to weigh and measure their luggage, in the process of which serious conflicts occur from time to time. In this connection, will the Government inform this Council:*

- (a) *given that the information submitted by the Government to this Council in early November this year has indicated that, from 19 September to 26 October this year, the authorities mounted a number of operations to combat on Mainland residents contravening conditions of stay in Hong Kong while engaging in parallel trading activities, with 372 Mainland residents suspected of contravening conditions of stay arrested, among them, 41 prosecuted (with 30 convicted and sentenced to imprisonment for two months), and 331 who were not prosecuted repatriated to the Mainland, of the reasons why most of those people arrested were not prosecuted, and why among those prosecuted, about 30% of them were not convicted;*
- (b) *whether it knows if the Mainland residents mentioned in part (a) who were not prosecuted but repatriated will be penalized by the Mainland authorities; if they will, of the details; if not, the reasons for that;*
- (c) *as it has been reported by the media that, to circumvent the control measures of prohibiting train passengers from carrying overweight or oversized pieces of luggage, some people have been engaged as "gate runners" for parallel trade syndicates, bringing goods which comply with the weight and size requirements through the gate and then immediately handing over the goods to parallel traders for reassembling at the train platform and subsequently delivering the goods across the border, whether the authorities are aware of such situation, and what measures they will take to combat such activities;*
- (d) *whether the authorities have assessed the effectiveness of the various existing measures in combating parallel trading activities; whether new measures have been formulated, and how they will strengthen co-operation with the Mainland authorities so as to continuously and effectively curb such activities; and*
- (e) *whether the authorities have assessed if the Mainland authorities tightening up the policy which allows Shenzhen residents issued with endorsement for visiting Hong Kong to make multiple trips between the Mainland and Hong Kong within the same day (commonly known as "multiple entry permits"), such as by changing the*

arrangement to "one trip per day", will help combat parallel trading activities; if they have, of the details; if not, the reasons for that?

SECRETARY FOR SECURITY (in Chinese): President,

(a) and (b)

From 19 September to 30 November, the Immigration Department (ImmD) and other law-enforcement agencies mounted 19 joint enforcement operations named Windsand, and arrested 411 Mainland residents holding exit and entry permits who were suspected of contravening conditions of stay by involving in parallel trading activities. Among them, 75 Mainland residents were prosecuted, of which 64 were sentenced to imprisonment of four weeks to two months, four pending court trial and seven with charges withdrawn upon legal advice. The remaining 336 Mainland residents were repatriated to the Mainland.

The ImmD has, according to established mechanism, notified the Mainland authorities of the convicted Mainland residents for cancellation of their exit endorsements.

In processing each case, the ImmD will conduct thorough investigation. Generally, evidence collection will focus on whether the parallel traders take any employment or establish or join in any business. The ImmD will instigate prosecution where there is sufficient evidence of contravention of conditions of stay. Given this being criminal prosecution, the ImmD will only consider instigating prosecution when the evidence collected satisfies the high standard of "beyond reasonable doubt".

For persons who are not prosecuted, when they come to Hong Kong in the future, the ImmD will thoroughly examine their purposes of visit and may refuse their entry if their purposes of visit are in doubt.

(c) The MTR Corporation Limited (MTRCL) noticed the so-called "gate runner" activities and has strengthened the patrol and inspection by MTR staff on trains and at platforms of the East Rail Line stations in the North District. Prosecution will be instigated against

passengers whose behaviour or activities cause a nuisance or inconvenience to other passengers, and do not follow the instructions of MTR staff. In addition to Sheung Shui, Fanling, Lo Wu and Lok Ma Chau stations where electronic ground scales have been installed, the MTRCL also checks the luggage weight at the Departure Hall within the paid area of the Lo Wu and Lok Ma Chau stations to combat such activities.

- (d) The joint operations of the various enforcement departments have seen some initial results with the order in the relevant districts improving. The enforcement actions will continue. We will closely monitor the *modus operandi* of parallel trading activities, adopt the strategy of cracking down at source to take intelligence-based enforcement actions from time to time at different locations, and adjust the strategy as appropriate in light of changing circumstances. We learnt that the Mainland authorities have also stepped up enforcement actions to combat smuggling activities by parallel traders. The law-enforcement agencies of the two places will continue to maintain close intelligence exchange and conduct joint analysis, and carry out synchronized enforcement actions as necessary to combat organized parallel trading activities.
- (e) Regarding the suggestion of limiting Mainland residents from entering Hong Kong more than once in a day, we must carefully consider its feasibility, the impact on normal Mainland visitors, overall immigration policy and Hong Kong's image as the Asia's World City, and the effectiveness in combating parallel trading activities.

According to preliminary information, Mainland parallel traders enter Hong Kong with various types of endorsements, including both single and multiple endorsements. The latter includes endorsements for visiting relatives, business and individual visit. Overall speaking, the travel pattern of Mainland residents arrested in Operation Windsand is generally in line with that of other Mainland visitors. Some of the arrested Mainland residents only enter Hong Kong once a day. Therefore, we cannot prove that a visitor is a parallel trader solely on the basis of the number of entries, otherwise

visitors with genuine needs to travel between Hong Kong and the Mainland more than once a day may be affected.

We will continue to adopt an intelligence-based approach and consider a range of factors, including number of entries, to combat parallel trading activities. In handling every entry application, the ImmD will consider whether the visitor satisfies the normal immigration requirements. The ImmD will examine the visitor and may consider refusing entry in accordance with the law and established policy if the purpose of visit is in doubt.

Measures to Promote Development of Textile and Apparel Wholesale Industries

14. **MR CHUNG KWOK-PAN** (in Chinese): *President, for many years, the textile and apparel wholesale markets in the area of Cheung Sha Wan and Sham Shui Po have attracted quite a number of merchants from Southeast Asia, the Mainland and overseas to buy merchandise there, similar to the situation of Dongdaemun in South Korea, and South Korea has even developed Dongdaemun into a tourist attraction. The Chief Executive indicated in his election manifesto that he would draw up an overall economic development strategy and industry policy after assumption of office. He also indicated that he would take steps to enhance and promote wholesale businesses, for example, electronic products in Sham Shui Po, and apparel and textiles in Cheung Sha Wan; that he would "introduce tourists to visit the wholesale markets and in so doing bring vitality to such neighbourhood businesses; and that he would study and identify a site for constructing a major and long-term exhibition venue so as to promote the industry". In this connection, will the Government inform this Council:*

- (a) *whether it has compiled statistics on the trade volume of the wholesale of textiles and apparel in Hong Kong in the past five years; whether it has studied how to help the industry grasp business opportunities for the full development of the textile and apparel wholesale markets in Hong Kong;*
- (b) *whether it will formulate afresh the policy on the development of the textile industry to promote innovation in the industry, for example, promoting the development of the textile and apparel wholesale*

markets in Sham Shui Po, nurturing talents for fashion design, building exhibition venues, recasting the textile industry as a trendy industry, and studying whether it will follow the practice of Dongdaemun in South Korea to repackage such wholesale markets as tourist attractions with characteristics, for the mutual benefits of various industries such as the textile and tourism industries, and so on, which interwine closely; and

- (c) *how it will honour the pledge made by the Chief Executive in his manifesto to enhance and promote the wholesale businesses; what the specific ideas are and when it will introduce the related measures?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, our consolidated reply to the Member's question is as follows:

The Textiles and Clothing (T&C) industry has all along been one of the pillars of Hong Kong's economy, making significant contribution to the economic development of Hong Kong. Statistics on the exports of Hong Kong T&C products in quantity and value from 2007 to October 2012 are set out in the Annex.

The Government attaches great importance to the development of industries in Hong Kong, including the T&C industry and the wholesale industry. As regards collaboration with the tourism industry, the Hong Kong Tourism Board (HKTB) has been actively promoting the trend-setting edge of Hong Kong to visitors through various channels. In promoting the strength of Hong Kong as a shoppers' paradise, the HKTB does not only promote major shopping malls and department stores, but also publicizes outdoor markets and themed shopping streets including the "Fashion Street" on Cheung Sha Wan Road, along which a large number of shops engaging in clothing wholesale and retail businesses are located. Depending on the development of these clothing wholesale markets, we will explore with the HKTB the feasibility of re-packaging these wholesale markets for tourism promotion.

On the nurturing of talents and promotion of innovation, Create Hong Kong (CreateHK) has been providing funding support to worthwhile projects that

promote fashion design. Such projects include competitions, awards programmes, exhibitions and fashion shows. These programmes provide exposure for the local up-and-coming fashion designers and their works. For example, work attachment opportunities in the United Kingdom were provided to the winners of the EcoChic Design Awards held in 2011 and 2012 to enrich their portfolios. Another example is the World's Greatest Catwalk 2012 Hong Kong held on 9 December 2012, which featured one of the world's longest catwalks and attracted lots of international media attention. The event showed the works of local young designers, winners of local fashion awards, and student winners of graduation shows of various local design institutes. Their works were paraded together with those of the design masters.

Apart from those projects which exclusively focus on fashion design, other signature design events funded by CreateHK also cover fashion design from time to time. For instance, the annual Business of Design Week and Knowledge of Design Week organized by the Hong Kong Design Centre often feature topics and speakers from the fashion design field in the conferences and workshops. These exchange sessions help the local fashion designers hone their skills and expand their networks with local peers and international counterparts.

As for nurturing design start-ups, the Government-funded Design Incubation Programme (DIP) provided the incubatees with financial subsidies and incubation services. As at end October 2012, 118 incubatees have been admitted to the DIP, with about 18% of them being fashion design start-ups.

We will continue to promote Hong Kong's existing industries and also explore new advantages and develop new strengths. As the Chief Executive has stated clearly in his Manifesto, we would draw up an overall industry policy with a view to creating jobs and improving people's livelihood. As announced by the Chief Executive, an Economic Development Commission (EDC) would be established to provide visionary direction and advice to the Government on the overall strategy and policy to broaden Hong Kong's economic base and to enhance Hong Kong's economic growth and development, and in particular, to explore and identify growth sectors or clusters of sectors which present opportunities for Hong Kong's further economic growth, and recommend possible policy and other support for these industries. The EDC will be led by the Chief Executive. The preparatory work for the establishment of the EDC has commenced and it is envisaged that the EDC would be set up shortly.

Exports of Hong Kong T&C products (in Quantity) (2007 – Oct 2012)

	2007			2008			2009			2010			2011			Jan - Oct 2012		
	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports
Kg	113,285,403	2,443,044,484	2,556,329,887	88,132,870	2,025,823,190	2,113,956,060	55,892,373	1,688,255,771	1,744,148,144	44,437,837	1,694,790,150	1,739,187,987	28,173,551	1,949,291,504	1,377,467,035	24,692,150	1,073,885,128	1,098,577,278
Sqm	1,586	1,357,166	1,358,752	2,373	1,290,870	1,293,243	2,391	903,816	906,207	2,953	1,015,650	1,018,603	12,047	1,294,401	1,306,448	4,474	1,316,808	1,321,282
Pcs	827,416,107	4,748,795,665	5,576,211,772	422,832,744	4,646,800,253	5,069,632,997	70,268,717	4,431,571,214	4,501,839,931	61,010,672	4,409,859,355	4,470,870,027	30,449,550	3,771,214,186	3,801,663,736	13,088,217	2,806,832,936	2,819,921,153

Exports of Hong Kong Textiles & Clothing products (in Value) (2007 – Oct 2012)

	2007			2008			2009			2010			2011			Jan - Oct 2012		
	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports	Domestic Exports	Re-exports	Total Exports
Value	42,497	286,577	329,073	25,413	287,329	312,742	6,651	247,608	254,259	5,193	269,491	274,684	4,364	274,015	278,379	2,936	212,001	214,937

(HK\$ Mn)

(Source: Census and Statistics Department)

Subsidized Housing for Sandwich Class

15. **MR RONNY TONG** (in Chinese): *President, several years ago, the Hong Kong Housing Society (HKHS) was entrusted by the Government to implement the Sandwich Class Housing Scheme (SCHS) to enable middle-income families, whose income had exceeded the income limits for the Home Ownership Scheme (HOS) but was insufficient for buying private residential properties, to buy residential flats at concessionary prices. Altogether 10 SCHS developments were completed between the completion of the first one in 1995 and the Government's decision to suspend the sale of subsidized housing flats in 2001. Some SCHS owners have told me repeatedly that the Government does not have a policy to help the sandwich class purchase their homes and has never taken heed of their plights in housing. In response to the increasing public demand for home ownership, the Government has introduced "My Home Purchase Plan" (MHPP), resumed HOS and will allow eligible white form HOS applicants (WF applicants) to purchase HOS flats with premium not paid in the Secondary Market, but it has not mentioned the secondary market of SCHS. In this connection, will the Government inform this Council:*

- (a) of the number of cases in which the owners of SCHS, HOS and the Tenants Purchase Scheme (TPS) flats paid premium for their flats in the past decade and the total amount of premium paid;*
- (b) of the number and percentage of cases of first-hand owners of SCHS, HOS and TPS flats selling their flats in the past decade;*
- (c) as the Hong Kong Housing Authority (HA) decided last month to significantly increase the income limits of WF applicants for buying HOS flats with premium not paid (that is, for households with two members or more the limit is increased to \$40,000 a month), and that the new income limits are close to those for SCHS applicants (that is, \$25,000 to \$50,000 a month) in those years, whether the Government will consider extending the scheme to include SCHS flats and allow SCHS flat owners to sell their flats with premium not paid, so as to boost the market turnover of SCHS flats; if it will not, of the reasons for that; and*

- (d) *as the MHPP which will be introduced soon is similar to SCHS in that the prices of its flats fall between those of private residential flats and HOS flats, with the objective of providing the group of individuals or families with higher income the opportunities to purchase their homes, but the number of such flats is small, whether the Government will consider allowing eligible MHPP applicants to buy SCHS flats with premium not paid; if it will not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the SCHS announced in 1992 aimed to provide affordable housing to middle-income families whose income was above the HOS's income limit but were unable to afford private housing. There were altogether 10 SCHS projects, providing a total of 8 920 flats. Following the Government's repositioned housing policy in 2002, SCHS came to an end in 2003.

The Greenview Villa, (that is, the Tsing Luk Street project), which was originally the first project under the MHPP, will be sold to eligible applicants at a discounted price so as to increase the supply of subsidized sale flats to address the home ownership needs of the public. For the remaining sites that were originally planned for the MHPP, we are inclined to use most of the sites for development of subsidized housing flats. Details for the sale of remaining sites will be announced in due course.

The consolidated reply to the four-part question is as follows:

- (a) The number of cases of premium payment and the amount involved for SCHS, HOS and TPS flats from 2003 to 2012 (up to end-October) are as follows:

Year	Premium Payment Cases					
	SCHS		HOS		TPS	
	Number of cases	Amount (\$ million)	Number of cases	Amount (\$ million)	Number of cases	Amount (\$ million)
2003	86	43.2	2 476	633.6	1	0.3
2004	159	89.9	3 534	1,108.0	19	7.5
2005	221	134.2	3 391	1,287.2	35	13.0
2006	166	95.8	2 405	958.9	66	24.9

Year	Premium Payment Cases					
	SCHS		HOS		TPS	
	Number of cases	Amount (\$ million)	Number of cases	Amount (\$ million)	Number of cases	Amount (\$ million)
2007	250	148.4	2 838	1,178.0	137	53.3
2008	268	176.2	2 665	1,333.4	154	71.6
2009	239	155.3	2 667	1,357.1	175	86.5
2010	221	169.3	2 890	1,758.4	261	161.2
2011	154	148.3	1 817	1,367.2	222	174.2
2012 (up to end-October)	121	129.3	1 216	981.6	172	153.4

- (b) Under the Housing Ordinance, upon expiration of the resale restriction period or if the HA has declined the owner's offer to sell within the period, the resale restriction would be lifted after the HOS or TPS flat owner has paid the premium. Thereafter, these flats are regarded as private sector flats and the owners are free to sell them. Nevertheless, we can still find out if HOS and TPS flats with premium paid are transacted in the open market from the records of Land Registry on registered Agreements for Sale and Purchase. However, these records are merely the number of transactions. We cannot distinguish whether the flats in the records are first-hand sale. Also, we are not able to tell whether two transactions in the records involve the same flat.

Besides, from the third year after the first assignment, HOS and TPS flat owners can sell their flats with premium not yet paid to eligible persons as certified by the HA under the HOS Secondary Market Scheme (SMS). After the eligible persons have bought the flats with premium not yet paid, they can also sell the flats to other eligible persons as certified by the HA without payment of premium. Under the SMS, the solicitor representing the purchaser of a HOS or TPS flat with premium not yet paid has to apply to the HA for the "Letter of Nomination" within one month upon the Provisional Agreement for Sale and Purchase is signed. The Agreement for Sale and Purchase and Deed of Assignment can only be executed after the "Letter of Nomination" has been issued. Therefore, the HA's record of transactions on the Secondary Market is merely the number of cases of "Letter of Nomination" issued for HOS and TPS flats with premium not yet paid. In the past 10 years, the HA has

issued a total of 20 032 "Letters of Nomination" in respect of HOS and TPS flats with premium not yet paid. Yet, we cannot distinguish whether the flats in the record are first-hand sale. We are also not able to tell whether two transactions in the record involve the same flat.

For SCHS flats, there were similar resale restriction arrangements in the assignments of SCHS flats of the HKHS. The HKHS does not have the records of first-hand owners of SCHS flats selling their flats after paying the premium.

(c) and (d)

Under the current situation where land resources are in tight supply, we consider that public resources should target at households with a monthly income of \$40,000 or below in meeting their home ownership needs since this income group is, relatively speaking, more in need of the Government's support in this respect. This is also the household income limit for the White Form household applicants of both HOS and the Greenview Villa.

On the suggestion to allow certain types of buyers to also purchase SCHS flats without the need to pay premium, it should be noted that at present, there is no secondary market *per se* for SCHS. The suggestion requires careful consideration, bearing in mind the Government's housing policy, the possible impact on the housing market of such a scheme, and so on.

Direct Issue of Full Driving Licences Without Test

16. **MR JAMES TO** (in Chinese): *President, under the Road Traffic (Driving Licences) Regulations (the Regulations) (Cap. 374 sub. leg. B), the Commissioner for Transport may directly issue a Hong Kong full driving licence without test to an applicant who, some time within three years before the date on which the applicant makes the application, had held a full driving licence issued by a competent authority in a "recognized country or place" (including the Mainland) (direct issue of driving licences). In this connection, will the Government inform this Council of the followings in the past five years:*

- (a) *the number of applications for direct issue of driving licences received by the authorities each year; the number of applications approved each year, and the respective numbers of such applications the applicants of which were Hong Kong permanent residents (HKPR) and non-HKPR, with a breakdown of the applications from non-HKPR by the country or place that issued the driving licence held by the applicant; and*
- (b) *the number of applications for direct issue of driving licences rejected by the authorities each year, with a breakdown by the country or place that issued the driving licence held by the applicant and by the reason for the rejection; the number of rejected cases in which the applicants were HKPR?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the mechanism of "direct issue of Hong Kong full driving licence" is to allow people holding an overseas driving licence issued by a "recognized country or place" to be directly issued with a Hong Kong full driving licence without taking a Hong Kong driving test, so that they may drive private cars, light goods vehicles not exceeding 5.5 tonnes in gross weight, motor cycles and motor tricycles.

An applicant for "direct issue of Hong Kong full driving licence", whether a Hong Kong permanent resident or not, must attain the age of 18 years and meet the requirements under section 11(3) of the Regulations as follows:

- (i) The applicant is a holder of an overseas driving licence issued by any country or place listed in the Fourth Schedule of the Regulations (see Annex), including a full driving licence of the People's Republic of China;
- (ii) The overseas driving licence must:
- (1) be still valid or not have expired for over three years; and
 - (2) be obtained after successful completion of a driving test conducted in the country or place which issued the licence.

- (iii) The class of vehicles under application must be the same as the one the applicant is authorized to drive by the country or place which issued the licence.
- (iv) Meeting one of the following requirements:
- (1) The licence was originally issued to the applicant during a period of residence of not less than six months in the country or place of issue; or
 - (2) The applicant has been holding the licence issued to him by the recognized country or place for not less than five years immediately prior to the application; or
 - (3) The applicant is the holder of a passport or other equivalent travel document issued in the country or place in which the licence was issued.

Therefore, if an applicant for "direct issue of Hong Kong full driving licence" fails to meet the other requirements under the Regulations, his application will not be approved even if he has held a full driving licence issued by a competent authority in a "recognized country or place" (including the Mainland) some time within three years before the date on which he makes the application.

My replies to the two parts of Mr TO's question are as follows:

- (a) The numbers of applications for "direct issue of Hong Kong full driving licence" between 2007 and 2011 according to the records of the Transport Department (TD) are tabulated below:

<i>Year</i>	<i>Number of applications</i>
2007	30 170
2008	31 330
2009	28 430
2010	30 910
2011	34 810

Regarding the numbers of approved applications for "direct issue of Hong Kong full driving licence" during the period from 2007 to 2011, a breakdown by country/place which issued the driving licences held by the applicants are shown in the table below. Since the permanent resident status is not one of the prerequisites for the approval of an application, the TD does not have separate breakdown on whether the applicant of an approved case is a Hong Kong permanent resident.

Year	Total number of approved applications	Country/place which issued the driving licences held by the applicants					
		Mainland	Canada	United States	Australia	United Kingdom	Others
2007	29 910	14 640 ^{Note}	2 989 ^{Note}	2 774 ^{Note}	2 324 ^{Note}	1 573 ^{Note}	4 390 ^{Note}
2008	31 220	13 690	3 495	3 481	2 334	1 795	6 425
2009	28 380	13 660	2 545	3 417	1 638	1 771	5 349
2010	30 740	16 290	2 269	3 521	1 510	1 924	5 226
2011	34 660	19 680	2 144	3 644	1 571	2 034	5 587

- (b) As for the numbers of rejected applications for "direct issue of Hong Kong full driving licence" during the period from 2007 to 2011, a breakdown by country/place which issued the driving licences held by the applicants are shown in the table below. Since the permanent resident status is not one of the prerequisites for the approval of an application, the TD does not have separate breakdown on whether the applicant of a rejected case is a Hong Kong permanent resident.

Year	Total number of rejected applications	Country/place which issued the driving licences held by the applicants					
		Mainland	Pakistan	India	Canada	Malaysia	Others
2007	260	187 ^{Note}	4 ^{Note}	6 ^{Note}	9 ^{Note}	29 ^{Note}	16 ^{Note}
2008	110	64	5	12	1	12	16
2009	50	5	8	6	27	0	4
2010	170	102	45	1	5	0	17
2011	150	96	37	0	3	0	14

Note:

Before its Vehicles and Drivers Licensing Integrated Data System was upgraded to the fourth generation, the TD did not capture separate records on the applications for "direct issue of Hong Kong full driving licence" according to the countries or places which issued the overseas driving licences held by the applicants. As such, the figures shown in the table reflect only the breakdown after February 2007.

The reasons for all the rejected cases are the same, that is, the applicants failed to fully meet the requirements under the Regulations. The TD's data system does not have a detailed breakdown on the specific reasons of rejection.

Annex

Road Traffic (Driving Licences) Regulations (Cap. 374B)

Schedule 4

List of Countries or Places for Purposes of Regulation 11(3)

Australia	Malaysia
Austria	Netherlands
Banglades, People's Republic of	New Zealand
Belgium	Nigeria, Federal Republic of
Canada	Norway
China, Peoples Republic of	Pakistan
Denmark	Portugal
Finland	Singapore
France	Spain
Germany, Federal Republic of	Sweden
Iceland, Republic of	Switzerland
India	Republic of South Africa together with
Ireland, Republic of	S.W. Africa
Israel	United Kingdom together with Alderney
Italy	(with Channel Islands), Bermuda,
Japan	Guernsey, Isle of Man, Jersey
Korea, Republic of	United States of America
Luxembourg	

General Out-patient Clinic Phone Appointment Service

17. **MR CHAN HAN-PAN** (in Chinese): *President, quite a number of elderly persons have relayed to me that while the Hospital Authority (HA) has introduced the General Out-patient Clinic (GOPC) Phone Appointment Service (Phone*

Appointment Service) with the original intent of facilitating members of the public (in particular elderly persons) to book appointments over the phone so that they are not required to visit clinics in person and queue for consultation quotas early in the morning, the Phone Appointment Service has all along been unable to provide any genuine convenience to them. These elderly persons pointed out that the lines of the Service were always busy; they could not complete the booking procedure due to failure to press the buttons as instructed within the short time limit; and they were not allocated consultation quotas even though they had completed the booking procedure. In this connection, will the Government inform this Council if it knows:

- (a) among the number of attendances in each of the public GOPCs in the past three years, the number and percentage of attendances of those patients who were allocated consultation quotas through the Phone Appointment Service;*
- (b) as the Introduction of the Phone Appointment Service stipulates that patients who have failed to attend an appointment and have not cancelled the booking for three or more separate occasions within two months will be prevented from using the Service, the number of patients since 2006 who were prevented from using the Service for this reason, and their age distribution;*
- (c) the effectiveness of the various improvement measures implemented by the HA since the launch of the Phone Appointment Service in 2006; and*
- (d) whether the HA has any plan to implement measures in future to further enhance the Phone Appointment Service, so as to address the problems encountered by the elderly persons in using the Service at present; if so, of the details; if not, the reasons for that?*

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

- (a) General out-patient services provided by the HA are primarily targeted at serving the elderly, the low-income group and the

chronically ill. Patients under the care of GOPCs comprise two major categories: chronic disease patients with stable medical conditions, such as patients with diabetes mellitus or hypertension; and episodic disease patients with relatively mild symptoms, such as those suffering from influenza, cold, gastroenteritis, and so on. For those with episodic diseases, consultation timeslots at GOPCs in the next 24 hours are available for booking through the HA's telephone appointment system. As for chronic disease patients requiring follow-up consultations, they will be assigned a visit timeslot after each consultation and do not need to make separate appointments by phone.

At present, the HA operates a total of 74 GOPCs in Hong Kong with telephone appointment service available at 65 of them. As for the remaining nine GOPCs which are located on outlying islands or in remote areas, patients may visit these clinics direct to seek services during their operating hours. In 2011-2012, the GOPCs under the HA have provided around 5 million attendances involving more than 1.3 million patients. Over 90% of the target users of general out-patient services, including elders, recipients of Comprehensive Social Security Assistance and those enjoying medical fee waiver, were able to secure a consultation timeslot successfully through the telephone appointment system within two working days.

- (b) To ensure better utilization of consultation quotas and public resources, the HA hopes that patients who cannot attend scheduled consultations would call to cancel their appointments in advance. The HA has incorporated reminder voice messages in the telephone appointment system and produced educational videos on show in all GOPCs to remind patients of the importance of cancelling appointments as well as the relevant procedures. To prevent abuse of the telephone appointment system, the HA will suspend telephone appointment service for those patients who fail to turn up for consultations on three occasions within two months without making prior cancellation of their appointments. The patients concerned are required to visit GOPCs in person for registration should they intend to continue using GOPC services.

The default situation has improved following implementation of the above measures. In 2008-2009, patients who did not turn up for scheduled consultations amounted to around 8% of the allocated slots. This dropped to about 6% in 2011-2012. Only around 0.1% of the GOPC patients had their telephone appointment service suspended in 2011-2012.

(c) and (d)

To alleviate the crowded conditions of clinics and reduce the risk of cross-infection among patients, the HA launched the telephone appointment system in 2006 so that patients do not have to visit clinics and queue in person for consultation quotas. Currently the telephone appointment system has over 500 telephone lines providing 24-hour appointment services. Given the huge volume of GOPC services, the automated appointment system enables the search and allocation of available consultation quotas to be conducted within the shortest time possible, thereby improving service efficiency. The system also forms a network which allows consultation quotas of different GOPCs in the same area to be linked and pooled together for use. When a particular clinic has run out of consultation slots, the system will automatically search for available quotas in nearby clinics, thereby ensuring that consultation slots and clinic resources are fully utilized and that patients do not have to commute between clinics in search of consultation opportunities.

In response to feedback from the public, the HA has introduced a number of measures to improve the operation of the system. These include: increasing the number of telephone lines from 350 to over 500 to enhance system capacity; introducing an Elderly Appointment Quota for patients aged 65 or above; extending the response time to allow sufficient time for users (in particular elders) to input data; replacing computerized voice with authentic human voice to make it easier for users to hear; simplifying data entry procedures to make the system more user-friendly for elders; introducing an SMS booking service to meet the needs of those with hearing impairment; and setting up a help desk in every GOPC to assist individuals who encounter difficulties in using the telephone appointment service as

appropriate. The HA will closely monitor the operation of the telephone appointment system and introduce appropriate improvement measures when necessary.

Unemployed Persons Receiving CSSA

18. **MR FRANKIE YICK** (in Chinese): *President, it has been reported that while the unemployment rate in Hong Kong has remained at a low level recently, the number of tertiary institution graduates receiving payments under the Comprehensive Social Security Assistance (CSSA) Scheme due to unemployment has been on the rise. Regarding the situation of unemployed persons receiving CSSA (unemployed CSSA recipients), will the Government inform this Council:*

- (a) *of the number of unemployed CSSA recipients aged 15 to 59 in each year from 2007 to 2011, broken down by their age and academic qualification (set out according to the table below);*

Year: _____

<i>Academic qualification</i>	<i>Number of recipients belong to the following age group</i>					<i>Total number of recipients</i>
	<i>15-19</i>	<i>20-29</i>	<i>30-39</i>	<i>40-49</i>	<i>50-59</i>	
<i>Tertiary or above</i>						
<i>Junior and senior secondary</i>						
<i>Primary or below</i>						
<i>Number of recipients in the age group and its percentage in the total number of recipients</i>						

- (b) *of the number of unemployed CSSA recipients participating in the Support for Self-reliance (SFS) Scheme, rate of their securing employment and their average duration of stay on CSSA, in each year from 2007 to 2011, broken down by their age and academic qualification (set out according to the table below);*

Year: _____

<i>Academic qualification</i>	<i>Number of recipients belonging to the following age group</i>					<i>Total number of participants</i>
	<i>15-19</i>	<i>20-29</i>	<i>30-39</i>	<i>40-49</i>	<i>50-59</i>	
<i>Tertiary or above:</i>						
<i>(i) Number of participants</i>						
<i>(ii) Rate of securing employment (%)</i>						
<i>(iii) Average duration of stay on CSSA (year(s))</i>						
<i>Junior and senior secondary:</i>						
<i>(i) Number of participants</i>						
<i>(ii) Rate of securing employment (%)</i>						
<i>(iii) Average duration of stay on CSSA (year(s))</i>						
<i>Primary or below:</i>						
<i>(i) Number of participants</i>						
<i>(ii) Rate of securing employment (%)</i>						
<i>(iii) Average duration of stay on CSSA (year(s))</i>						

- (c) of a breakdown by age and duration of stay on CSSA of the existing number of unemployed CSSA recipients (set out according to the table below);

<i>Duration of stay on CSSA</i>	<i>Number of recipients belonging to the following age group</i>					<i>Total number of recipients</i>
	<i>15-19</i>	<i>20-29</i>	<i>30-39</i>	<i>40-49</i>	<i>50-59</i>	
<i>Less than one year</i>						
<i>More than one year to two years</i>						
<i>More than two years to three years</i>						
<i>-</i>						
<i>-</i>						
<i>-</i>						
<i>Ten years or above</i>						

- (d) of the criteria for calculating the rate of securing employment of CSSA recipients participating in the SFS Scheme; if securing employment is defined as staying employed for three months or

longer, of the rate of securing employment of the Scheme and the difference of such rate from the existing rate calculated by the authorities in each of the past five years; whether it has assessed the reasons why some CSSA recipients, after having secured a job through the Scheme, quitted in less than three months; of the current number of CSSA recipients who have participated in the SFS Scheme and received CSSA payments for more than half a year; whether the authorities have reviewed the effectiveness of the Scheme; if they have, of the details; if not, the reasons for that; and

- (e) of the total amount of CSSA payments provided by the Government to unemployed CSSA recipients aged 15 to 59 in each year from 2007 to 2011, broken down by age and academic qualification of the recipients (set out according to the table below)?

Year: _____

Academic qualification	Total amount of CSSA payments to recipients belonging to the following age group					Percentage in the total amount (%)
	15-19	20-29	30-39	40-49	50-59	
Tertiary or above						
Junior and senior secondary						
Primary or below						
Amount spent on the recipients of the age group and its percentage in the aggregate amount (%)						

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Social Welfare Department (SWD) launched the SFS Scheme under the CSSA Scheme to encourage and help unemployed able-bodied CSSA recipients⁽¹⁾ aged 15 to 59 to secure full-time paid employment and move towards self-reliance.

(1) In this reply, "unemployed CSSA recipients" refers to those CSSA recipients who are either unemployed, or engaged in paid jobs but the income is less than the prevailing standard amount of an able-bodied adult from a family made up of no more than two able-bodied adults/children (the standard amount is \$1,775 with effect from 1 February 2012).

To meet the needs of different CSSA recipients, the SWD provides different employment assistance services under the SFS Scheme, including:

- (i) Integrated Employment Assistance: includes ordinary and intensive employment assistance services for CSSA job seekers, to help them overcome work barriers, thereby enhancing their employability; and
- (ii) the "Special Training and Enhancement Programme" (MY STEP): provides unemployed able-bodied CSSA youths aged between 15 and 29 with counselling and structured motivational and disciplinary training to enhance their self-esteem, self-confidence and sense of responsibility, and to assist them in rejoining the workforce.⁽²⁾

Besides, participants of the SFS Scheme are usually required to join the Community Work (CW) Programme implemented by the SWD. The aim is to help them build up a work habit, enhance their self-confidence and widen their social network. The CW Programme also enables them to make contribution to the community while receiving CSSA payment.

My reply to Mr Frankie YICK's question is set out below:

- (a) The number of unemployed CSSA recipients from 2007 to 2011, by academic qualification and age, is as follows:

By end-December 2007:

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					<i>Total</i>
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	
Tertiary or above	3	33	34	64	92	226
Secondary ^{Note}	1 047	1 680	2 110	3 251	2 888	10 976
Primary or below	505	289	1 288	6 017	11 936	20 035
Total	1 555	2 002	3 432	9 332	14 916	31 237
All CSSA recipients in the age group	46 344	16 355	34 315	62 432	52 755	212 201
Percentage of unemployed CSSA recipients in the total number of CSSA recipients of the relevant age group	3.4%	12.2%	10.0%	14.9%	28.3%	14.7%

(2) The SWD has also launched the "New Dawn Project" to provide employment services for single parents and child carers on CSSA, whose youngest child is aged 12 to 14, to enhance their employability.

By end-December 2008:

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
Tertiary or above	6	46	33	75	91	251
Secondary ^{Note}	1 197	1 774	2 296	3 463	3 051	11 781
Primary or below	575	371	1 324	5 467	11 365	19 102
Total	1 778	2 191	3 653	9 005	14 507	31 134
All CSSA recipients in the age group	44 050	15 086	31 539	58 085	52 340	201 100
Percentage of unemployed CSSA recipients in the total number of CSSA recipients of the relevant age group	4.0%	14.5%	11.6%	15.5%	27.7%	15.5%

By end-December 2009:

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
Tertiary or above	13	107	45	98	120	383
Secondary ^{Note}	1 394	2 335	2 818	4 251	3 683	14 481
Primary or below	606	452	1 419	5 558	11 701	19 736
Total	2 013	2 894	4 282	9 907	15 504	34 600
All CSSA recipients in the age group	44 503	16 294	31 719	58 640	54 548	205 704
Percentage of unemployed CSSA recipients in the total number of CSSA recipients of the relevant age group	4.5%	17.8%	13.5%	16.9%	28.4%	16.8%

By end-December 2010:

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
Tertiary or above	11	95	40	102	118	366
Secondary ^{Note}	1 293	1 991	2 496	4 111	3 818	13 709
Primary or below	567	410	1 156	4 965	10 724	17 822
Total	1 871	2 496	3 692	9 178	14 660	31 897

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
All CSSA recipients in the age group	41 580	15 388	29 250	55 087	53 902	195 207
Percentage of unemployed CSSA recipients in the total number of CSSA recipients of the relevant age group	4.5%	16.2%	12.6%	16.7%	27.2%	16.3%

By end-December 2011:

<i>Education Level</i>	<i>Number of Unemployed CSSA Recipients</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
Tertiary or above	5	80	28	90	99	302
Secondary ^{Note}	898	1 606	2 234	3 896	3 806	12 440
Primary or below	361	311	919	4 288	9 530	15 409
Total	1 264	1 997	3 181	8 274	13 435	28 151
All CSSA recipients in the age group	38 540	13 510	26 641	50 965	51 286	180 942
Percentage of unemployed CSSA recipients in the total number of CSSA recipients of the relevant age group	3.3%	14.8%	11.9%	16.2%	26.2%	15.6%

(b) and (d)

All unemployed CSSA recipients are required to join the SFS Scheme. The relevant numbers are at reply part (a). Their average duration of stay on CSSA, by academic qualification and age, is as follows:

By end-December 2007:

<i>Education Level</i>	<i>Average Duration of Stay on CSSA (years)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>All age groups</i>
Tertiary or above	3.5	3.9	2.5	3.2	4.0	3.6
Secondary ^{Note}	5.9	4.8	3.0	4.2	4.5	4.3
Primary or below	7.8	4.9	3.7	5.5	5.4	5.4

By end-December 2008:

<i>Education Level</i>	<i>Average Duration of Stay on CSSA (years)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>All age groups</i>
Tertiary or above	9.1	6.1	2.3	3.2	4.2	4.1
Secondary ^{Note}	6.4	5.5	3.2	4.4	4.8	4.7
Primary or below	8.3	5.8	3.9	5.9	6.0	5.9

By end-December 2009:

<i>Education Level</i>	<i>Average Duration of Stay on CSSA (years)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>All age groups</i>
Tertiary or above	8.1	6.6	2.4	3.5	4.0	4.6
Secondary ^{Note}	7.1	5.7	3.0	4.4	4.8	4.7
Primary or below	8.9	6.8	3.8	6.1	6.2	6.1

By end-December 2010:

<i>Education Level</i>	<i>Average Duration of Stay on CSSA (years)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>All age groups</i>
Tertiary or above	7.9	6.8	2.4	3.5	4.5	4.7
Secondary ^{Note}	7.5	6.4	3.3	5.0	5.2	5.2
Primary or below	9.4	8.0	4.3	6.7	6.7	6.7

By end-December 2011:

<i>Education Level</i>	<i>Average Duration of Stay on CSSA (years)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>All age groups</i>
Tertiary or above	7.2	8.2	2.7	4.2	4.7	5.3
Secondary ^{Note}	7.8	7.0	3.8	5.4	5.7	5.6
Primary or below	9.8	8.7	4.7	7.3	7.3	7.2

Note:

This includes institutions and commercial schools of the Vocational Training Council.

The participants of SFS Scheme should actively find full-time jobs of not less than 120 work hours per month and with monthly income not less than \$1,775 (amount applicable since 1 February 2012).

Adopting this standard, the employment rates of the SFS Scheme participants in the last five years are as follows:

<i>Period</i>	<i>Employment Rate</i>
By the end of December 2007	36.4%
By the end of December 2008	25.3%
By the end of December 2009	19.4%
By the end of December 2010	27.2%
By the end of December 2011	25.5%

The SWD has not kept statistics on SFS Scheme participants who have been employed for more than three months, and has not kept record as to why certain participants have quitted their jobs in less than three months' time.

To integrate and improve the employment assistance services under the CSSA Scheme for enhanced effectiveness and synergy, the SWD will launch the "Integrated Employment Assistance Programme for Self-reliance" from 1 January 2013 onwards. Through the integrated programme, the same NGO can provide employable CSSA recipients with multifarious and one-stop employment assistance services on a family basis according to their individual needs so as to enhance their employability. The services provided may include interviewing the beneficiaries individually or in small groups, assisting them in formulating job search plans, providing them with information on employment and training courses, providing work exposure services for them, and providing them with post-placement support service and temporary financial assistance, and so on.

- (c) The number of unemployed CSSA recipients by the end of October 2012, by duration of stay on CSSA and age, is as follows:

<i>Duration of stay on CSSA (year)</i>	<i>Number of unemployed CSSA recipients (by end October 2012)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
Less than half a year	43	166	390	490	710	1 799
More than half a year to one year	32	93	255	383	555	1 318

<i>Duration of stay on CSSA (year)</i>	<i>Number of unemployed CSSA recipients (by end October 2012)</i>					
	<i>Aged 15-19</i>	<i>Aged 20-29</i>	<i>Aged 30-39</i>	<i>Aged 40-49</i>	<i>Aged 50-59</i>	<i>Total</i>
More than one year to two years	60	126	405	632	1 026	2 249
More than two years to three years	56	112	339	603	997	2 107
More than three years to four years	68	117	367	722	1 209	2 483
More than four years to five years	64	89	203	436	700	1 492
Above five years	948	1 275	952	4 256	7 438	14 869
Total	1 271	1 978	2 911	7 522	12 635	26 317

- (e) The SWD does not keep information on the total amount of CSSA payment provided to the unemployed CSSA recipients, broken down by age and academic qualification of the recipients.

Talents for Conducting Academic Research and Development of Education Industry

19. **MR IP KIN-YUEN** (in Chinese): *President, between April and September this year, the Government approved 4 140 entry applications for employment in Hong Kong made under the "Admission Scheme for Mainland Talents and Professionals" (ASMTP). The largest portion (35%) of such applications were submitted by employers from the "academic research and education" sector, which stood at 1 452. In this connection, will the Government inform this Council:*

- (a) *among the talents admitted to work in the academic research and education sector under the ASMTP, of the number of those who were employed by tertiary institutions funded by the University Grants Committee (UGC) in each of the past three years, together with a breakdown by institution, department, length of contract, rank and remuneration; whether it knows if it was due to a shortage of local talents possessing relevant professional qualifications and experience, inability to employ local talents at the remuneration offered to Mainland talents, or other reasons that such institutions*

had employed Mainland talents; of the criteria and procedures adopted by the authorities for ascertaining that such Mainland talents are in shortage in Hong Kong;

- (b) whether the authorities have assessed the manpower requirement for developing the education industry, as well as the professional qualifications and experience required; whether they have formulated policies on the provision of the required manpower; if they have not, of the reasons for that; if they have, whether their policy directions focus on training local talents or importing overseas talents, and whether they have set any target ratio between training talents locally and importing talents; if they have not, of the reasons for that;*
- (c) whether any strategies, plans and timetables have been formulated for training local talents to work in the academic research and education sector so as to dovetail with the Government's strategy on developing the education industry; if so, of the details; if not, the reasons for that;*
- (d) whether it knows the number of Hong Kong permanent residents among the local graduates of doctoral degree programmes in each of the past three years; and among such graduates, (i) the percentage of those who did not work in the academic research and education sector, (ii) the number of those who were employed by the UGC-funded institutions, together with a breakdown by age, rank and length of contract, and (iii) the number of those who had applied for posts in the UGC-funded institutions but were unsuccessful; and*
- (e) whether it has assessed if local graduates of doctoral degree programmes have an edge over Mainland and overseas graduates when applying for positions in the academic research and education sector in Hong Kong; if it has, of the outcome?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The objective of the ASMTP is to allow local employers to recruit Mainland professionals not readily available in Hong Kong to meet

their manpower needs. In general, professionals seeking to apply to work in Hong Kong under the ASMTP are required to meet three main criteria:

- (1) having a good education background, normally a first degree in the relevant field;
- (2) having a confirmed offer of employment and are employed in a job relevant to their academic qualifications or working experience that cannot be readily taken up by local professionals; and
- (3) the remuneration package is broadly commensurate with and not inferior to the local prevailing market level.

In processing the applications, the Immigration Department (ImmD) requires applicants to submit proof of educational qualifications, working experience and professional qualifications. At the same time, the employers shall submit relevant information, including the nature of business, the operational status, the number of employees and the ratio of local and non-local employees, and so on. The ImmD will require the employers to provide justifications for employing the concerned applicants and to furnish proof on reasons for failing to recruit professionals locally. Employers are also required to provide a copy of the employment contract to show that the applicants are recruited on a remuneration package that is commensurate with the prevailing local market level. Besides, the ImmD will make reference to the statistics prepared by the Census and Statistics Department and information provided by relevant professional bodies. The ImmD will also consult the Labour Department, other government departments or relevant professional bodies on individual cases as necessary to ensure that applications are in line with the objective of the ASMTP.

The number and employment period of persons admitted to work in the academic research and education sector (for

example, visiting scholars, lecturers or research assistants, and so on) under the ASMTP for the past three years are as follows:

<i>Year/Number of approval cases</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Short-term employment*	2 167 (76%)	1 961 (77%)	1 896 (77%)
Long-term employment	685 (24%)	587 (23%)	579 (23%)
Total	2 852	2 548	2 475

Note:

* Short-term employment refers to those with employment period for less than 12 months.

The ImmD does not maintain statistics by hiring institution, department, rank and remuneration of persons admitted to work in the academic research and education sector under the ASMTP.

(b) and (c)

On the development of education services, the HKSAR Government's objectives are to enhance the position of Hong Kong as a regional education hub, nurture talents for various sectors of our economy, attract talents from all over the world and enhance Hong Kong's competitive edge in order to benefit local students and Hong Kong as a whole. To this end, we strive to internationalize and diversify the post-secondary education sector.

Recruitment and selection of both teaching and non-teaching staff are matters within the autonomy of post-secondary institutions. Institutions may devise their human resources strategies in the light of their teaching, research, as well as administrative needs. They may also train and select their teaching and research staff according to their own criteria and procedures. The Administration respects institutional autonomy, and has neither formulated any across-the-board policy nor set any target ratio for institutions in terms of their recruitment of local and non-local staff. Generally speaking, local post-secondary institutions attach equal importance to attracting non-local talents and training local talents. They also

seek to achieve complementarity between local and non-local staff so as to enhance their overall competitiveness.

As for the publicly-funded sector, the UGC provides funds to institutions in the form of a block grant, that is, a "one-line" allocation that allows flexible deployment of resources to support their development in areas such as teaching, research and internationalization. To enable institutions to recruit talents from Hong Kong and other parts of the world, UGC-funded institutions may make optimal use of the block grant when determining the remuneration packages and housing benefits of their teaching and non-teaching staff, having regard to the ever-changing local and international scenes as well as the competency and performance of their staff (including non-local staff). As for the self-financing sector, institutions may work out their own human resources strategies including those for recruiting and training local or non-local talents, according to their own academic development needs and programme requirements. The Government has not stipulated any target ratio in this regard.

As regards international schools, they have a diversified curriculum, and their teaching and non-teaching staff, normally constituted by both local staff and staff from overseas, must be equipped with the necessary professional qualifications and educational attainments to meet the curriculum requirements. Some international schools offer the curriculum of a particular country only. As such, they recruit teaching and non-teaching staff directly from that particular country to teach in Hong Kong.

(d) and (e)

In the 2009-2010 to 2011-2012 academic years, the numbers of local graduates of UGC-funded doctoral degree programmes were 438, 390 and 403 respectively. UGC-funded institutions conduct annual surveys on the overall employment of their full-time graduates, but those surveys do not cover graduates' age, rank, duration of contract, successful and unsuccessful job applications, or the organizations to

which they have submitted job applications. Therefore, the Administration does not maintain relevant information in this regard. It would also be impossible for us to provide a general assessment on whether local graduates of doctoral degree programmes have a competitive advantage over non-local graduates in applying for local research and teaching positions

Provision of a Public Beach at Lung Mei in Tai Po

20. **MR WU CHI-WAI** (in Chinese): *President, it has been reported that an environmental protection group has recently conducted tests on water samples collected at Lung Mei in Tai Po, and the results have revealed that the number of Escherichia coli contained in the water samples has exceeded the standards by eight to 26 times, which means that the water quality in that area is of "very poor" grade according to the water quality grading system of the Environmental Protection Department (EPD). On the other hand, the Environmental Impact Assessment (EIA) Report for the works project on "Development of a Bathing Beach at Lung Mei, Tai Po", submitted in 2007 by the consultant commissioned by the authorities, has projected that upon the completion of a new sewerage network at Lung Mei and its vicinity, and based on a conservative estimate that about 60% of the dwellings in the four villages nearby Lung Mei should have been connected to the new public sewers prior to the opening of the bathing beach, the water quality of the proposed man-made bathing beach will reach a standard suitable for swimming. Nevertheless, the Report has also predicted that there will still be 24% and 14% of the time during which the water quality in that area will be graded "poor" and "very poor" respectively, meaning that almost 40% of the time failing to meet the EPD's water quality objective for bathing beach. Furthermore, some comments have pointed out that man-made beaches may be susceptible to sand loss and replenishment of sand may damage the ecological environment and increase carbon emissions. In this connection, will the Government inform this Council:*

- (a) *of the water quality monitoring data and grading for Lung Mei since January 2012;*
- (b) *as the authorities have stated in a paper submitted to this Council in November this year that they believe that before completion of the*

Lung Mei beach in late 2014, there would be at least 80% of the dwellings connected to the sewerage network, and as the aforesaid EIA Report was published five years ago, whether the authorities have made predictions anew on the water quality in that area upon completion of the Lung Mei man-made bathing beach works project; if they have, of the percentage of time during which the water quality in that area will be graded "poor" or "very Poor" based on the latest prediction; and

- (c) *of the source of the marine sand for the proposed Lung Mei man-made bathing beach; although the authorities have pointed out in the paper mentioned in part (b) that "Lung Mei enjoys the protection offered by topographical features and is less prone to extreme wave attack. Moreover, with the construction of two groynes at the ends of the beach, significant sand loss is not expected", whether they have drawn up measures to monitor sand loss in that area; if replenishment of the marine sand is needed, where the authorities have planned to obtain sand from and what the estimated costs involved are?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) The EPD has been monitoring the water quality of Lung Mei beach since 2000. The monitoring programme regularly assesses the E. coli levels in the seawater to determine any changes and assess the trend of the water quality in the area, and the related information is updated annually. Under the current Annual Beach Ranking System, beaches are classified into four categories, namely "Good", "Fair", "Poor" and "Very Poor" according to their geometric mean E. coli levels.

Applying the EPD's Weekly Beach Grading System, the water quality data and the grading for the Lung Mei area in the 2012 bathing season are summarized below:

<i>2012 Bathing season*</i>	<i>Range of the geometric mean E. coli levels of the five most recent sampling occasions (count per 100 ml)</i>	<i>Weekly Grading</i>
April to mid-May	766-3 153	Very Poor
Mid-May to Mid-September**	165-557	Poor
Mid-September to November***	43-225	Fair

Notes:

* Gazetted beaches are generally open for swimming from April to October.

** There may be a sudden deterioration in beach water quality during or after heavy rainfall as the rain may flush pollutants from the beach hinterland into the water. Due to heavy rainfall, the E. coli level at the Lung Mei beach exceeded the threshold value on 10 August 2012. The weekly grading was temporarily downgraded to "Very Poor", but was upgraded to "Poor" in subsequent weeks.

*** Due to rainfall associated with the arrival of the northeasterly monsoon in mid-November, the geometric mean E. coli level shown during the five most recent samplings in the Lung Mei area is 225 count per 100 ml, slightly above the E. coli level for "Fair".

- (b) The EIA for the Lung Mei beach project estimated that about 60% of the dwellings in the four nearby villages (Lo Tsz Tin, Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk) would be connected to the public sewers before the opening of the beach, and that the beach water quality would reach the standard suitable for swimming.

The Administration will encourage as many people as possible to connect their dwellings to the public sewerage network. The latest estimates suggest that at least 80% of the dwellings will be connected to the network upon the opening of the beach. The Administration will continue to enlist the support of villagers with a view to raising the connection rate to over 90%.

As an increasing number of dwellings have been connected to public sewers, the water quality of Lung Mei has shown marked improvement, from "Very poor" in early 2012 to "Fair" in recent weeks. The water quality at Lung Mei will further improve when

more dwellings are connected to the public sewerage network and the mitigation measures for the Lung Mei beach project are completed (including the construction of groynes and diversion of the nearby storm water discharge outlets to 100 m away from the beach). We are, therefore, confident that upon the opening of Lung Mei beach to the public in 2015, the water quality will be up to the required standard.

- (c) The natural sand supplied to the market mainly comes from Guangdong Province. The Civil Engineering and Development Department has put in place measures to manage applications for importing natural sand from the Mainland, and will strictly monitor the quality of the sand to ensure compliance with the specified standards in respect of size, colour and chemical composition.

The proposed Lung Mei beach is located at an inner bay of Tolo Harbour. It enjoys protection from topographical features and is not generally prone to extreme wave attack. Moreover, with the construction of two groynes at the ends of the beach, significant sand loss is not expected. Therefore, we have not allowed any recurrent expenditure for sand replenishment in the funding application for the project to the Finance Committee of the Legislative Council.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of three Members' motions for this meeting.

First Member's motion: Mr Ronny TONG will move a motion under Rule 49E(2) of the Rules of Procedure to take note of six items of subsidiary legislation, which were included in Report No. 7/12-13 of the House Committee laid on the Table of this Council.

According to the relevant debating procedure, I will first call upon Mr Ronny TONG to move the motion. The debate on the motion will be divided into three sessions. The first session is to debate the Mediation Ordinance (Commencement) Notice; the second session is to debate the three items of

subsidiary legislation in relation to the Banking Ordinance; and the third session is to debate the two items of subsidiary legislation in relation to the Telecommunications Ordinance.

Each Member (including the mover of the motion) may only speak once in each session and may speak for up to 15 minutes each time. In each session, I will first call upon the chairman of the subcommittee formed to scrutinize the relevant item(s) of subsidiary legislation to speak, to be followed by other Members. Finally, I will call upon the relevant public officer to speak.

The next debate session will start immediately after the relevant public officer has spoken in a debate session. The debate on this motion will come to a close after the public officer has spoken in the third debate session. The motion will not be put to vote.

I now call upon Mr Ronny TONG to move the motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MR RONNY TONG (in Cantonese): President, in my capacity of Deputy Chairman of the House Committee, I move the motion, as printed on the Agenda, under Rule 49E(2) of the Rules of Procedure, for a debate on the six items of subsidiary legislation below listed in Report No. 7/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments: (1) Banking (Capital) (Amendment) Rules 2012; (2) Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2012; (3) Banking (Amendment) Ordinance 2012 (Commencement) Notice 2012; (4) Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2012; (5) Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2012; and (6) Mediation Ordinance (Commencement) Notice.

Mr Ronny TONG moved the following motion: (Translation)

"That this Council takes note of Report No. 7/12-13 of the House Committee laid on the Table of the Council on 12 December 2012 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Banking (Capital) (Amendment) Rules 2012 (L.N. 156/2012)
(2)	Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2012 (L.N. 157/2012)
(3)	Banking (Amendment) Ordinance 2012 (Commencement) Notice 2012 (L.N. 158/2012)
(4)	Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2012 (L.N. 161/2012)
(5)	Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2012 (L.N. 162/2012)
(6)	Mediation Ordinance (Commencement) Notice (L.N. 167/2012)."

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

PRESIDENT (in Cantonese): We now proceed to the first debate session, that is, to debate the Mediation Ordinance (Commencement) Notice.

Members who wish to speak on this subsidiary legislation will please press the "Request to speak" button.

MR DENNIS KWOK: President, in my capacity as the Chairman of the Subcommittee on Mediation Ordinance (Commencement) Notice, I report on the deliberations of the Subcommittee.

The Subcommittee supports the enactment of the Mediation Ordinance (the Ordinance) to provide a legal framework for mediation in Hong Kong. The main concern of members is the readiness on the part of the Government and the Hong Kong Mediation Accreditation Association Limited (HKMAAL) for the commencement of the Ordinance on 1 January 2013.

The Subcommittee notes that the HKMAAL was set up in August 2012 as a company limited by guarantee to serve as the premier non-statutory, industry-led accreditation body. As informed by the Chairman of the HKMAAL during the deliberations of the Subcommittee, a lot of groundwork is still underway, such as setting up a secretariat and website, and so on. Although it cannot be confirmed that the HKMAAL will be ready to perform its accreditation functions by 1 January 2013, both the Department of Justice and the HKMAAL have advised that the commencement of the Ordinance is unrelated to the operation of the HKMAAL. The commencement of the Ordinance needs not be subject to the readiness of the HKMAAL.

(THE PRESIDENT'S DEPUTY, MR RONNY TONG, took the Chair)

The Subcommittee has sought information on other actions that are needed to be completed to pave the way for the commencement of the Ordinance. According to the Department of Justice, some official forms and publications of the Judiciary and the Labour Department would require amendments as a consequence of the passage of the Ordinance. Both the Judiciary and the Labour Department have confirmed that the revised forms and publications will be ready for use by 1 January 2013 when the Ordinance commences and comes into operation.

On the training and accreditation of the mediators, the HKMAAL has been asked to develop plans to collaborate with the academic sector in formulating its standards for accrediting mediation training courses. The Subcommittee considers it important for the Administration and the HKMAAL to manage public expectation so that interested parties are aware that completion of a mediation course may not necessarily or automatically confer on them a qualification to practise as mediators accredited by the HKMAAL in Hong Kong.

In response to members, the Department of Justice has advised that since the Ordinance does not require mediators to be accredited by the HKMAAL, the commencement of the Ordinance will not affect the current practice of mediators accredited by bodies other than the HKMAAL. The Chairman of the HKMAAL has also assured the Subcommittee that future participants of the HKMAAL will not be limited to a single profession, and will comprise individuals from different sectors such as legal, architecture, surveying, and so on.

The Subcommittee does not object to the Commencement Notice. As the implementation of the Ordinance and the future operation of the HKMAAL are important policy issues, members have agreed that the Panel on Administration of Justice and Legal Services should be invited to follow up related issues by inviting different bodies/interested parties to come to the Legislative Council to give their views and to hear their depositions.

Next, very briefly, Deputy President, I would like to give my personal views on the issue of mediation.

We accept that mediation is indeed an important alternate form of dispute resolution in Hong Kong. It will increasingly become so as society becomes more complicated both legally and socially. However, what must be remembered is that the right to access to the Courts is a fundamental right guaranteed under the Basic Law, and it is the right of every Hong Kong citizen to bring a dispute to the Court for resolution. This matter must be borne in mind while we develop mediation as an important alternative dispute resolution regime. However, the Administration must be reminded that the access to the Courts must be supported by adequate resources provided to the Judges and the judiciary, including remuneration and adequate support for members of the judiciary to perform their functions as Judges. Also, access to the Courts must be provided through adequate legal aid. The current coverage under the legal aid system, including the Supplementary Legal Aid Scheme, is wholly inadequate and members of society, including those in the middle class, are heavily left out of the current legal aid regime. The situation is far from satisfactory.

With this note, the Subcommittee supports the Commencement Notice. Thank you, Deputy President.

MS CYD HO (in Cantonese): Deputy President, the main purpose of this subsidiary legislation is to specify the commencement date of the Mediation Ordinance. The primary legislation was passed at the end of the last legislative term. The legislation was advocated by the Judiciary to resolve disputes by mediation other than through litigation in courts, with a view to lowering the litigation fees paid by the public. In the course of deliberation of the primary legislation, Members expressed concern about the qualifications of mediators and whether they would have a special status in the legal professional. As such, people like social workers and counsellors who can help to solve the psychological problems of the parties concerned, may be excluded.

Therefore, a number of Members in the last term, including Dr Margaret NG, had repeatedly stated that in regulating the mediation profession, we should prevent repeating the painful lesson in regard to the regulation of Chinese medicine practitioners. In the regulation of Traditional Chinese Medicine and the establishment of professional qualifications, there were problems of exclusion and monopolization. If such problems still exist, many people who are suitable to be mediators will not be qualified. That is a great pity.

When we consider whether the commencement date is appropriate, my concern is whether the professional regulatory body to be established under the law will set a uniform standard for determining the qualifications of mediators. Yet, it has not done so. As it turns out, the Commencement Notice only ensures confidentiality of information involved in mediation, and examines whether the revised forms and publications of various government departments will be ready for use by the commencement date. There are many factors affecting the satisfactory commencement of the legislation other than whether the revised forms of various government departments will be ready for use.

We have also noticed that apart from the mediation training courses offered by the professional regulatory body, some other institutions have started offering similar courses. We are concerned whether the qualifications conferred on students upon completion of these courses will be recognized by the regulatory body. People who enrol in these courses will have the reasonable expectation that they will be able to practice as mediators upon completion of the courses. Nevertheless, according to our observation, in the past, students of certain professional training courses were told, midway through the courses, by the professional regulatory body that their qualification attained through such courses

would not be recognized, and that they would not be allowed to practice even if they had completed the courses. If there is a lack of communication between the professional regulatory body and the institutions offering the courses, students who enrolled in the courses will eventually be victimized as they will fall between two stools. Though they have paid the tuition fees and completed the courses, they may not be qualified to practice. In my view, the lack of communication and understanding between the regulatory body and the institutions offering the professional courses is highly unsatisfactory.

In some cases, the legal representatives of one party of the litigation refuse to accept the mediators appointed by the other party. The mediation mechanism is intended to reduce the legal costs of both parties, and resolve disputes in a less intense and conflicting environment. There are cases where both parties want to resort to mediation, but their legal representatives, who are lawyers, refuse to accept the mediators appointed by the other parties. As a result, the mediation process, which intends to resolve contradictions, has conversely become a new battleground in the legal proceedings, and the costs for the resolution of disputes has increased rather than decreased.

Hence, we very much hope that the mediation regulatory body will handle with great prudence the professional qualifications of mediators. Do not allow mediation to become another form of professional monopoly, so that people can really avoid high legal costs and confrontation in court. We can then achieve some results in this zero-sum game. In this regard, I call upon government officials and the professional regulatory body to work hard, so that the original intent of the mediation process can be achieved expeditiously. Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, I believe Honourable colleagues may recall that many victims in the Lehman Brothers Incident could not afford lawyers' fees and since they might have to take legal actions against consortia, such as banks, they were greatly frustrated. As a member of this profession, I am also aware that the litigation costs in Hong Kong are very high. As many middle-class people are not eligible for legal aid, they would almost refrain from seeking judicial justice. Under this principle, I have all along encouraged the development of the mediation profession in Hong Kong. Regarding mediation, arbitration and litigation, more and more Hong Kong

people are aware that litigation proceedings, once initiated, cannot be aborted, and astronomical costs are involved. Arbitration is somewhere in between and it can relatively shorten the time taken because a binding decision can eventually be reached in one go. Mediation is advisory, automatic and voluntary in nature, the two parties may reach a consensus under a more harmonious situation, and their reputation may be protected.

As regards marriage mediation, there are many unexpected benefits in the mediation cases in which I have provided assistance. There are even cases where the two parties decided, during the mediation process, not to divorce and stay together. That depends on the skills of the mediator. In the last term, three other Members from the Professional Forum, especially those from the engineering sector, attached great importance to arbitration and mediation. Indeed, mediation does not only involve the legal profession, many other professions should work together to attain success in mediation.

In the course of the investigations on the Lehman Brothers Incident, I was delighted to see that after four years of work by Chairman and members of the Subcommittee, a financial mediation mechanism was finally established. This is a piece of good news. It is hoped that with the development of the mediation profession, the disputes that are now causing great pains to people and that are the most common cases handled by Members, that is, disputes involving the owners' corporations, can be resolved. Owners' corporations often engage in legal actions against property owners just because of some personal feelings. As owners' corporations are more resourceful than individual owners, some owners have their families broken up because their family members do not understand why they are so stubborn. If mediation is effective, its influence and scope may be extended to the disputes involving owners' corporations.

I also want to make another point in today's discussion about the commencement date of the Mediation Ordinance. In the last legislative term, we mentioned time and again that there were limitations in the mediation mechanism during motion debates. There are many "three nos" buildings (that is, no owners' corporation, no management and no maintenance) in Hong Kong. When owners' corporations of tenement buildings has a lawsuit with owners, many problems will arise. I have dealt with some cases in which the developer of the building refused to allow residents to use the lifts, which has caused great inconvenience to pregnant women and people with disabilities. This happened

in one of the blocks of Whampoa Garden. If there is mediation, we would try to encourage developers and small property owners to resolve their disputes through mediation. In addition to general disputes involving owners' corporations, property disputes can also be handled through this mechanism.

At often, there is a point which has put developers and small property owners at a standstill, and they dare not take the first step under the law. Should we advise them to take legal actions, we have great reservation. Even if voluntary legal services are provided or only \$1 is charged, a large sum of litigation costs may be involved in case one party wins the lawsuit. Mediation is different because the mediation expenses are affordable. It can deal with the daily disputes between two parties and avoid enormous litigation costs. If the disputes can be resolved this way, I trust that mediation should be encouraged.

In respect of the training of mediators and the development of the mediation mechanism, I share the same hope as other Members, especially Members of this Subcommittee, that it would be a success. During our discussion on the development of the mediation mechanism, we reminded ourselves that the unhappy experience relating to the regulation of Chinese Medicine should not be allowed to happen again. We do not want to see many experienced people complaining that they have been excluded from the development of the mediation mechanism. I just want to say "all rivers run into the sea". Experienced training institutions, including the faculties of law of a few universities may also have this kind of experience; some industries that are unrelated to the legal profession, such as the engineering sector, have already organized mediation courses long ago, trying to formulate a standard.

Furthermore, I agree that the standard should not be set arbitrarily, otherwise, everyone can be mediators, and members of the public who want to use the service will not know who meet the standards. To facilitate the development of a mediation mechanism, I think that we must do the following: first, enhance public awareness through promotion; second, establish some basic standards, institutions offering mediation course should not be as many as tuition centres, if there are institutions willing to undertake the work, they should be allowed to stipulate a standard; and third, specify the scope. In the past four years, the Government, the legal profession and the sectors determined to promote mediation have made joint efforts and a breakthrough has been attained.

I hope that we can make good use of this mechanism and spare no effort to enhance public awareness and publicity, giving people who fail to resolve daily disputes a way out.

Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, I speak in support of the Mediation Ordinance (Commencement) Notice. I simply wish to take this opportunity to thank the former Secretary for Justice, Mr WONG Yan-lung, for the efforts he made for the enactment of the Mediation Ordinance (the Ordinance). I remember that when Mr WONG Yan-lung initially assumed office, he attended the meeting of the relevant Panel of the Legislative Council — I was not a member of the Panel on Administration of Justice and Legal Services at that time — to discuss the Government's Budget. I reflected to him that small property owners and owners' corporations were seriously troubled by the many disputes and legal actions, and that I hoped the Government would consider enacting a legislation expeditiously. I sincerely thank Mr WONG Yan-lung for taking the views of the public seriously and making great efforts to promote the enactment of this Ordinance within his term of office. I am delighted that the primary legislation was finally passed towards the end of the last legislative term and that the Commencement Notice is also passed today. I very much hope that the incumbent Secretary for Justice will step up publicity when implementing this Ordinance, so that the general public (especially small property owners and owners' corporations of private buildings) would understand the legal provisions and make good use of this Ordinance to resolve their disputes.

I also hope that the Secretary would conduct a review some time or around one year after the implementation of this Ordinance, so as to improve this Ordinance for the benefit of Hong Kong. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, Members have already spoken in this session. I now call upon the Secretary for Justice to speak. This debate session will come to a close after the Secretary has spoken.

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, the Mediation Ordinance was passed by the Legislative Council in June this year. In October, in exercise of the powers conferred under the law, I appointed 1 January 2013 as the day on which the Mediation Ordinance would come into operation. The Mediation Ordinance (Commencement) Notice (the Commencement Notice) was gazetted on 19 October 2012. At the House Committee meeting held on 26 October 2012, Members agreed to form a subcommittee to study the Commencement Notice. The Subcommittee held two meetings on 6 and 16 November, and I thank Members of the Subcommittee for their efforts and valuable views.

The Subcommittee supports the enactment of the Mediation Ordinance to provide a legal framework for mediation in Hong Kong. This is undoubtedly an important milestone, marking the promotion of wider and more effective use of mediation for handling disputes, and the consolidation of Hong Kong's position as an international dispute resolution centre. The Subcommittee does not object to the commencement date of the Mediation Ordinance.

The Subcommittee and some Members have expressed concern about the operation of The Hong Kong Mediation Accreditation Association Limited (HKMAAL), and the Department of Justice fully understands that. The HKMAAL is an industry-led accreditation body for mediators incorporated in late August. Mr John BUDGE, Chairman of the HKMAAL, was invited to attend the second meeting of the Subcommittee to introduce the operation of the HKMAAL and respond to Members' questions.

I would like to restate that the HKMAAL is an independent organization set up by the industry, and it is now dealing with issues relating to the accreditation of mediators, which include the grandparenting policy and procedures, as well as the standards of mediation training courses. In this connection, the Administration will continue to monitor the accreditation and training of mediators in Hong Kong and keep in view future developments. Upon the development of the HKMAAL into a preferred accreditation body, and

the establishment of a foundation in terms of acceptability, compatibility, and coverage, we will consider if it is necessary for it to be transformed into a statutory body.

Let me briefly respond to the remarks made by a few Members just now. Before doing so, I would like to stress that mediation is a process. Qualification is definitely a very important point for consideration and that is why the HKMAAL has been established. Mr Dennis KWOK has just said that, in promoting mediation, we cannot ignore people's rights to fight for justice in court under the Basic Law and other laws. We have absolutely paid attention to this point, and we were fully concerned about that when the Working Group on Mediation considered the promotion of mediation in the past. Concerning other aspects mentioned by Mr KWOK, such as the resources of the judiciary and legal aid, the Government will certainly continue to focus on these matters in the future.

Furthermore, a Member has mentioned that the problems with the regulation of traditional Chinese medicine should not recur in the course of the mediation work of the HKMAAL in the future, and we fully understand that. My understanding is that, under the current work plan of the HKMAAL, in addition to legal professionals, people from other sectors can become mediators after considerable training and examinations, and the mediators are not necessarily legal professionals. Among the existing mediators, there are many people outside the legal profession, including engineers, doctors, accountants, and members of other industries.

Dr Priscilla LEUNG and Mr WONG Kwok-hing have mentioned community mediation. In particular, Dr LEUNG has referred to some disputes among owners' corporations or between owners' corporations and property owners and property owners which could be resolved by mediation. We fully understand the needs in this regard. We have just set up the Steering Committee on Mediation, and the focus of work in the future is the disputes between the communities, and we are going to strongly promote mediation as a means to resolve the disputes between the communities. The so-called disputes between the communities include disputes between owners' corporations and property owners as mentioned by Dr LEUNG, and we would like the coverage to be extended to problems commonly found in many existing buildings in Hong Kong, such as water leakage problems. We also want to help property owners solve these problems through mediation.

I fully concur with Mr WONG in saying that we should vigorously promote community mediation. A committee under the Steering Committee on Mediation as I have just mentioned will be responsible for publicity and promotion. In the future, we will arrange more activities, including promotional activities through television or other media, or other meetings and seminars. We also intend to promote mediation through District Councils.

We believe that the mediation work in Hong Kong has made considerable progress, and the adoption of mediation for dispute resolution has started to take root in Hong Kong. The Administration is ready for the implementation of the Mediation Ordinance. With the implementation of the Mediation Ordinance, the Department of Justice will continue to work with the Judiciary, various government departments, and the stakeholders concerned to advocate, encourage and promote more extensive use of mediation in Hong Kong. We will report to the Panel on Administration of Justice and Legal Services of the Legislative Council the latest development in the promotion of mediation services in Hong Kong.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): We now proceed to the second debate session, that is, to debate the three items of subsidiary legislation in relation to the Banking Ordinance.

Members who wish to speak on these three items of subsidiary legislation will please press the "Request to speak" button.

MR NG LEUNG-SING (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Banking (Capital) (Amendment) Rules 2012, Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2012 and Banking (Amendment) Ordinance 2012 (Commencement) Notice 2012 (the Subcommittee), I report to the Legislative Council on the deliberations of the Subcommittee.

The three items of subsidiary legislation are for the first phase implementation of the revised regulatory capital standards (known as Basel III)

promulgated by the Basel Committee on Banking Supervision (the Basel Committee) by authorized institutions (AIs) in Hong Kong, mainly banks, from 1 January 2013. The Subcommittee supports the three items of subsidiary legislation to increase the level, quality and transparency of banks' capital base, as well as the risk coverage of the capital framework; to improve the banking sector's ability to absorb shocks arising from financial and economic stress, and to reduce the risks of any spillover from the banking sector to the real economy.

The Subcommittee is concerned about the cost implications for the banking sector in implementing the Banking (Capital) (Amendment) Rules 2012, whether it will be necessary for banks to raise capital in order to fulfil the new requirements, and whether banks will become more prudent in lending which may cause difficulty for the small and medium enterprises (SMEs) and members of the public in obtaining credit. The Hong Kong Monetary Authority (HKMA) has advised that it does not envisage that the implementation of the Basel III requirements will increase the costs of banks because their capital adequacy ratio has been maintained at a very high level. The HKMA believes that AIs in Hong Kong should have no difficulty in fulfilling the new capital requirements and large-scale capital-raising activities for AIs to meet the new requirements is not envisaged. While a number of AIs may need to adjust their capital mixes in response to the new ratios on capital requirements, no problem is envisaged for such AIs in the process. As regards the impact on AIs' lending, the HKMA has pointed out that AIs in Hong Kong have been well-capitalized (the capital adequacy ratio for AIs stood at 15.9% as at June 2012, which well exceeded the statutory requirement of 8%), the implementation of the new minimum capital adequacy ratios should not adversely affect AIs' lending to SMEs, and hence the borrowing cost for the general business, as well as members of the public. On the other hand, implementation of the Basel III requirements will further enhance the resilience of AIs, enabling them to continue lending during periods of economic downturn.

The Subcommittee notes that the Administration has consulted the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks (HKAB) and The Deposit Taking Companies Association under section 97C of the Banking Ordinance. The banking sector has indicated support for the direction of the amendments, and the views of the banking sector have been taken into account in finalizing the rules.

Given that the Basel III standards are global standards, members have enquired about the differences, if any, between the Basel III capital requirements and the Banking (Capital) (Amendment) Rules 2012. The HKMA has advised that all jurisdictions implementing Basel III must adopt the technical standards and rules. However, as the Basel III capital framework sets the minimum standards, the Basel Committee has allowed domestic supervisors to adopt adjustments or make modifications to the standards to address their specific circumstances, domestic concerns and prudential issues. The major modifications made in the Banking (Capital) (Amendment) Rules 2012 relate to four aspects including the treatment of unrealized gains on property revaluation. The Administration has briefed members on the modifications in these four aspects and explained the reasons for introducing them. The Subcommittee has examined the relevant rules and members note that the modifications are necessary to cater for the unique circumstances of AIs in Hong Kong and the banking sector has been consulted on the issues involved.

Noting the possible delay in the implementation timeline of Basel III in the European Union (EU) and the United States, members are concerned whether the implementation of Basel III on 1 January 2013 may cause competitive disadvantage to banks in Hong Kong, and enquired whether the HKMA will consider introducing flexibility in the implementation timetable in Hong Kong. The Administration reiterates the benefits of Basel III in bringing about a better capitalized and more resilient banking system for Hong Kong and the Basel Committee's determination to implement the first phase of Basel III standards on 1 January 2013, and the need for Hong Kong as a major international financial centre to align with the international implementation timetable. The HKMA has advised that many regions in Asia like Australia, the Mainland, India, Japan and Singapore have already issued their final rules for the implementation of Basel III. Even though the EU and the United States may experience some delay in the implementation timetable, some jurisdictions in the EU, notably the United Kingdom and Germany, have taken preparatory action. The regulatory authorities in the United States have conducted capital stress testing like Basel III requirements on large banks and banking holding companies, and the largest institutions in the United States have been conducting a major capital restructuring.

The Subcommittee has invited views from the HKAB on the implementation timeline of Basel III. Members notes the HKAB's view that it is

imperative that a level regulatory playing field is created and that the Basel III proposals are implemented globally. The HKAB has observed that while the timetable for the implementation of Basel III standards will vary across jurisdictions, the major jurisdictions across the globe are heading in the same direction over the longer term. By adopting Basel III standards from 1 January 2013, Hong Kong will reinforce its position as a leading financial centre, firstly by showing leadership in the implementation of the new standards, and also by giving banks clarity and stability with regard to the regulatory environment and their capital requirements. The Subcommittee has also urged the Administration to work closely with industry bodies in the banking sector in monitoring further developments in other jurisdictions in the implementation of Basel III.

Deputy President, my personal views are as follows:

It can be seen from the report I just made on behalf of the Subcommittee that the relevant government departments have full communication with the industry in the consultation process on the three items of subsidiary legislation and has given a targeted response to the industry's questions. In brief, the industry generally agrees that it should be the right direction for Hong Kong as an international financial centre to adopt the internationally recognized capital standards. However, it is still worth mentioning that, as I have noticed from my contacts with some local banks, they are concerned about a fair competition environment, that is, whether there is a need for Hong Kong to join the first group of regions implementing the new standards. According to the HKMA, our neighbouring regions including Australia, Singapore, India and the Mainland will implement the new standards on 1 January next year while Japan will implement these standards in March next year. Hence, the implementation of these standards in Hong Kong on 1 January next year should not have adverse impacts on our external competitiveness.

Even though AIs in Hong Kong have been well-capitalized, the financial and technical strengths of small and medium banks are indeed different from those of large banks. Thus, I suggest that the authorities concerned should be concerned about how small and medium banks in Hong Kong can technically achieve fair competition. As Basel III comprises a few stages, a series of new standards such as financial disclosure standards will later be introduced, I hope the authorities would also consult and consider the views of small and medium

banks in addition to those of major banks, enhance communication, and provide appropriate assistance.

After comprehensive consideration, I implore this Council to support the three items of subsidiary legislation. I would also like to take this opportunity to thank members of the Subcommittee, the Secretariat and officials for their co-operation in many ways.

Deputy President, I so submit and report. Thank you.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, Members have already spoken in this session. I now call upon the Secretary for Financial Services and the Treasury to speak. This debate session will come to a close after the Secretary has spoken.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, in February this year, the Legislative Council passed the Banking (Amendment) Ordinance 2012 to establish a legal framework for the implementation in Hong Kong of the new regulatory capital and liquidity standards promulgated by the Basel Committee on Banking Supervision (the Basel Committee), which are internationally known as "Basel III".

As an international financial centre and a member of the Basel Committee, Hong Kong is obliged to follow the implementation timetable, which was agreed internationally, in order to ensure that the capital framework for banks in Hong Kong is on a par with international standards. The aim of the three pieces of subsidiary legislation as set out in this motion is to enable Hong Kong to implement the first phase of the new Basel III regulatory capital standards from 1 January 2013, in accordance with the transitional timeline specified by the Basel Committee.

Here, I would like to express my gratitude to the Chairman, Mr NG Leung-sing, as well as the five other members who participated in the scrutiny of these three important pieces of subsidiary legislation, noting that they are highly technical in content. The Administration welcomes the Subcommittee's support for the subsidiary legislation.

Over the past year, the Hong Kong Monetary Authority (HKMA) has undertaken extensive consultations with the local banking industry on the detailed proposals contained in the subsidiary legislation. In particular, prior to finalizing the Banking (Capital) (Amendment) Rules 2012, the Monetary Authority has released the amendment rules in a draft form to consult the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, the Hong Kong Association of Banks (HKAB) and the DTC Association, in accordance with section 97C of the Banking Ordinance. On this occasion I would like to give thanks to the banking industry for its active involvement in the process to ensure that the subsidiary legislation will be effectively implemented in Hong Kong.

Deputy President, given their strong capital positions, banks in Hong Kong are already well placed to adopt the Basel III standards from January next year. As at the end of September this year, the average capital adequacy ratio of local authorized institutions was 16.1%, and their average Tier 1 capital ratio 13.3%, with common equity accounting for approximately 90% of their Tier 1 capital. Based on the HKMA's latest assessment, the strong capital position of local authorized institutions should enable them to meet the strengthened capital requirements without much difficulty. I have also noted from the submission provided by the HKAB to the Subcommittee that Hong Kong's banking industry is already well prepared to comply with the Basel III capital requirements set out in the subsidiary legislation.

It has recently been reported that though the United States and the European Union (EU) are already in the final stage of implementing Basel III, they appear unable to implement the relevant capital standards in time from January next year. I recognize that the Subcommittee has discussed whether the competitiveness of Hong Kong's banking industry might be affected, if Hong Kong would implement the Basel III capital standards timely as planned. I would like to briefly speak of this.

First, I wish to point out that Basel III is designed to enhance the resilience of banks and the banking system. Implementing Basel III in Hong Kong will raise the level, quality and transparency of banks' capital base, broaden the risk capture of the capital framework, and strengthen banks' risk management practices. This will result in Hong Kong's banking system becoming more stable, with a greater ability to weather any possible future shocks to the global markets. This view is broadly shared by the Hong Kong's banking industry. As such, our meeting the Basel III international standards should not only enhance the ability of the Hong Kong banking system to absorb shocks, but should also reinforce the confidence of investors and depositors in our banks.

Meanwhile, we notice that, as in Hong Kong, jurisdictions like the Mainland of China, Switzerland, Australia, India and Singapore, have made known their intention to implement the Basel III standards from 1 January next year. Japan has decided that its implementation will take effect from the end of March next year in order to coincide with the fiscal year cycle for banks in Japan. We also understand that regulators in the United States and the EU have in fact already made significant efforts to recapitalize their banks in the aftermath of the crisis, using comprehensive stress-testing programmes to set the levels of capital which must be maintained, so that their larger banks can weather the financial turbulence built into the stress-testing scenarios. We are hoping that the United States and the EU can complete the relevant rule-making process expeditiously, in order to implement the Basel III requirements as early as possible.

Deputy President, the Financial Stability Board, together with the G20 Finance Ministers and Central Bank Governors, has recently reaffirmed the calls for a full, timely and effective implementation of the Basel standards. We understand that the Basel Committee is itself working to ensure the timely and consistent implementation of Basel III through a vigorous peer review process, which examines in detail the consistency of the rules in member jurisdictions against the Basel III text. Upon commencement of the subsidiary legislation set out in this motion from 1 January next year, the HKMA will continue to work closely with the local banking industry to monitor the capital positions of our banks, and to keep in view further developments in the implementation of Basel III in other major jurisdictions, in order to assess the impact of Basel III.

Deputy President, I am grateful to the Subcommittee for its support for the Basel III-related subsidiary legislation set out in this motion, with a view to

enhancing the safety and soundness of the banking system. This will in turn help reinforce the status of Hong Kong as an international financial centre. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): We now proceed to the third debate session, that is, to debate the two items of subsidiary legislation in relation to the Telecommunications Ordinance.

Members who wish to speak on these two items of subsidiary legislation will please press the "Request to speak" button.

MR CHARLES PETER MOK (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2012 and Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2012 (the Subcommittee), I report on the deliberations of the Subcommittee.

The Amendment Order aims at designating an additional frequency band (2 635 to 2 660 MHz) subject to the payment of fees and the Amendment Regulation aims at specifying the determination of the spectrum utilization fee (SUF) by auction. The Subcommittee has held a meeting with the Administration to examine the subsidiary legislation and the related matters. The Subcommittee generally supports the Amendment Order and the Amendment Regulation.

Noting that the validity period of the radio spectrum assignment will last for 15 years, the Subcommittee considers that the Administration should consult the trade and the public at large on the overall policy in this respect, so that suitable adjustments can be made in certain aspects, such as the right of renewal of any licence or spectrum assignment. The Administration stated that it will take into account members' views and the views previously gathered when it starts the second round of public consultation on the possible arrangements of the relevant frequency spectrum.

The Subcommittee notes from the report of the study conducted by a consultant appointed by the former Office of the Telecommunications Authority that radio spectrum trading was not active in Hong Kong. While demand from the trade for radio spectrum was strong, spectrum rights holders were not keen to transfer the precious resource to others. The Administration therefore does not consider the issue of radio spectrum trading a matter of priority to be addressed. Some members are of the view that the consultancy report on the feasibility of introducing radio spectrum trading in Hong Kong should be made open to the public to provide transparency in the Administration's policy in this respect. The Administration may also consider publishing a statement in relation to the consultancy report if the latter cannot be published. At the request of the Subcommittee, the Administration will provide a written response as to whether the consultancy report should be published.

Deputy President, my personal views are as follows:

While members have no opposition to specifying the release of relevant spectrum by auction, they are very concerned about the spectrum assignment policy, especially when the existing 3G frequency spectrum (1 900-2 200 MHz) released to four mobile telecommunications providers by auction in 2001 expires in October 2016. Earlier this year, the Communications Authority (CA) has conducted the first round of consultation, and the second round of consultation will start soon. The industry is very much concerned about the possible impacts on these services provided to millions of mobile telecommunications users in Hong Kong.

As I have just said when I presented the Subcommittee report, the Administration will take into account the views previously gathered and members' views when it starts the second round of public consultation on the possible arrangements of the relevant frequency spectrum. I really hope that the Government would really reflect in the proposal options for the second round of consultation the views gathered and members' views.

First of all, I hope that the CA and the Policy Bureau concerned (the Commerce and Economic Development Bureau) would understand that the arrangements for the assignment of the expired frequency spectrum and the assignment of a new spectrum are two different things. If the matter is not handled properly, it will very easily cause the public to face unnecessary service

interruption, inefficient spectrum use, or affect market competition, investment and innovation.

During the first round consultation of the CA, the Administration's three proposals for the existing 3G frequency spectrum are: first, giving existing operators using the spectrum priority to continue to use the spectrum; second, retrieving all spectra for re-auction; or third, a hybrid model covering the first two proposals, allowing each operator to continue to use part of the spectra it is currently using, and putting the remaining spectra up for auction.

According to the CA, the operators should know that they should not have any expectations about the continued use of these spectra upon expiry. This argument will certainly give the CA much room for policy choice, but in what way can it determine how the spectra should be assigned? The CA has stated five main objectives in the consultation document: first, continuity of customer service; second, efficient spectrum usage; third, effective competition; fourth, promoting investment; and fifth, promoting innovative services.

The problem is: Hong Kong is one of the places in the world with the highest mobile penetration rate, which now exceeds 200%; so there is simply no remaining spectrum for operators. If the spectra they are using will be retrieved one day — as in the second or third proposal I have just mentioned — the retrieval of the spectra currently used by their customers may affect the services they are providing. The quality of services will forcibly become lower and there may even be a re-allocation of user numbers, which will definitely cause great confusion for consumers. As the existing operators are not sure if they can win the auction for the spectra and continue to provide the services, they dare not provide service plans with maturity date beyond October 2016. Their investments will naturally be affected and they may even not dare to absorb new customers.

Let us take a look around the world, Australia reassigned 2G and 3G spectra to the operating mobile telecommunications providers in 2010; the United Kingdom allowed the mobile telecommunications suppliers to have permanent use of the 3G spectrum in 2011. When the analog format was changed to the digital format in Hong Kong in 1992, and when the 2G spectrum (GSM 900 and 1 800 MHz) expired in the year 2005-2006, the authorities re-allocated the spectrum to the same telecommunications providers. This practice clearly meets

the five objectives mentioned earlier: continuity of customer service; efficient spectrum usage; effective competition; promoting investment and promoting innovative services.

On the contrary, if the authorities suddenly determine this time to retrieve the 3G spectrum for auction upon expiry, four of the five objectives may not or will definitely not be realized. There will be increased competition, but the competition may be ineffective or excessive.

I hope that the CA would retain the first option in the next round consultation; that is, giving the operators currently using the spectra priority to continue to use the spectra. This is the position of most companies that had responded (including all current 3G operators and the vast majority of mobile telecommunications providers) in the first round consultation. If the CA would not retain this option in the second round consultation, I am afraid it may be a fake consultation.

Even if the operators are allowed to continue to use the existing spectra, it does not mean that new competitors will not or cannot enter the market. At least, the Amendment Regulation tells us that a 50 MHz spectrum will be put up for auction early next year. Since a new operator has won the auction early this year for a 2 300 MHz spectrum, it demonstrates that new competitors can undoubtedly enter the market. Nonetheless, the new competitors may sometimes fail to provide services or commence operation immediately whilst the existing operators can immediately provide services with the new spectra. More often than not, the latter (the existing operators) can use the spectra more effectively.

Deputy President, another related issue is spectrum trading. Allowing spectrum trading can obviously improve spectrum efficiency. Even though the Bureau concerned has told members at the meeting of the Subcommittee that the existing mobile network operators do not have excess spectrum and they are not interested in the transfer of spectra; and the authorities will thus not accord priority to considering the introduction of radio spectrum trading. Nonetheless, the truth is that most of the mobile telecommunications providers that I have contacted support the establishment of a spectrum trading platform. I am afraid the authorities' understanding of market views is not very accurate.

Lastly, members ask the Government to make public the report of the study conducted by a consultant appointed by the former Office of the Telecommunications Authority about spectrum trading. We wrote to the Bureau concerned more than a month ago after the meeting of the Subcommittee, hoping that the Government would make public the report. It has not yet given a reply; thus I hope the Bureau concerned could give us an answer as soon as possible.

Deputy President, I support the amendments but I think we cannot separately consider the spectra being put up for auction. The Government must carefully and prudently deal with the 3G spectrum and the licence renewal of 3G telecommunications providers. Not only the telecommunications providers concerned but also millions of mobile telecommunications users will be affected. The relevant government policy matters and it affects everybody using mobile telecommunications services.

Deputy President, I would like to thank staff of the CA and the Commerce and Economic Development Bureau who offered much help to the Subcommittee during its deliberations of the Amendment Regulation.

Deputy President, I so submit.

MR SIN CHUNG-KAI (in Cantonese): In the course of the Subcommittee's discussion, I had asked some questions about spectrum trading but the Bureau had provided a contradictory answer, that is, while demand from the trade was strong, trading was not active. In fact, the Government does not have any platform or policy that facilitates trading.

Even if there is a platform, there is not much room for trading due to the lack of sufficient spectrum. Mr Charles Peter MOK has just mentioned that there are millions of users in Hong Kong; I believe the number should be even larger and there should be tens of millions of users. Although there are only 7 million people in Hong Kong, the penetration rate reaches 210%; in other words, there are 14 million to 15 million users and many of them may have two mobile phones, for public and private use separately. Quite a number of Mainland and overseas visitors will also use local SIM cards when they are in Hong Kong.

Deputy President, I support an auction as there is insufficient spectrum. There was much lobbying about whether the 3G spectrum should be put up for auction when the policy was formulated. In the end, the Government adopted auction and many auctions had been conducted over the past 11 to 12 years, which generated more than \$10 billion revenue. This practice has brought generous profits to the Government. Today, the Government should consider the renewal of the 15-year licences when they expire. Early next year, a total of 30 MHz of spectrum in the 2 635 to 2 660 MHz band will be put up for auction, and the Government has also specified a 15-year maturity. The Government should also consider the expiry of quite a lot of spectra within the next few years. I hope the Government would have consistent policies in this connection.

In last week's debate, I proposed the auction of television spectra but the Government opposed. If we look at the two policies, we will find that the Government actually has contradictions. Why can television spectra not be put up for auction? If television spectra are put up for auction and operated by new operators, there will be minor impacts on most television viewers as they are just going to watch different programmes. Let us think about the much more substantial changes for mobile phone users because many mobile phone users have signed a 24-month contract with the telecommunication providers. When a year has passed and there are less than two years to go, will the existing telecommunication providers get new customers? If a telecommunication provider fails to win the auction for the spectrum and its licence cannot be renewed, does it need to compensate its customers? Can the maturity date of the contracts signed between the telecommunication providers and the customers go beyond the validity of their licences? What should be done in that case? How much impact will this cause to the market?

The Government may propose an alternative of not putting up all spectra for auction. At present, each operator has dozens of MHz, and they only need to spare part of it. If each existing operator spares 5 MHz, there will be 20 MHz from four operators. Ir Dr LO Wai-kwok is absent today; technical staff have told me that these spectra are really interesting as they must go in pairs: for uplink and downlink. Mr Charles Peter MOK has just said that the expiry date is 2016, but arrangements have to be made by 2014; otherwise, how can operators sign contracts with customers as I have just remarked? According to the current practice, most customers sign a 24 month contracts; so specific arrangement must be made before the expiry of the 24-month contracts. I have just asked if each

operator can spare part of the spectra to form a so-called hybrid model. Can the operators use 80% of the spectra while putting up the remaining 20% for auction? That is an option and the Government should seriously consider.

Secretary, you may seldom take the MTR but we often do so and we understand that there is a serious problem: we cannot use our phones or 3G services in some busy places, such as places around Central and Admiralty. During the time when we get off work, there is no connection in many places due to the excessively high usage. At present, the ratio of smart phone users in the market takes up 60% to 70%. Based on this trend, the percentage may reach 70% to 80% in a year or so; hence, there is a huge demand for bandwidth. To put it simply, it is difficult to ask existing operators to spare some spectra for auction. On the one hand, the Government often conducts consultations on the auction of mobile phone spectra; on the other hand, it is unwilling to put up television spectra for auction. What is the rationale for putting up for auction spectra with significant impacts on customers while spectra that will not have any impact on customers will not be put up for auction? I hope the Secretary would explain that.

Auction itself is fair. The Government states today that it will put up 30 MHz for auction next year for the provision of 4G LTE service, which is certainly fair. The Government has not specified any conditions and participants only need to make investments. Hence, AT&T and Telstra can also participate in the auction in Hong Kong. All they need is to make investments for winning the auction of the spectra, and they can then start operation. The Government supports a fair and open market, a free market and competition. What about television spectra? Last week, the Government said that mobile phone spectra but not television spectra would be put up for auction. Are the Government's policies on these two markets contradictory? Has the Government considered the impacts on customers in reviewing this policy? I am talking about the impacts on the public rather than the operators. What should happen to customers if their existing operators have to return the spectra but the new operators have not yet started to provide services?

Deputy President, last but not least, I would like to discuss spectrum trading. I do not have a specific position as to whether trading should be allowed. Though I have asked the Government if there are relevant policies, it has failed to mention any specific policy. On the whole, it seems that the

Government has completed a report but it does not wish to make public; it just said that there was no great demand. Nonetheless, the Government has said that spectrum trading was desirable when was asked by other operators and people. I think the Government should formulate a specific policy and make it clear whether trading is allowed. Should the spectrum fees be paid back to the Government after trading? Should the Government levy tax on the trading? Lastly, can telecommunication providers rent out the spectra? Can they sublet the spectra apart from selling the spectra? For instance, in addition to putting up part of the spectra for auction, can telecommunication providers rent out some MHz if they cannot full utilize the spectra within a certain period? The trading involves the purchase of the spectra for 15 years; can the spectra be rented out to other telecommunication providers for two to three years? The Government should make a clear statement on these policies, so that the industry I think the Government should at least be a bit more open, and it should consult other parties in the course of the discussion whether spectrum trading or renting are desirable options, and whether such a policy should be introduced.

With these remarks, I support the auction of 30 MHz of spectrum.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, Members have already spoken in this session. I now call upon the Secretary for Commerce and Economic Development to speak. The debate on this motion will come to a close after the Secretary has spoken.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, first of all, I sincerely thank the Chairman and members of the Subcommittee for their careful and thorough discussion about the contents of the two items of subsidiary legislation and other related matters. I would also like to thank the two Members for their remarks just now. I am going to respond briefly.

The mobile data services in Hong Kong have continuously and rapidly increased in recent years. In August this year, the total mobile data usage in Hong Kong reached 6 359 terabytes, increased by almost 90% as compared to the same period last year.

To cope with the development needs of the mobile data service market, the Communications Authority (CA) intends to release to the market radio spectra of a total of 50 megahertz (MHz) by auction. Telecommunications service providers can provide 4G mobile communications services or wireless broadband services through these spectra.

The spectra of 50 MHz to be released will be put up for auction by all interested parties, including new and existing mobile network operators. These spectra sufficiently allow new operators to establish a new territory-wide public mobile network, and the existing mobile network operators may also expand network capacity and improve services through the spectra they successfully bid to meet the market demands.

Insofar as spectrum trading is concerned, we know that trading is not active even in countries with such platform established. When we gathered views from the industry on spectrum trading, we found that while demand from the trade for radio spectrum was strong, spectrum rights holders were not keen to transfer the precious resource to others.

Some members ask the Government to make public the report of the study conducted by a consultant appointed by the former Office of the Telecommunications Authority. As the report contains sensitive commercial information, we are carefully considering the matter and we will provide a written response later.

I wish to emphasize that, after taking into account various factors and understanding the situation of the industry, if we consider that there are sufficient grounds for the promotion of spectrum trading, we will brief the Legislative Council Panel on Information Technology and Broadcasting on the related issues.

Some Members have just referred to the arrangements upon the expiry of the existing 3G frequency assignment. As Mr Charles Peter MOK has stated, the first round consultation came to an end in mid-July this year. We are

collating the views gathered and we will issue the second consultation document by the end of this year or early next year, to further consult the industry and the public on the arrangements about the expiry of the existing 3G frequency assignment. We will then brief the Legislative Council Panel on Information Technology and Broadcasting on the related matters.

In the Radio Spectrum Policy Framework published in 2007, it is clearly stated that there is no legitimate expectation that there will be any right of renewal or right of first refusal of any spectrum assignment upon the expiry of a spectrum assignment. As regards the guiding principle in spectrum management, our policy inclination is that a market-based approach in spectrum management will be used for spectrum management and assignment when there are likely to be competing demands, unless there are overriding public policy reasons to do otherwise.

With the completion of the Legislative Council's scrutiny of these two items of subsidiary legislation, the amendments will take effect this Friday, and the CA will release in the near future the Information Memorandum for the auction, and invite interested parties to participate in the auction. According to the present work plan, we estimate that the auction will be conducted in the first quarter of 2013.

I so submit, Deputy President.

DEPUTY PRESIDENT (in Cantonese): In accordance with Rule 49E(9) of the Rules of Procedure, I shall not put any question on the motion.

DEPUTY PRESIDENT (in Cantonese): The second and the third Members' motions. These are two motion debates with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes; and other Members each may speak for up to seven minutes. The mover of the second motion has another five minutes to speak on the amendments; and the movers of amendments to that motion each may speak for up to 10 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

Second Member's motion: Urging the Government to regulate health food products.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Dr Joseph LEE to speak and move the motion.

URGING THE GOVERNMENT TO REGULATE HEALTH FOOD PRODUCTS

DR JOSEPH LEE (in Cantonese): Deputy President, I believe that no one is unfamiliar with the term health food products and many Members here or people in the community have also consumed such products. Health food products all claim to benefit our every organ, both inside and outside the body, and they are suitable for everyone, from kids to the elderly; almost everyone who consumes them will be greatly benefited.

Of course, as a Member of the health services sector and a nurse, I am glad to see that people of Hong Kong are mindful of their health, but at the same time, I am also worried. Do people know what they are consuming? What are health food products? What are their ingredients? What efficacy do they have? How much do we know?

The Community Rehabilitation Network under the Hong Kong Society for Rehabilitation interviewed over 800 patients with chronic diseases in 2011. Half of them claimed that they consumed health food products and 60% of them admitted that they did not know the ingredients of the products. They just bought them and consumed them. Those products seemed to be all right and people had no problems after consumption. 60% of the respondents also said that they had not consulted any healthcare professionals before they bought those health food products.

In March and April this year, the Hong Kong Nutrition Association interviewed 407 people aged 18 or above and found that 40% of them claimed to have consumed some nutrition supplements over the past six months, and 80% of them had not consulted any professionals before buying those products for

consumption. From this we can see that health food consumption is very common in Hong Kong.

Moreover, some studies find that Hong Kong people spend about \$10 billion on health food products every year. In respect of such an enormous business involving people spending huge amounts of money and over 1 000 health food products in the market, the Government has no regulation over it whatsoever.

There are many kinds of products that people can choose for consumption, and they spend large sums of money on these products and find them efficacious. Are they truly so good? First of all, what I want to ask is: are these health food products safe for human consumption?

The health food products that we can find in the market always claim to have great efficacy and it seems that they can help us in every way. However, we should not forget that they may not benefit our health. Why?

According to some studies, very often health food products in the market may have undesirable interaction with the medicine taken by us, in particular the medicine taken by chronic patients, or may have undesirable interaction with other health products, causing some negative effects. These effects not only affect the efficacy of the medicine, but also cause serious harm to the body. For example, if heart disease patients who are taking blood thinner consume fish oil pills, garlic pills or ginkgo, it may increase their chance of internal bleeding. If one takes vitamin K when he is taking blood thinner, it will affect the efficacy of the blood thinner.

Do not think that consuming fish oil pill is always good for you, thinking that DHA or EPA will be good for the body. If a patient who is prone to internal bleeding consumes fish oil pill after undergoing a surgery, his chance of internal bleeding will increase. How about calcium pills, there should not be any problem, right? Everyone says that it is important to consume food that contains calcium and to have more dairy products to increase the calcium intake. However, some studies find that if one takes calcium pills together with acidic food, such as pickled ginger or cucumber, the food can easily be calcified and the calcified substances can easily turn into gallstones or kidney stones, leading to serious health problems. It is evident from the above examples that if people do

not have a clear understanding of health food products and consume them indiscriminately, they will have more health hazards than benefits as a result of the undesirable interaction.

Second, over consumption of health food products also create problems. Why do I say over consumption? Because everyone knows that when people consume health food products, they do not take only one or two pills but they would continue to consume them for a long period of time. Many of you may have the following experience: when you go out for a meal with your friend, your friend opens a pill box and takes a number of pills of different colours before the meal starts.

What is the result of prolonged consumption? Actually, prolonged consumption of a certain health food product without knowing its ingredients, origin and efficacy may have side effects. Last year, of the 38 fatal cases of poisoning handled by the Hospital Authority, four involved poisoning after consuming health food products, causing liver or kidney failure. We can see that the side effects caused by health food products can be fatal.

Some studies also indicate that many parents want their children to be happier and give them vitamin A supplements, but consuming too much vitamin A is harmful to the liver. Some other parents want their children to be tall like a basketball star and give them more calcium pills or calcium supplements, but consuming too many of such supplements will increase the risk of having kidney stones.

(THE PRESIDENT resumed the Chair)

There are also reports that over consumption of vitamin D will result in the vitamin D remaining permanently in the liver. It will induce vomiting and diarrhea at first, and may even also cause liver failure. Do not have the misconception that taking more vitamin A is good. If a pregnant woman takes too much vitamin A, the risk of her foetus having congenital defects will increase. From all these examples, we can see that great damage can be done if a person consumes health food products for a long time without seeking the advice of medical professionals or experts or if there is no regulation over these products.

At present, there are over a thousand health food products in the market but can they really enhance our health? The answer is that no one is sure. Why? That is because the qualities of these products vary and their origins are unclear.

If we just shop around and we can easily find at least 20 or 30 products claiming to be fish oil which can benefit our health. However, do we know the origin of these fish oil; the place of production; how the quality of the product is tested and verified; whether it is real fish oil or other substances? Nothing is tested and verified; all we have is the information provided by the manufacturer. We do not know how the product is manufactured, and the Government has no regulation over it, let alone conducting specific tests. What can the public do? Obviously, under such circumstances, health food products may not be safe, neither is their efficacy.

It was reported a few months ago that capsule shells might have problem. If health food products are in a capsule form, have we thought about the origin of the capsules when we consume these products? Are they safe? No one knows. If these products are consumed on a regular basis and the capsule shells contain excessive amounts of chromium, your stomach, intestines and liver will be affected. Therefore, without regulation, the consumption of health food products will have different effects and when their ingredients are unclear, it will give rise to very serious problems.

Lastly, how about their efficacy? Traders of health food products will of course say that their products have good efficacy and they are wholly composed of natural ingredients. For example, there is a saying that lycopene is good for health, and there is also an advertisement on television in which a male actor says that lycopene is beneficial to the prostate. However, it has not been unanimously proven in medical science that lycopene has such effect. Another television actor says in an advertisement that his eyes are bright because he consumes blueberry essence and its efficacy is fantastic and so on and so forth. What exactly is blueberry essence? Blueberry essence is a water soluble pigment that comes from plants and it is a kind of flavonoid. There has never been universally proven that it can enhance our sight, instead some studies indicate that blueberry essence has little effect on preventing cataracts or enhancing our night vision.

There is also a saying that eating food rich in antioxidants can combat the so-called "free radicals" and reduce the chance of mutation of our cells. This is only hearsay as antioxidants refer to substances that can be found in fresh vegetables and fruits, rather than something in the form of pills that we take. Therefore, we have to examine closely whether there is such efficacy, and this is doubtful. Concerning the safety, ingredients and efficacy of health food products, we all have doubts. When risks arise, the Government will tell us not to worry as it has imposed regulation on health food products and there should not be any problems. At present, the Pharmacy and Poisons Ordinance (Cap. 138) regulates all medicine and food products and it requires the registration of any products containing Western drug ingredients. But sorry, the Secretary talks about registration of medicine but we are now talking about health food products which do not contain Western drug ingredients. How can that Ordinance regulate them?

Again the Secretary tells us not to worry because there is also the Chinese Medicine Ordinance (Cap. 549) which can also regulate health food products. Of course, if the products contain Chinese medicinal ingredients or it is indicated that it comprises Chinese medicinal ingredients, they will be regulated and traders will have to apply for a registration number before they can put these products on the shelf for sale. But the problem is, how many health food products would clearly indicate their content of Chinese medicinal ingredients. It is very obvious that that Ordinance cannot regulate health food products as well.

How are health food products to be regulated then? Again the Secretary tells us not to worry as there is still the Public Health and Municipal Services Ordinance (Cap. 132) which is a very powerful ordinance as it requires that all foods, especially prepackaged foods, be they health foods or otherwise, must carry labels indicating their nutrition contents. The Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), which we have talked about, covers all food products. At the meetings in the last two terms of the Legislative Council when we discussed the legislation on food labelling, Mr Vincent FANG and I both opined that the "7+1" food labelling scheme would benefit the public. However, Secretary Dr KO Wing-man, please take a look at the health food products available in the market, how many of them are marked with the "7+1" ingredients? If not, how are they to be regulated? The safety of food products cannot be regulated, neither can their ingredients. I have asked

the Secretary how health food products can be regulated, and again he tells me not to worry as regulation can still be imposed by the Trade Descriptions Ordinance.

The Trade Descriptions Ordinance is also very powerful. Any products with claims that are questionable or false is subject to prosecution. Let me cite an example. Earlier, the Hong Kong Customs and Excise Department took 18 samples of fish oil pills for testing and found that they all had problems. It is claimed that the DHA or EPA of these pills are as high as 95% but such claims are far from the fact. The problems were only identified after sample testing.

However, our information indicates that in 2011, 647 cases were prosecuted in accordance with the Trade Descriptions Ordinance, mostly related to misrepresentation of goods, and most of these goods were health food products which could not be regulated. How then can this Ordinance regulate these products? However, there is no need to worry. There is also the Undesirable Medical Advertisements Ordinance which also claims to be able to regulate health food products. But the problem is that this Ordinance targets at advertisements and for advertisements on non-medical products, it has no effect. How does the Government regulate these products then?

Therefore, at present, there is no specific legislation or a set of comprehensive legislation for the regulation of the safety, ingredients and efficacy of health food products in the market, and as a result, people probably do not know what to follow. Hence, I now suggest that the Secretary should formulate a clear definition of health food products, naturally it will be very controversial. However, Secretary Dr KO Wing-man, it does not matter as we can draw reference from the different definitions of other countries, including Taiwan, China, the United States and Australia. Generally speaking, what do they consider as health food products? According to these countries, food products which do not have curative effects are considered as health food. However, depending on the prevailing local situation, different places have different needs. Although there is not a common definition of health food products in the international community, I believe that with the wisdom of the Secretary, he can epitomize the information of various places and formulate a definition that is applicable to the health food products available in Hong Kong.

After formulating a suitable definition, we can draw up a comprehensive mechanism to regulate the safety of health food products. For example, we need to step up the sample testing on health food products and strictly require that only products meeting the criteria of this definition can be marketed. Health food products that have been marketed must come under the regulation similar to GMP requirements; or we may even require such products to carry a specific label, listing out all their ingredients and the products must undergo testing on a regular basis.

Some countries, such as the United Kingdom, even require traders to first seek the advice of the authority governing health claims to certify that the products are indeed health food products before putting them in the market for sale. This can help everyone understand their ingredients, safety and efficacy.

Other than strictly regulating health food products, we must also see if the products concerned are efficacious. Testing and verification are thus required. We must establish a strict testing and verification or a sample testing system to determine if the health food products are efficacious. With the formulation of the definition and the establishment of a relatively strict testing and verification system, the public can feel at ease and they would know that the health food products purchased are safe and efficacious with a known origin of ingredients.

Of course, finally it is education. Education is very important. According to the data or information that I have just mentioned, many people learn about the health food products that they buy in the market from word of mouth or advertisements or even from the recommendation of sellers or they buy such products on the Internet. If the Government can establish a strict regime, formulate a clear definition, empower the public through education to let them know what health food products are and how the Government regulates such products, as well as encourage the professionals concerned to provide relevant information, I believe that all these measures can provide the public with a clearer and better concept of health food products.

Finally, I certainly hope that the Government will publicize and educate the public through a better education system, such as through Announcement on Public Interests (APIs). The APIs should not just introduce the "Old Age Living Allowance", they should also discuss what health food products are and give the public a clearer idea of how to buy them. I hope that this motion will induce the Secretary to ponder upon this. There is an absolute need for Hong Kong to formulate a proper policy and legislation to protect the public and enhance their

understanding about health food products, so that they can make informed choices. We also need to increase the transparency of the ingredients of health food products, so that people would feel more at ease when they consume such products. Thank you, President.

Dr Joseph LEE moved the following motion: (Translation)

"That at present, there are countless and multifarious health food products in the market, and the number of people consuming health food products also increases gradually, but the existing legislation is neither comprehensive nor stringent, failing to effectively regulate health food products in many respects, such as safety, efficacy and ingredients, etc.; moreover, members of the public do not know much about health food products, and health food products not up to standard are definitely no less harmful to the human body than drugs, and even pose direct threat to public health; in this connection, this Council urges the Government to expeditiously and comprehensively regulate health food products and ensure that their safety and efficacy, etc. are assessed, tested and monitored comprehensively before their introduction to the market, and at the same time, to enhance public awareness of health food products, so as to protect public health more effectively."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Joseph LEE be passed.

PRESIDENT (in Cantonese): Three Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

I will first call upon Miss Alice MAK to speak, to be followed by Mr Vincent FANG and Mr Alan LEONG respectively; but they may not move the amendments at this stage.

MISS ALICE MAK (in Cantonese): President, first of all, I am very grateful to Dr Joseph LEE for moving this motion today, allowing us to discuss whether health food products are really healthy and how they should be regulated.

As mentioned by Dr LEE in his speech just now, many people spend large sums of money on health food products each year. There are multifarious health food products in the market for strengthening the kidney, the eye, the liver, the bone, and any part of the body that you can name. They are sold in almost any places and different sales practices have come up incessantly. People would not be able to find out if, after consuming these so-called health food products, they have really become invincible and healthy, with every illness that they have being cured, as claimed by the celebrities or movie stars acting as the "spokesperson" of these products. Therefore I agree to today's motion that the Government should step up the regulation of health food products to protect public health.

At present, health food products containing Chinese medicinal ingredients are under the regulation of the Chinese Medicine Ordinance, those containing Western medicinal ingredients are regulated by the Pharmacy and Poisons Ordinance while others are regulated by the Food and Drugs (Composition and Labelling) Regulations. Requirements are met as long as the food products have labels on their packaging listing out their composition. However, health food products are different from ordinary foods and we do not know if they really have curative effects; neither do we know what harm they can do to our health after consumption. We are not medical professionals and we do not know, as Dr Joseph LEE does, that consuming certain health food products is harmful to our health instead of benefiting us.

As so much uncertainty is involved with health food products, the Government should step up the regulation even more. One issue of the *Choice* magazine of the Consumer Council in 2011 pointed out that the Council received a few dozen complaints on average each year against the sales practices and efficacy of health food products. The number of complaints received in 2009 and 2010 were 91 and 78 respectively. Hence, I agree to the original motion that it is not only necessary to regulate health food products to ensure their safety, but also necessary to regulate the sales practices and advertisements of such products.

There are numerous advertisements promoting health food products in the market. As we discussed at the debate in this Council a few weeks ago, advertisements on body slimming, beauty and weight loss practically exist everywhere. You can find advertisements on every page of any magazine about health food products, telling you how to protect your liver and eyes, or how to

lose weight. These advertisements can be found everywhere and they like to use slogans such as "anti-ageing", "strengthening the bones" and "effectively improving the conditions of insomnia/nose allergies". These are very common diseases suffered by city dwellers and these advertisements appeal to these people by listing these diseases and claiming that they will be cured immediately after consuming the products.

To prepare for today's amendment, I have seriously studied the health food products sold by a so-called international company. This company sells its food products by means of multi-level marketing and many of its agents are middle-class professionals. Many retired university lectures or social workers whom I know are also sales agents of this company.

I have studied a few of the health food products sold by them. For example, a certain brand of fruit juice claims that it can bring down a fever immediately after consumption. Another product is some kind of fish oil — Dr LEE mentioned about fish oil — and what do you think deep sea fish oil combined with protein powder and fruit juice can cure? Infertility. There is also a certain pollen capsule which claims to be able to improve prostrate health. People do not need to consume lycopene that we have mentioned earlier but simply by consuming this pollen capsule, it can achieve this effect. What does this pollen capsule contain? It contains the pollens of rape blossom, Russian olive flower and cornflakes — whatever flowers they are, they are confusing enough — which claim to have healing effects. Deep sea fish oil alone can cure constipation, meaning that the fish oil can cure constipation as well as infertility, and fish oil combined with protein can enlarge the breasts, as claimed. After studying these products, I am still confused as to whether fish oil is used for curing constipation or infertility and whether the fruit juice can bring down a fever as soon as it is consumed.

President, we are indeed worried. First, whether the curative effect claimed by the food product advertisements is true; second, whether consumers will be misled into believing that the fruit juice can bring down a fever after consumption and will not seek medical consultation, as that will have significant impact on public health.

Let us look at these advertisements. One advertisement is even more formidable. It claims that once you have consumed the product, all problems

caused by uric acid will disappear and there is no need to worry any more. Every day we are bombarded by such advertisements in the newspaper and magazines. I believe that the Government has to expeditiously take solid measures to regulate the ingredients and efficacy of health food products. If one claims that fish oil and fruit juice can bring down a fever and cure infertility, they must produce evidence, so that consumers would know if such claims are credible.

Moreover, other than regulating food products, we hope that the Government will regulate the sales practices for such products as well. Many people from the middle class believe in multi-level marketing, which is promoting the sale of products by word of mouth. In this community — I believe many colleagues who engage in district work have also encountered the same problem — every morning many elderly people queue up in front of some small shops in shopping malls or at the corner of streets and wait for them to open. These shops are the called "Health Stops" or "Happy Shops" which sell certain health products. Only the elderly are allowed to go in, young people like me are denied entry. In order to make these elderly people feel at ease and go in, they will sometimes give out vermicelli, soy sauce, cooking oil and rice and invite them to attend "health talks" and "body check" afterwards. The staff of the shops would tell the elderly people that their "diabetic index" or blood pressure was slightly higher than the previous day and then introduce some "health products" to them, telling them that they need not seek medical consultation as they would be cured after consuming those products.

The Consumer Council received a complaint case in 2011 concerning an elderly diabetic patient. This man, who had attended a "health talk" in Ngau Chi Wan, was talked into spending over \$4,400 to buy six boxes with a total of 18 bottles of enzyme after the talk. The staff told him that although he had diabetes, the medicine he was taking could not cure him and he was unwilling to control his diet, his blood sugar index would come down after consuming the enzyme and he did not need medication. However, this elderly man felt unwell after consuming the first bottle. He consulted the doctor afterwards and was told that the enzyme had very high calories and was not suitable for diabetic patients like him. The health food product could not alleviate his diabetes as claimed, but raised his blood sugar level by two degrees instead.

This case tells us that the public have very limited knowledge about these so-called health products but there are many advertisements and different practices of selling health food products have come up incessantly. The Government should keep the gate at source. In monitoring the sale of health food products, it should regulate the ingredients and contents, and traders should prove that the products have the claimed efficacy. The Government should regulate the advertisements and sales practice as well. Otherwise, the public would think that they are consuming products that would enhance their health, but instead their health is jeopardized. I hope that the Government will commence the work as soon as possible and I also hope that Members present here will support my amendment for the sake of protecting public health. Thank you, President.

MR VINCENT FANG (in Cantonese): President, in the last two legislative terms, the Council had legislated for a number of food issues which included, among others, nutrition labels of pre-packaged food, the recall of problematic food, and the registration scheme for food importers and food distributors under the Food Safety Ordinance (FSO). The former Secretary for Food and Health Dr York CHOW had once told me that the legislative work of food regulation from source to table was almost done in his term. I was very happy when I heard that because the food industry could finally take a rest after all these tosses and turns, and focus on their businesses again. Unexpectedly, soon after the beginning of this legislative term, Dr Joseph LEE asks the Government to regulate health food products. It seems that the food industry will be kept busy for a while.

The food industry might be the industry subject to the largest number of new laws in the last decade. Yet, the food industry has not opposed to the enhanced regulation of the Government since any food problem is sufficient to deter consumer sentiment and hurt the industry. It just hopes that, in the course of imposing regulation, the Government can do the following: Firstly, not to impose regulation which is unique to Hong Kong as it did for nutrition labels; secondly, to provide convenience for the industry to adapt to the new requirements of the Government; thirdly, to leave room for small and medium enterprises (SMEs) to survive; otherwise, the Government will just be helping large consortia monopolize the market since it is always easier for financially sound consortia to adapt to new regulation.

Before speaking on today's motion which is about health food products, I have made this long introduction because I want the new Secretary for Food and Health, as well as my colleagues who are new to the Council, to know more about the food industry so that they will not try to regulate whatsoever in the industry by laws which are unique to Hong Kong. After all, laws can only regulate law-abiding merchants.

Regarding Dr Joseph LEE's proposal for regulating health food products, wholesalers and retailers are generally in support of a moderate regulation. This is because, as long as there is a product or industry which is profitable or with a good prospect, there will always be profiteers trying to make fast money in the market. The introduction of moderate regulation will not only guard against these profiteers but will also boost consumer confidence. It is in fact a protection to law-abiding merchants.

However, the original motion has made a rather negative comment on health food products, stating that the safety, efficacy and ingredients of health food products in the market are in doubt. Yet, I think this comment is a bit unfair to these products. Although I do not consume these health food products, I note that many of them are empirically proven to have certain benefits to our bodies, such as Omega 3 fish oil and glucosamine sulphate with which we are familiar, and vitamins which are often listed as health food products in European and American countries. Many doctors in Hong Kong also suggest their patients to consume these health food products to complement their treatments.

In the international community, there are also a lot of proofs on the efficacy of health food products as health supplements. It is clearly stated that these products are not substitutes of medicine and cannot replace food to provide nutrition. Therefore, in European and American countries, these products are called "food supplements". Yet, the existing legislation of Hong Kong has just divided orally consumed products into two categories — "medicine" and "food". While the two of them are under the regulation of relevant ordinances, they are categorized either as "medicine" or "food". There is no such category as "health food products". As a result, anything which does not contain Chinese or Western medicinal ingredients will be classified as "food". This gives rise to the problems that catch my colleagues' attention today, such as the lack of information and empirical evidence in product promotion.

Therefore, the health food product industry always hopes that the Government can add a category called "health food products" between medicine and food, and formulate rules to give moderate regulation. Then, the industry can have rules to follow and consumers would know from the relevant standards what they have bought. The worries expressed by my colleagues today can also be eliminated.

However, the Government must be very careful in formulating these rules. While the Government may say that it is difficult to do so, it may not necessarily be that difficult as the category of "health food products" is already available in many economically developed countries, such as European and American countries, China, Canada, Japan and Taiwan. Taiwan even introduced the Health Food Control Act in 1999. Yet, Hong Kong has done nothing, instead it takes a step faster than the United Kingdom and the United States by legislating for formula milk and food products for infants and young children aged three years or below.

Of course, overseas practices are just some kinds of references. If the Government decides to formulate a definition of health food products, it must comprehensively consult the industry. As most of the health food products in the market are imported from other places, if the Government requires empirical proofs to be provided by the place of origin, the impact on the industry will be greatly reduced. In case it requires laboratory tests to be done locally, the surge of cost will surely force many SMEs to close down. Therefore, a report on regulatory impact analysis is inevitable.

Regarding the amendments of the other two colleagues, they are related to the fact that there is no definition of "health food products" in Hong Kong. Due to the absence of such definition, we cannot say that there are "counterfeit health food products" in Hong Kong, as described by Mr Alan LEONG. The regulatory authorities also have no grounds to institute any prosecution. At present, if a general food product contains toxic substances, such as heavy metals, the FSO is violated. The Centre for Food Safety may order for a recall and institute prosecution according to the FSO. In the case of counterfeit food products, the Customs and Excise Department may institute prosecution as the Trade Descriptions Ordinance is violated.

Similarly, the reason for Miss Alice MAK proposing to "review the existing legislation to strengthen the regulation of sales advertisements of health food products" in her amendment is that we do not have the category or a definition of "health food products". Hence, people will think that the advertisements of these products are a bit exaggerated. If a definition is formulated to require health food products with a claim be empirically proven, it will not be necessary to regulate their sales advertisements. In view of this, it is very important to give a suitable definition of health food products.

Since the original motion and the other two amendments do not seriously conflict with the aspirations of the health food product industry, the Liberal Party will give our support to them. However, on the point of comprehensive regulation proposed by the original motion, we think it must be introduced prudently. The Government must give enough time to the industry to adapt to it and ensure sufficient room for SMEs to survive. Therefore, I hope that my colleagues will support my amendment. I so submit. Thank you, President.

MR ALAN LEONG (in Cantonese): President, the Civic Party will support Mr Vincent FANG's amendment, so he can rest assured. We are actually aware of what Mr Vincent FANG has just said, that is, health food products do not have a clear definition in law. At present, if a health food product contains ingredients of Western medicine, it will be regulated under the Pharmacy and Poisons Ordinance; if it contains ingredients of Chinese medicine, it will be regulated under the Chinese Medicine Ordinance; if it does not contain any ingredients of Western or Chinese medicine, it will be subject to the regulation of the Public Health and Municipal Services Ordinance, and the Undesirable Medical Advertisements Ordinance may not be applicable. Therefore, on the point just given by Mr Vincent FANG, perhaps we really need to formulate a definition of health food products, and the Civic Party will support working on this direction.

President, the population of Hong Kong is ageing, and Hong Kong people in general aspire to improve their quality of living. Apart from that, there are now many Mainland tourists coming to Hong Kong through the Individual Visit Scheme (IVS) for consumption; health food products are very often their favourite buy. Therefore, the health food product market is flourishing. There are numerous products, such as cordyceps sinensis, glossy ganoderma spores,

collagen, propolis, and various detoxification and skin care products. They are too numerous to mention.

In October 2008, the Social Sciences Research Centre of the University of Hong Kong announced their survey findings on "Hong Kong Public Knowledge of Health Supplements". They interviewed more than 1 000 Hong Kong people aged above 18 and found that 35% of the respondents had consumed health food products within the past six months of the survey, with the average number of products consumed per day being 1.9, which was close to two. Based on this finding, the survey derived that some 2 million adults in Hong Kong had consumed health food products in the six months preceding the survey and the annual sales volume of these products amounted to \$10 billion.

Health food products are even more popular among people with chronic illness. The Community Rehabilitation Network under the Hong Kong Society for Rehabilitation conducted a survey on "The Consumption of Health Food Products by the Chronically Ill" last year, which revealed that about 50% of some 800 chronically ill respondents had consumed health food products. Some of them had even consumed more than one product. It shows that the health food product market is very profitable. Some unscrupulous profiteers are hence attracted to make money with health food products since they are aware that many people are eager to spend money on buying health. Yet, the worst part of their tricks is not cheating consumers of their money but their health. That is really sinful.

President, a media had previously done an undercover work. One of its reporters pretended to be an IVS visitor from the Mainland. He went to a chain store in Mong Kok to buy drugs for removing gallstone. It was reported that the staff of that pharmacy tried hard to sell a product called "Pomerstone", costing more than \$600. They claimed that this product was produced by a famous German pharmaceutical firm according to good manufacturing practice (GMP), and that gallstones would be discharged in urine after three months of consumption. The reporter then consulted the Practising Pharmacists Association of Hong Kong about the ingredients printed on the packaging of Pomerstone, only to find that they not only failed to remove gallstones but would even cause calcium to accumulate in the body and increase the risk of gallstones. Ironically, this so-called "unscrupulous pharmacy" has identified itself as a "No

Fakes" pharmacy. Therefore, even local citizens may find it hard to avoid falling prey, not to mention Mainland tourists.

President, Miss Alice MAK has just quoted the case of Mr TSUI, an elder with diabetes, as reported in the *CHOICE* magazine of the Consumer Council last year. In fact, some other similar cases were also revealed in the same issue of the *CHOICE* magazine. For example, when a lady surnamed WONG visited her aunt aged 80 in Tin Shui Wai, she found that her aunt had bought a lot of health food products, such as enzyme and glossy ganoderma. Miss WONG then asked her aunt why she bought so many health food products, and her aunt replied that she attended health talks organized by a health food product shop in a shopping centre in Tin Shui Wai every day. This case is very similar to the one just told by Miss Alice MAK. The salesperson had played the same trick by introducing to her many products claimed to be marvelous. Consequently, she bought loads of them.

From the cases revealed by the *CHOICE* magazine, we know that this selling tactic does not only apply in individual cases. Instead, it is generally used in different districts of Hong Kong. With the inducement of free gifts, such as oyster sauce and rice, as well as warm greetings, the elderly are tempted to buy many health food products, either consciously or unconsciously. Therefore, this problem, if left unregulated, will cause grave harm. I hope that Secretary Dr KO Wing-man can take it seriously.

President, in my amendment today, I add in the request for stepping up the efforts in conducting sample tests and combating counterfeit health food products; I also request that efforts should be made to ensure that health food products in the market really contain the health ingredients as claimed. At the beginning of my speech, I have pointed out that health food products are now regulated by different ordinances, including the Pharmacy and Poisons Ordinance and the Chinese Medicine Ordinance; yet the effectiveness of these ordinances in regulating health food products depends on whether the Department of Health (DH) is active in conducting inspections and sample testing to give people a better protection. Therefore, before we can have a tailor-made system for health food products, the DH should at least be more active in enforcing various regulatory provisions which are now scattered in different ordinances, so as to make people feel more relieved.

President, I think you should remember that the Undesirable Medical Advertisements Ordinance, which has come to force since 1 June 2012, does not regulate three major claims, including those relating to slimming or fat reduction, regulation of body immune system, and promotion of detoxification. This is indeed a big loophole. As stated by Members who have just given their speeches, these three types of health food products have got very large market shares. We therefore urge the authorities to amend the legislation expeditiously, so as to plug the loophole and protect consumers' interests and health.

President, we keenly hope that, after today's debate, Secretary Dr KO Wing-man can be more active in playing the role of gate-keeper to better protect people's health. I so submit.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I would like to thank Dr Joseph LEE for moving the motion on "Urging the Government to regulate health food products" and also Miss Alice MAK, Mr Vincent FANG and Mr Alan LEONG for moving the amendments. I will first give an account of the current situation in my opening speech and then make a comprehensive response in my concluding speech after listening to the remarks of other Members.

As Members, including Dr Joseph LEE, Mr Vincent FANG and Mr Alan LEONG, have pointed out, there is no standard definition of "health food product" in the international community. Although various countries have formulated a definition, it differs from country to country. There are also different names for similar products, such as dietary supplement, nutritional supplement, prescribed food, functional food and natural health product and so on; and as Miss Alice MAK has said, the health claims made for the sale of those products are also multifarious. As Dr Joseph LEE has said, there is not a single piece of specific legislation for the regulation of health food products in Hong Kong at present. However, some Members have pointed out that orally consumed products in the market are regulated under several ordinances. Medicinal products are regulated under the Pharmacy and Poisons Ordinance, health food products containing Western drug ingredients are also regulated by this Ordinance, but I will not elaborate on its contents in detail.

On the other hand, products which fall within the definition of Chinese proprietary medicines under the Chinese Medicine Ordinance, that is, products which are composed solely of Chinese medicines as active ingredients and for treatment and health promotion purposes, are regulated under the Chinese Medicine Ordinance. Similarly, such products must meet the requirements in respect of safety, quality and efficacy before they can be registered. The Chinese Medicine Ordinance requires the labelling of registered Chinese proprietary medicines to include the main ingredients, method of usage, dosage, place of production, and so on.

Actually, we may have noticed that Members have cited examples in their speech earlier and in those examples, they have mentioned the Chinese medicine covered by the Chinese Medicine Ordinance that I have just talked about. Regarding the above two kinds of products which either contain Western medicine or Chinese medicine, the Department of Health (DH) will inspect the shops concerned frequently to see if the products sold have false descriptions or descriptions which are different from those approved when the products were registered. The DH will also monitor and investigate the medicine sold on the Internet and will take samples of such products sold in the market for tests from time to time. Actions will also be taken to investigate and follow up complaints. After investigation and testing, if the products are found to contain unregistered Western medicines, or contain heavy metals or toxic elements exceeding the permitted levels as Mr Vincent FANG has mentioned, or have violated the registration requirements, the DH will take appropriate actions, including requiring the shops to recall their products immediately.

Regarding products which are not classified as Chinese medicine or Western medicine, as mentioned by several Members, they are regulated as food products under the Public Health and Municipal Services Ordinance or the Food and Drugs (Composition and Labelling) Regulations. In this regard, the Centre for Food Safety (CFS) will take samples of food products sold in the market for testing from time to time and inspect their food and nutrition labelling, so as to ensure that these food products are fit for human consumption and comply with the relevant requirements. If samples are found to be unsatisfactory or non-compliant with the requirements, the CFS will take effective actions, including tracing the origin, ordering the recall of the products concerned, issuing warning letters to food traders and even initiating prosecution against them.

On the other hand, some Members have also mentioned about advertisements and publicity. Other than regulating the safety, efficacy and quality of medicine and food products, there are currently various ordinances, including the Undesirable Medical Advertisements Ordinance, which regulate the advertisements and health claims of foods. As pointed out by Mr Alan LEONG, this Ordinance was amended this year to incorporate six additional groups of health claims and some health claims that once existed were no longer permitted. I would like to point out, the main purpose of this Ordinance is to regulate certain specific diseases or conditions, in the hope that members of the public who have the symptoms as specified in the Ordinance will not resort to self-medication, and hence delay in seeking treatment.

Besides, the Public Health and Municipal Services Ordinance also provides that it is an offence for any person to attach a label to the food sold by him or publish an advertisement of the food sold by him which falsely describes the food or is calculated to mislead. Moreover, the Nutrition Labelling Scheme established under the Food and Drugs (Composition and Labelling) Regulations came into effect on 1 July 2010. One of its aims is to regulate misleading or deceptive nutrition labels and claims, so as to ensure that the relevant information complies with the conditions provided in the relevant legislation.

All general commodities, health food products included, are regulated under the Trade Descriptions Ordinance, Broadcasting Ordinance and Broadcasting (Miscellaneous Provisions) Ordinance. According to the relevant provisions and codes of practice, an advertisement of any product must not contain any descriptions, claims or illustrations that depart from truth.

In my opening speech, I first confirm that there is not a single piece of legislation that specifically regulates health food products in Hong Kong, as several Members have said. At present, we are indeed imposing regulation on various Western drugs and Chinese medicines through several ordinances, mainly to ensure the safety of such food products or prevent the public from unknowingly consuming products that have medicinal effect; thereby suffering from the side effects caused by such products. Another kind of regulation focuses on the advertisements and claims of efficacy concerning health food products or regulation of the advertising practices. The two are separate. We have imposed regulation on food with health claims through several ordinances. The DH, CFS and relevant government departments take samples of products

sold in the market for tests from time to time, in accordance with the risk assessment mechanism. Moreover, it is worth mentioning that a reporting mechanism has been put in place for handling of adverse drug reaction incidents, so as to ensure the safety, efficacy and quality of products for the protection of public health.

President, this is the first part of my speech. As I have said, I will make my concluding remarks after listening to other Members.

MR WONG KWOK-HING (in Cantonese): President, I thank Dr Joseph LEE for moving this meaningful Members' motion today to which several Members have moved amendments. However, regarding Mr Vincent FANG's amendment, we find it hard to support for reasons I will talk about later.

After listening to the Secretary's opening speech earlier, I find that the information prepared by the colleagues of the newly appointed Secretary is inadequate. President, I have in hand Report No. 57 of the Director of Audit (Audit Report) published in November last year, and its incisive conclusion was that the authorities had not duly performed their duties in respect of the current issue of health food products. I wonder why his colleagues have not found this incisive viewpoint.

Chapter 3 of the Summary of the Audit Report states (I quote), "While nutrition claims are governed by the nutrition labelling scheme, health claims are not governed by any specific law or regulations in Hong Kong." (End of quote) The Report further points out (I quote), "Up to August 2011, no successful prosecution had been brought against any food traders for improper health claims." (End of quote)

These two statements, though short, have clearly and sharply pointed out the problems. First, there is no law to regulate the prevailing health food products commonly consumed today. Why does the Government not consider enacting legislation for the regulation expeditiously? I think the Secretary should look squarely at this problem.

Second, although the Secretary just said that the authorities would "inspect from time to time", "pay attention from time to time" and "prosecute from time to

time", the Audit Commission had uncovered that he — it should be his predecessor as the Audit Commission had done this audit before he assumed office — that the authorities had not instigated any prosecutions up to August 2011. In other words, the number of prosecutions was "zero". Is this a dereliction of duty?

President, the Social Sciences Research Centre of the University of Hong Kong conducted a study on Hong Kong people's habit of consuming health food products in 2008 and found that about 35% of the public, that is, more than 2 million people, consumed health food products on a regular basis. There is also information indicating that the annual sale of health food products in the Mainland amounts to RMB10 billion yuan. We can see that the health food business can be described as a huge "gold mine".

Although I agree with Mr Vincent FANG that we should attach importance to the operation of small and medium enterprises, the protection of public health should come first. Actually the two are not mutually exclusive. In my view, given that millions of people consume health food products on a daily basis, if the Government does not expedite the regulation of health food products, it will let people down because they have no idea of the ingredients and efficacy of the products that they consumed. I urge the Secretary to make a specific response to the relevant contents in the Audit Report when he makes the concluding remarks. The Secretary does not have to listen to Members. He only needs to listen to the Director of Audit.

President, I know that it takes a long time for the Government to enact a law. It will at least take one or two years before a bill can be submitted to the Legislative Council. This is true and Secretary Dr KO Wing-man also nods his head. Therefore, before the Government has the commitment to legislate for the regulation of health food products, will it first launch publicity and education campaigns to alert the public? The Government's recent "brain-washing" advertisement on Old Age Living Allowance is very effective in brainwashing the elderly. I will not discuss this issue so as not to waste time.

Why is the Government's advertising campaign so important? President, I have in hand a few advertisements. As you sit far away from me, you may not be able to see the contents. Let me read them to you. The first one features a movie star or a celebrity who introduces a health food product which is the first

choice of a so-called "American medicinal fungi expert". It claims that the product is developed and produced by the biggest fungi and mushroom producer in the United States and the product is suitable for those who are concerned about their blood sugar levels, and 80% of those who have consumed it have their blood sugar level lowered. Have the authorities initiated prosecutions against it and taken follow-up actions? I believe, as stated by the Audit Commission, they have not.

The second advertisement does not look like an advertisement as it is presented in the form of a research article, printed on the side of a page in a newspaper. President, only when you read it very carefully that you can find the word "advertisement" in small font size on the top right hand corner of the article. The advertisement is printed on a full page in the form of a special column and analysis. Readers may want to consume this health food product known as "Yunzhi Essence", which claims to help one sleep well. It is really baffling. Is it so?

The third advertisement adopts an even subtler tactic. It is an advertisement that does not appear to be an advertisement because it is printed on the same page with other news articles, giving readers an impression that it is a news articles. However, the word "advertisement" in small font size also appears on the top of the advertisement. Secretary, have you conducted studies on these? I do not believe so. If the Policy Bureau has instigated prosecutions or conducted studies, it should show us the relevant data.

I hope that the Government will, before the enactment of legislation, make use of the official channels and advertisement time slots to educate and alert the public to these undesirable advertisements on health food products.

Thank you, President.

MR STEVEN HO (in Cantonese): First of all, I would like to thank Dr Joseph LEE for moving this motion. He draws to the attention of the people of Hong Kong that health food products have already totally infused into our daily life.

Simply speaking, besides drug stores, health food products can also be found in general supermarkets and convenient stores, and the efficacies that they

claim to have are ever increasing. I will not talk about whether such health claims are exaggerated for the time being. In the face of such circumstances, the general public can hardly judge the validity of the efficacies of health food products.

The Hong Kong Poison Information Centre of the Hospital Authority announced that there were 38 cases of death caused by poisoning last year, and among these cases, there were people who died after taking Chinese medicine or consuming health food products. It is evident that consuming health food products carelessly may not improve health, but may result in death instead.

As far as I know, there is no specific legislation for the regulation of health food products. Of course, there are other rules and regulations which many Members have mentioned. There is also no specific statutory definition of health food products. As long as a health food product contains no medicinal or Chinese proprietary medicinal ingredients, or does not claim to have curative effects, it will only be regulated as ordinary food and needs not be specially registered or approved.

Besides, traders of health food products need not produce any scientific evidence or results of relevant studies in support of the health claims made, such as promoting the functions of organs, invigorating the stomach and regulating intestinal function and activating the growth of cells, perhaps the only claim that traders dare not be made is immortality. Such claims are made by using ambiguous and confusing slogans. If consumers consume health food products without careful thought, the less serious outcome will be wasting money, and in the most serious case, as I have said before, it will be death.

Moreover, most health food products in the market do not provide clear and accurate instructions on their labels, and the law does not require the products to state clearly the contraindications and possible side effects. Even if consumers are cautious and read the package and instruction very carefully, they may not be able to know if a certain health food product is suitable for them. There has been a case where someone had taken too many chlorella tablets which contained vitamin K; as a result, blood clotted in his heart, causing angina pectoris and he had to be rushed to the hospital. A healthy person became sick and almost lost his life.

President, we always receive complaints about traders promoting the sale of health food products by improper sales practices, such as luring elderly people with gifts to attend lectures on health and then persuading them to buy products on a "one-to-one" basis. The sale practice of the so-called "expert comments and users proof" is also adopted. They paint a rosy picture for consumers and lure them into buying products that may not be suitable for them.

Worse still, when consumers find the products inefficacious after consumption, traders would use such lame excuses as "efficacy will only be seen after a long-term consumption" to shirk their responsibility and lure the consumers into a deeper abyss and buy even more of their products. It has been uncovered in press reports time and again that health food products contain heavy metals or their nutrient contents are lower than the level claimed. In the end, these tactics not only threaten public health and dampen the public's confidence in health food products but also affect the healthy development of the whole industry.

Therefore, we think that the Government should consider formulating clear legislation and imposing separate regulation on health food and ordinary food. Moreover, the Government should consider conducting a comprehensive review on the contents of the labels of health food products and imposing mandatory requirements that traders must include in the label warnings and information on nutrition values, in particular information that consumers should be aware, such as side effects, maximum intake per day and dosage. The Government should also require that only those health claims that have been substantiated by scientific evidence or relevant studies can be stated in advertisements or in the package.

In the long run, the Government should also formulate, in consultation with the industry, an approval and register system for health food products. The system should include setting criteria for the production method, standard, as well as testing and certification, and introducing a register for health food products for easy access by the public, so as to improve the overall quality of all health food products and ensure that locally produced health food products can meet international standard in terms of quality and quantity, thereby rebuilding consumers' confidence in health food products.

Of course, in my view, Hong Kong people need to consume health supplements mainly because they lead an overly busy life with no time for exercise and their diets are unbalanced. Therefore, the best way to maintain a good health is to consume fresh and safe agricultural produce that are produced locally, and only in this way can one achieve the goal of healthy living of "consuming the foods produced in the local area where one lives".

The people of Hong Kong attach great importance to green living and Hong Kong has the potential to develop into a base for quality agricultural produce. In the face of people's demand for staying healthy, if the Government can grant lands for the establishment of "agricultural ecological farms" and formulate policies to comprehensively support the development of local agricultural and fishery industry, as well as provide advanced technological support in the area of scientific research, I believe that the people of Hong Kong can then stay healthy.

All in all, as the original motion and the amendments do not object the regulation of health food products in principle, we will give our support to all of them. However, I have to point out, concerning the demand in Miss Alice MAK's amendment that "sellers must submit relevant reports or proofs regarding health claims in product advertisements", we think the responsibility of producing proofs regarding health claims should mainly be borne by producers as traders may not have the capacity or the relevant right and duty to do so, and therefore there may be difficulties in implementing this recommendation.

Furthermore, we do appreciate the amendment moved by Mr Vincent FANG from the perspective of the industry but we consider it unnecessary to delete the phrase "comprehensively regulate health food products" in his amendment.

Lastly, I would like to advise the people of Hong Kong to carefully choose health food products and I think the Government should pay more attention to this issue as well.

President, I so submit.

DR KWOK KA-KI (in Cantonese): President, first I would like to thank Dr Joseph LEE for bringing up this topic which many people are concerned about. In fact, the Census and Statistics Department had conducted a survey, and deduced that about 1.29 million people in Hong Kong, representing over 20% of the population over 15 years of age, consumed health food products in the past year. A survey conducted by the Social Sciences Research Centre of the University of Hong Kong in 2008 found that among the 1 062 respondents, close to 35% had consumed health food products within six weeks prior to the survey, and some of them spent over \$400 each month on such products. Most importantly, although 70% of the interviewees thought that the safety of health food products was most important and 60% of them attached the greatest importance to their quality, the Government has not yet provided sufficient protection to consumers and the general public in respect of the safety and efficacy of health food products.

The existing legislation cited by Secretary Dr KO Wing-man mainly deals with Chinese medicine, Chinese propriety medicines, as well as the pharmacy industry and poison. As we all know, health foods traders make use of this legal loophole and claim that their products do not belong to the category of medicine. If the products are considered as food, the Government's current lax regulation on foods can hardly plug this loophole.

Concerning the Undesirable Medical Advertisements (Amendment) Ordinance which only came into operation in June this year, I believe that many people who are concerned about this Ordinance, including many Members of the Legislative Council, would feel sad. We started discussing the amendments eight years ago and many members of the medical sector and even the Consumer Council thought that the Government should immediately amend the Undesirable Medical Advertisements Ordinance. Now, eight years later, the amendments were finally made on 1 June this year. What we are most concerned about are nutrition labelling requirements and food safety measures, as mentioned in the Director of Audit's Report and quoted by fellow colleagues. We do not believe the Government can make any progress in these areas.

Although the Centre for Food Safety (CFS) should be the gatekeeper for all food with claims, it is learnt that of the 16 245 food samples that had been tested, only 110 were found to be non-compliant with the requirements. Why? That is because the CFS only made observation without testing the food, and food

samples were only taken from major supermarkets. As such, the Audit Commission visited 55 small retail shops and took food samples for testing. It was found that a total of 350 items of food sold at 46 retail shops did not comply with the labelling scheme. Out of 16 245 food items, the CFS only carried out scientific analysis on 33 food items, which was unacceptably low, and can be regarded as the world's worst record. It is just hard to believe that the Government only analysed 33 samples among over 10 000 samples. If Hong Kong people depend on the Government to play the gate-keeping role, they have trusted their health and safety to the wrong person.

According to the existing arrangement on exemption from labelling, for food items with a sales volume of less than 30 000, the CFS will approve first and vet later. By the time the CFS has completed the vetting, the food items would almost have been sold out. In fact, many food traders would exploit this loophole. Therefore, the regulations are very often unenforceable and cannot protect the public at all. This is evident from many past cases. According to the information published by the Hong Kong Poison Information Centre under the Hospital Authority, four people had lost their lives after consuming poisonous health food products. The number of complaints received by the Consumer Council also reveals that the complaints about health food products or a product known as energy water are on the rise. However, so far, the Government has taken few actions to enforce the law or monitor control in respect of health food products. It can hardly help the public.

The Secretary has to commence work in two major aspects. The first area is the undesirable medical advertisements. Most health food products with misleading claims mislead the public through undesirable medical advertisements. These irresponsible advertisements usually contain completely false claims but the Government is powerless in enforcing the Undesirable Medical Advertisements Ordinance. Every day, we can easily find in popular newspapers, magazines and even television advertisements dozens of such undesirable medical advertisements, but the Government continues to tolerate these exaggerated and unconstrained claims and turns a blind eye to them.

The Government will surely give many reasons and excuses why it cannot enforce the law or commence the work. Let me cite the example of Taiwan. Taiwan promulgated a law on claims of health food products in 1999 and the law was enforced in 2000 by the Department of Health under the Executive Yuan.

The law clearly stipulates that all food products with a health claim must prove to the Department of Health with scientific findings that it has actual effects before approval can be granted. Most importantly, so long as a food product has a health-related claim, it will be regulated. President, it is not that the Government cannot do anything; it just does not want to do so.

I so submit.

MR CHAN HAN-PAN (in Cantonese): President, the following is a dialogue between me and an elderly man, Uncle CHAN. I asked, "Uncle CHAN, why have you bought so many things after listening to the lecture? What have you bought? How much have you spent? Are these products efficacious?" Uncle CHAN answered, "These are health food products. I have high blood pressure and last year I began to have prostate problems. The organizer of the lecture said that these products are very good and recommended me to buy the ginseng powder. That person told me that taking it three times a day would cure my illnesses and I did not need to take any medicine. So I bought 10 boxes of the ginseng powder which cost me about \$60,000. They also said that if I introduced others to buy their products, they would give me rebates." I asked him again, "Have these food products been proven by studies that they can really cure illnesses? Do not get cheated." Uncle CHAN continued, "Everything available for sale in Hong Kong must be regulated by the Government. There are many cases in other countries that can prove the efficacy of these products. People who attended the lecture also said that these products are very popular." No matter how hard I told him "not to get cheated" or "not to waste money", my words failed to strike a note and Uncle CHAN even responded by saying, "CHAN Han-pan, you are just ignorant."

The above small incident is only the tip of the iceberg, revealing the current inadequate regulation of health food products. Given the huge market with a turnover of about \$10 billion annually according to statistics, there are countless products of varied qualities, and illegal sales practices are also involved, including claiming the products to have curative effects or beneficial to health. These products are potentially harmful to Hong Kong's reputation and they also pose a threat to public health.

Members of the public presume that all health food products are regulated by the Government but in fact, the Government has not enacted any specific

legislation on such products. There is only the Public Health and Municipal Services Ordinance which regulates health food products as ordinary food. It is absolutely absurd that health food products, which appear to be medicine but not medicine, are regulated under the same ordinance that regulates fish balls. At present, the Pharmacy and Poisons Ordinance regulates Western medicine and the Chinese Medicine Ordinance regulates Chinese medicine, and the regulations imposed are relatively strict. However, regulating health food products, which appear to be medicine but not medicine, through the Public Health and Municipal Services Ordinance is by no means adequate in the light of the multifarious health food products in the market.

Some Members have proposed amendment, requesting the Government to regulate the sales practices for health food products, I fully support the request. Even though there is legislation regulating advertisements, that is, the Trade Descriptions Ordinance (Cap. 362) which forbids making false trade descriptions in the advertisements concerning the method of manufacture, ingredient, composition, testing result and fitness for purpose, but that Ordinance only targets advertisements. Moreover, although the legislation forbids such sales practices, some "shrewd" merchants have many ways to evade the regulation. For example, they can use confusing and ambiguous wording in the trade descriptions, make oblique hints or even produce advertisements featuring movie stars to promote sales. They can also promote sales in the form of lecture, or through multi-level marketing schemes. People like Uncle CHAN who attend their lectures would be persuaded to buy health food products. The salesperson would boast how superb their products are and that people consuming such products would get cured from all sickness, without having to take medication. The salesperson can say anything he likes, without having to bear any responsibility. Hence, people will have different presentation. In the absence of regulation, traders can brag about the wonders of their products and sell them at sky-high prices. When people incur losses after buying them, they have no avenues for raising complaints.

Many tourists like to come to Hong Kong for shopping in recent years mainly because of Hong Kong's good reputation. As these shoppers believe that the Hong Kong Government has put in place a stringent vetting and approving system on commodities and medicines, they usually buy in large quantities. Given the robust consumer market and lax regulation in Hong Kong, many international manufactures have extended their business in Hong Kong. Other

than products from the United States, France and Germany, even those from Vanuatu may enter Hong Kong in the future. People who come to shop in Hong Kong may think that all products sold in Hong Kong are regulated, but when they find problems with the products after they go home, they would then firmly believe that products sold in Hong Kong are no good. Consequently, the good reputation that we have built up all these years is tarnished in a day.

President, with our society becoming increasingly advanced with ample supply of material resources, people's living standard has substantially improved and people have become more concerned about their health. According to government statistics, Hong Kong people are now living longer than before, with women now having an average life span eight years longer than those who lived 25 years ago, and this can be attributed to the advances in medical treatment as well as Hong Kong people paying more attention to their health. In respect of their health, certain people no longer rely on doctors or hospitals alone to take care of their health. People are gradually become less passive and start to take care of their health; hence they choose to consume various kinds of health food products. However, not properly regulating these health food products is equal to putting the health of the Hong Kong people under threat and affecting shoppers who come to Hong Kong. Therefore we think that the Government should expeditiously enact legislation for the regulation of health food products so that I do not have to worry about people like Uncle CHAN being ripped off.

Thank you, President.

MR CHAN CHI-CHUEN (in Cantonese): President, I request a headcount in the hope that more people will listen to Dr LAM Tai-fai.

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

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

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

DR LAM TAI-FAI (in Cantonese): President, I would like to thank Mr CHAN Chi-chuen.

President, Dr Joseph LEE is not the only person with the aspiration to urge the Government to regulate health food products, the health food industry also has such an aspiration. People may wonder why the industry wants to be regulated by legislation. In fact, the industry welcomes the regulation and it has strived for years because the industry understands that only through the enactment of a set of systemic legislation for the regulation of health food products will it bring about a healthy and diversified development of the industry.

Therefore, from the prospective of the development of the industry, I strongly support the enactment of regulatory legislation because only through legislation can health food products be systematically managed and the chaotic and disorderly state of the market be improved. In the course of legislation, the Government must consult the industry and listen to its views and avoid at all costs having the layman formulating the regulatory legislation.

The Government has never actively responded to the aspirations of the industry and employs the stalling tactic as far as possible. Concerning the regulation of health food products, I remember a Member raised a relevant written question in the last term of the Legislative Council, but the Government had, at the very beginning of its reply, stated that, "There is no universally accepted definition of health food products." In the face of such a reply from the Government, I have the impression that the Government was "unwilling" to do anything and held the attitude that "the less it did, the fewer mistakes it would make and if it did nothing, no mistakes would be made". What did it mean by "no universally accepted definition"? Did it mean that Hong Kong would only introduce regulatory legislation when there was a universally accepted definition?

In fact, if the Government conducts a simple research, it will learn that many places have already enacted legislation and it can make reference from them. There is the Health Food Control Act in Taiwan which at the onset gives a clear definition of health food and it targets mainly at the regulation and management of health food products.

Of course different countries and regions may have adopted various names and definitions for health food but they all share the common goal of setting up a

distinct category of "health food" between "food" and "medicine" for the purpose of regulation. For example, it is called "保健食品" (health food) in the Mainland, "natural health product" in Canada and "health supplement" in Singapore.

In other words, in my opinion, the Government's comment that it is hard to provide a definition of health food product only indicates that it is unwilling to undertake the task, but not unable to do so. Of course, "every village has its own rules", we need not follow the approaches of other places. However, the Government's procrastination, laziness and bureaucracy, as evident by its reluctant to conduct any studies or researches, will impede the healthy development of the industry.

In fact, in Hong Kong, orally consumed products are simply divided into two major categories of "food" and "medicine", and there is not a category of "health food" in between. In the Mainland and foreign countries, health food products are already put under independent regulation but the Government still insists that the existing legislation can adequately regulate health food products and there is no need for new legislation.

As a matter of fact, the so-called existing legislation only include the Pharmacy and Poisons Ordinance (Cap. 138) for the regulation of Western medicines; the Chinese Medicine Ordinance (Cap. 549) for the regulation of Chinese propriety medicines, the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) under the Public Health and Municipal Services Ordinance for the regulation of food, and the Undesirable Medical Advertisements Ordinance (Cap. 231) for the control of claims of products. The above ordinances only regulate medicines but many of the health food products do not contain any medicinal ingredients. As such, how can the authorities regulate health food products that do not contain medicinal ingredients through ordinances that regulate medicines?

Looking from another angle, the Government imposes regulation arbitrarily. Moreover, everyone knows that health food products are not for medical treatment but rather only for health maintenance purposes. Therefore to regulate health food products with medicine-related ordinances is a downright mismatch, which seriously hampers the flow of health food products and the supply of diversified products in the market.

The industry always reflects to me there is a huge market for health food products and the business at least worth \$10 billion. However, as we do not have a category of health food products, importers in Hong Kong cannot align with the standards of other advanced countries, and consequently they cannot or have difficulties in importing some health food products to Hong Kong, which seriously affects the consumers' right to freedom of choice.

President, your mind is clear and your body fit. I believe you must be consuming health food products. Since there is a market for health food products and they benefit our health, why does the Government not legislate for their regulation and facilitate the development of the industry?

Without regulation, health food products can only rely on word of mouth and advertisements to inform the public. There is no protection to the public and they will only be "guinea pigs". Since the industry is willing to take a step forward, why cannot the Government actively consider legislating for the regulation so as to systematically assist the development of this industry and protect the entitled rights and interests of the public? Otherwise, as Mr CHAN Han-pan just said, there will be many incidents that should not have happened which jeopardize public health and hamper the healthy development of the industry.

President, I so submit.

MR MA FUNG-KWOK (in Cantonese): President, as people care more about their health in recent years and coupled with the advanced development of the media, health food products have become increasingly popular. This should be desirable but with so many such products flooding the market, it is impossible to verify their efficacy claimed. People often think that health food products are only health supplements and as most of these products seem to be composed of natural ingredients, no one is too vigilant in consuming these products, thinking that "it is better not to miss it than eating the wrong stuff". In the end, they not only waste their money but also get trouble through their mouth.

The Government's regulation lags far behind the rapid development of health food products. Under the current regulation regime, if a health food product contains any Chinese or Western medicinal ingredients, it will come

under the stringent regulation imposed by the Chinese Medicine Ordinance and the Pharmacy and Poisons Ordinance. However, if the product does not contain any medicinal ingredients, it will only be considered as ordinary food and regulated by the Public Health and Municipal Services Ordinance. This ordinance only stipulates that manufacturers have the duty to ensure their products are suitable for human consumption. In short, as long as the product does not "kill you", it will be fine.

As regards advertisements, although health food products have come under the regulation of the Undesirable Medical Advertisements Ordinance (Ordinance) in the middle of this year, the Ordinance mainly regulates diseases and medical conditions, and the regulation on the presentation of advertisements and claims of efficacy is very lax. It is not required to state in the advertisement the empirical proof of the efficacy claimed and the origin of the proof, making it possible for traders to publicize the efficacy their health food products by quoting clinical evidence of universities or empirical data, without disclosing the source of such information.

According to a relevant survey conducted by the New Century Forum in July this year, among the some 200 health food product advertisements found in various major newspapers, 22% did not comply with the requirement of the Ordinance on health claims. On the contrary, they took advantage of the grey areas of the Ordinance and used ambiguous wording to evade regulation. Besides, 40% of the advertisements did not provide data of scientific proofs concerning the efficacy claimed, giving rise to the suspicion of misleading consumers.

The presentation of the advertisements is also multifarious. For example, some advertisements are disguised as a news report, confusing people as whether they are advertisements or news reports. In our survey we chose an advertisement in the form of a news report and asked the respondents whether it was an advertisement or a news report. Only 55% of the respondents were able to tell that was an advertisement. It was extremely confusing and we can see that the current lax system cannot offer any protection to the people.

In fact, consumers are not capable of testing the ingredients, efficacy and safety of each health food product before buying it and can only rely on the Government to do so. It is a shame that the relevant government departments,

such as the Department of Health and Centre of Food Safety have not imposed stringent regulation on health food products, neither have they carried out sample testing on a regular basis. There is also no regulation on the claims regarding the nutrition value and efficacy of the products at all.

If government departments are lax in imposing regulation and do not strictly enforce the relevant ordinances, but passively and belatedly carry out inspection and remedial work only upon receipt of complaints or even after serious problems have emerged, it is tantamount to betting on public health and rendering the system null and void.

Therefore, I support Dr Joseph LEE's motion and hope that the Government would impose stricter monitoring and regulation on health food products in the market as other advanced places do, including taking strict regulatory measures, stepping up the conduct of sample tests, considering extending the scope of regulation under the Ordinance, plugging the legal loopholes and making public clearer information. In order to safeguard public health, the Government should, in the long run, consider replacing the Public Health and Municipal Services Ordinance with a more comprehensive law on health food products which requires health food products to go through registration and approval procedures before they are introduced to the market.

I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): President, regarding the regulation of health food products, the former Secretary for Food and Health Dr York CHOW had given Members a written reply at the beginning of 2009. According to the reply of the then Secretary Dr York CHOW, there is no universally accepted definition of health food products; and in Hong Kong, health food products generally sold in the market are regulated by different ordinances depending on their ingredients. For example, health food products which contain medicines are regulated under the Pharmacy and Poisons Ordinance; proprietary Chinese medicines for treatment and health promotion purposes are regulated under the Chinese Medicine Ordinance; health food products which cannot be classified as Chinese medicine or Western medicine are regulated under the Public Health and Municipal Services Ordinance as general food products. The Secretary also stated that there are different ordinances regulating

advertisements in different areas. The Trade Descriptions Ordinance, the Broadcasting Ordinance and the Broadcasting Authority Ordinance clearly "prohibit the making of false trade descriptions in respect of the method of manufacture, composition, testing results and fitness for purpose in an advertisement", and stipulate that "an advertisement of any product or service must not contain any descriptions, claims or illustrations that depart from truth".

President, in this reply, the Government was actually telling us that health food products were not regulated and that it would not consider making it a mandatory requirement to place a warning notice on a prominent position of the packaging of health food products. When the Member asked the Government whether it would step up the relevant publicity work to provide members of the public with information on health maintenance and things to note when consuming health food products, the Government even gave an irrelevant reply by saying things like leading a healthy lifestyle was the key to having good health, and the public did not need to rely on health food products to stay healthy. It simply disregarded the fact that there was a flood of health food products.

In October 2008, the Social Sciences Research Centre of the University of Hong Kong announced their survey report of "Hong Kong Public Knowledge of Health Supplements", which revealed that 35% of respondents had consumed health food products within the past six months of the survey and that the average number of products consumed per day was 1.9. Based on this finding, the survey estimated that some 2 million adults in Hong Kong had the habit of consuming health food products. Moreover, almost 90% of respondents agreed that health food products should be regulated independently. Therefore, the facts are before our very eyes, and they will not disappear simply because the Government denies seeing them.

The sale of health food products is a large business which flourishes in European and American countries. In recent years, the sales volume of health food products increases constantly because, as a society develops, people become more health conscious and thus have a great demand for health food products. Hong Kong actually has a very similar situation as those countries because our health food product market may also be described as "booming". Yet, Hong Kong lags behind in terms of regulation. The United States of America passed the Nutrition Labeling and Education Act as early as 1990 to amend the "labelling" requirements in various federal acts on food, drugs and cosmetics. In

1994, it further passed the Dietary Supplement Health and Education Act to amend the requirements on dietary supplements by clearly distinguishing "dietary supplements" from "food". From then on, "food", "dietary supplements" and "drugs" are divided into three categories, with their administration being clearly demarcated and expressly put under the Food and Drugs Administration.

Let us also look at the case of Japan, an Asian country which has a large health food product market. As early as 1991, the Japanese government passed a legislative amendment to formally define "food for specified health uses", classifying it as "food for special uses". A production supervisory system was also introduced. When any of these products apply for approval, empirical proofs on their safety and functions must be provided. The approval process is more stringent than that of other general health food products. Upon the granting of approval, a special logo designed for "food for specified health uses" will be printed on the packaging.

As early as 1999, the Consumer Council (CC) had pointed out in its survey that problematic claims were mainly found in three types of advertisements, namely, real estate (92%), beauty services (85%) and health food products (84%). Even last month, the CC still earnestly called on the Government, through the press, that it should regulate unfair trade practices through expeditiously amending the Trade Descriptions Ordinance. This indicates that the problem cannot be overlooked anymore. President, health food products are neither food nor drugs; yet they will be used for human consumption. While they claim to be useful for curing certain health problems, the presentation so made in their advertisements are unclear and may even contain obviously misleading claims. This problem can be regarded as a consumption issue; however, it is, more importantly, a health issue. The Government should not just sit by and do nothing.

With these remarks, President, I support regulating health food products.

MS CLAUDIA MO (in Cantonese): President, in Hong Kong, when we talk about health food products, lots of people are still very confused about what they really are because these food products, which are edible, seem to be some ordinary food in our meals. Many people do not know that health food products are also a kind of drugs. What kind of drugs are they? That depends on

whether they contain ingredients of Chinese or Western medicine, or whether their ingredients are completely natural. Sesame is a clear example of a completely natural product.

President, today, I would like to mention a special ingredient, that is, bear bile. In Hong Kong, we can buy bear bile products in the form of tablet, powder or liquid. In traditional medicine, bear bile is used for protecting the liver. Many people buy these products for this particular purpose. Besides, bear bile is said to be useful in easing a hangover, clearing internal heat, easing pain and brightening the eyes. However, a brilliant traditional Chinese practitioner told us that bear bile can indeed be replaced by herbs.

Why do I specifically bring up the issue of bear bile? President, I think you should have heard that some black bears are kept in cages, particularly in the Mainland China. The bears being caged can never move; they are just like being clothed in iron. People will then pierce a hole in a place somewhere near their gall bladders to extract their bile.

President, in the light of animal rights protection, this is the cruelest thing that human beings have done to animals. I hope that Hong Kong, when considering regulating health food products, would think of banning or prohibiting the sale of bear bile products. As all of you may know, here in Hong Kong, there were at least two large-scale demonstrations in recent years to protest against the sale of bear bile products in Hong Kong and the listing of a company which engages in bear bile trade.

Today, when I give my speech, I am, of course, in support of the original motion and all of its amendments. Yet, I also hope that our Secretary, who is a doctor, can pay attention to the problem that bear bile is used as an ingredient of health food products and call on a complete ban in Hong Kong. Thank you.

MS STARRY LEE (in Cantonese): President, Hong Kong people always say "good health" when exchanging greetings, reflecting our quest for good health. However, according to a survey conducted in recent years, around 61% of Hong Kong people are in a sub-health condition, meaning that their physical condition is in a state between health and disease, and they are prone to fatigue, aching pain, depression, loss of appetite, unstable emotion and blood pressure, and so on.

This reflects that Hong Kong people's health condition is actually far from satisfactory. Despite their busy lives, many Hong Kong people still wish to maintain good health, so they purchase different types of health food products, hoping to improve their lives and health.

President, as we all know, the best way to maintain good health is certainly doing exercise, keeping a balanced diet and getting sufficient sleep. However, with busy lives and irregular diets, Hong Kong people find it very difficult to practise the aforesaid healthy lifestyles. Therefore, many people adopt the second-best approach. Moreover, Hong Kong is truly a shopping paradise, we can find many food products and drugs products with health maintenance claims in various types of shops, and such products are really numerous. According to a survey conducted some time ago, around 2 million adults in Hong Kong consumed an average of 1.9 types of health food products each day within the six months prior to the survey, with a monthly expenditure of \$200 to \$300 on purchasing health food products. It was projected on this basis that the annual sales volume of this industry amounted to over HK\$10 billion.

In addition, there are surveys indicating that near 50% of the interviewees with chronic illnesses consume one or more than one type of health food products at the same time, but they do not know much about the health food products they consume. Due to their inability to tell the authenticity, quality and efficacy of the products, the common masses can only rely on the consumption experiences of their friends and relatives in choosing health food products, or base their decisions on the information provided by shops in their promotional advertisements. As a result, they are susceptible to overdose, delayed medical consultation and health repercussions due to mutual clashes with other medicines or health food products.

We can easily find a few examples. For instance, many Hong Kong people have the habit of consuming fish oil or glucosamine, both of which have the anticoagulant effect. When people take blood thinners due to heart disease, or when people take aspirin for treating a fever, these two health food products will enhance the anticoagulant effect of the drugs and pose a greater risk of hemorrhage on users. In addition, as pointed out by some doctors, hepatitis patients tend to consume a lot of immunity-strengthening health products containing ganoderma and coriolus, in the hope of coping with the virus and enhancing immunity; however, overconsumption of such products will not

enhance immunity, but may significantly affect the liver functions and may even cause acute liver failure due to viral infection of the liver. In fact, many Members have cited the above example. Such examples are numerous, indicating that the existing monitoring of health food products is inadequate and further strengthening is needed to protect people's health.

With population ageing, there is a rising morbidity rate of chronic illnesses and increasing awareness of the public towards health, consequently health food products are growing in number. When we look at health food products in shops, we can notice that most of them are advertised by celebrity spokespersons in conjunction with expert comments or user proofs. Such advertisements are frequently found in newspapers, magazines and even on television every day. The common masses really find it difficult to tell their authenticity. A simple example is calcium tablets. As indicated by a calcium calculator designed by a manufacturer on its webpage for calculating daily calcium intake on the basis of eight categories of food for three meals a day, even if one repeatedly chooses the food which is highest in calcium content from the available options, his daily calcium intake is still some 200 mg less than the suggested intake. Worse still, a manufacturer even refers to certain research findings in 1989 and says that the average calcium intake of Hong Kong people is lower than the relevant standards, so as to induce people by tricky means to believe that their dietary calcium intake is inadequate.

Auction websites are probably the most problematic because only a causal search will lead to a whole lot of health products with various efficacies. Some products even claim to be strong calcium pills that can increase one's height by 20 cm; some products claim that they can improve the physique and revitalize the energy, suitable for consumption by people with different body constitutions. However, consumers are actually at a loss about the claimed efficacy of all such health food products.

President, here comes the most important point. Having been a Member for quite some time, I have come to realize that Hong Kong people are all kind-hearted because Hong Kong people generally consider Hong Kong as a city upholding the rule of law with comprehensive legislation and regimes for monitoring health food products. The fact that the Government does not prohibit their sale, coupled with many user proofs or lots of celebrity

spokespersons for promotion, consumers may easily be misled into believing that such health food products are safe or their claimed efficacy are true. Based on my experience in handling cases involving sales malpractices or cases involving the Lehman incident, such phenomenon can be proved. Meanwhile, Members may also notice that many Mainland tourists visit Hong Kong specifically for purchasing various products, in the belief that the brands and product quality in Hong Kong are assured. Health products are indeed one of their favourite items. However, if people truly understand the situation, they would find that Hong Kong actually lags far behind in the monitoring of health food products, and there is still no dedicated ordinance for monitoring health food products, they will certainly be surprised. Therefore, the Government must seriously address the issue of monitoring in this regard.

I also understand that the relevant industries worry about enhancing regulation, and have divergent views on how regulation should be enhanced. Though I understand their concern, I must point out that every legislative process must undergo a stage where the relevant industries feel worried. However, Hong Kong, being a shopping paradise, has been trying to attract consumers in areas of quantity and quality. In my view, even though we should not aim at surpassing the United Kingdom and catching up with the United States in terms of legislation in this regard, we should not lag too far behind the general situation either. A moment ago, many colleagues talked about the imposition of the relevant requirements by the United States and Europe during different times. The situation in Hong Kong, upon a closer look, is actually quite shocking. I hope that the Secretary can expeditiously do some work.

President, I so submit.

DR CHIANG LAI-WAN (in Cantonese): President, my colleagues, Mr Steven HO, Mr CHAN Han-pan and Ms Starry LEE, have just now expressed some views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on health food products, mainly in the hope that the authorities can step up monitoring. They were speaking from the perspectives of protecting public health and the regulatory legislation of other countries, and I would like to express my views from the perspective of the development of the health food industry.

Earlier, I visited some industrial estates with this issue in mind, and I learnt about the difficulties currently faced by some companies engaging in the manufacture of pharmaceutical and health food products in Hong Kong. And I also met with some people in the health food industry and members of the Chinese medicine associations. In fact, business operators agree that the Government must regulate health food products. They consider that the Government should formulate a clear regulatory system on health food products which, apart from protecting public health, can facilitate the development of the health food industry, and create more employment opportunities in tally with the diversified development of industries in Hong Kong.

Business operators generally have the following aspirations. First, health food products should be put under regulation expeditiously, so as to ensure that Hong Kong can truly operate as a free trade port. Since the implementation of the Chinese Medicine Ordinance, health food products from all other countries must comply with the registration requirements under this Ordinance before being allowed to enter Hong Kong and re-export to other places. However, since these health food products are not made or sold in Hong Kong, and manufacturers are not familiar with Hong Kong laws, traders would rather re-export and sell their products through other countries, so as to avoid violating the law. Some people told me that they joined exhibitions, hoping to introduce some pharmaceutical products to Hong Kong, but such products are not allowed to be sold in Hong Kong as they have not been registered here. In this regard, they queried how registration can be made in advance since they have not yet started their businesses in Hong Kong. Therefore, we must expeditiously plug this loophole by amending the Chinese Medicine Ordinance, which has taken effect for 10 years.

Second, some traders have slightly changed the ingredients of some health food products which contain Chinese medicines, so as to evade legal requirements and reduce their costs. For manufacturers who have complied with the legislative requirements and have invested substantial resources for proper development, is this situation tantamount to putting the cart before the horse? If Hong Kong can introduce legislation for the regulation of health food products, the costs of business operators can be reduced, and their worries can be alleviated.

Third, they also suggest the establishment of a greater Chinese market, and formulate rules that are acceptable to all parties for the regulation of the same

health food product. In the case of Chinese yam, a common food ingredient, products from the same place of origin should have the same efficacy if they are consumed in the same way. However, the products are subject to the regulation of different legislations given the different regional markets. Business operators very often have to apply for different licenses and registration in different regions. For example, for selling Chinese yam products to Chinese-inhabited places, business operators must simultaneously make applications in the Mainland, Taiwan, Macao and Hong Kong. In such context, Hong Kong should expeditiously enact legislation on health food products for compliance by business operators. Further, in the case of vitamin C, as the weather has turned colder these days, most people hope to consume vitamin C for enhancing immune function. But, vitamin C products are regarded as nutrition supplements in the United States, while they are categorized as drugs in Hong Kong.

At present, the laws of the various countries on regulating health food products are different, and the practices of the various countries can be divided into several categories: first, in places like Hong Kong, health food products are left to their own devices and not subject to any form of regulation; second, in places like the Mainland, all health food products must be registered and have scientific evidence; third, in places like the United States, health food products and general food products are regulated in a similar manner; fourth, in places like Canada, there are clear-cut definitions for food, natural food, health food, herbs, drugs, and so on, for easy differentiation. No matter which practice is adopted, caring for public health should be a prerequisite. Many business operators in the health food industry very much agree that the Government must expeditiously put such products under regulation, so that business diversification can be truly realized, thus creating more employment opportunities, and enabling health food business operators to properly develop their careers without any worry.

I so submit, thank you.

DR HELENA WONG (in Cantonese): President, at present, in Hong Kong, there is no specific legislation or effective code to regulate health food products. The term "health food products" is not clearly defined in law. President, not long ago, I proposed regulating medical beauty services in the Legislative Council as these services are also left unregulated. Today, I speak on behalf of the

Democratic Party again to request the Government to expeditiously study the regulation of health food products.

As the Secretary has just taken office, let us first talk about the history of this issue. Although I am also a new legislator, I have looked up some past records and found that the Government planned to regulate health food products in December 2000, which is 12 years ago. In December 2000, the Government provided the Legislative Council Panel on Health Services with a paper entitled "Regulation of Health Claims", setting out its initial proposals on the regulation of health claims. At that time, the Government proposed devising a regulatory framework to regulate health claims made by food products in order to protect consumers from misleading information and exaggerated claims. The Government even proposed conferring the Director of Health with the power to ban all irresponsible health claims. According to the then proposal, the Government initially proposed to confine the restriction to food products, and then expand the restriction to cover other products, including health food products, in light of experience in due course.

President, since then, we have waited for 12 years. President, you are now sitting here today, and you may remember that, nine years ago, after hundreds of thousands of people took to the streets on 1 July 2003, Members had a motion debate on this same topic in the former Legislative Council Building on 5 November. The motion "Regulating health foods" was moved by Mr WONG Yung-kan on 5 November 2003. In reviewing the relevant records, I find that we are actually repeating the same viewpoints. We talk about the same thing again today but we cannot see the Government giving any concrete account. Why did the Government just stop without implementing the initiatives that it proposed 12 years ago? At that time, the Government proposed dividing food products with health claims into two categories. Firstly, products claimed to be able to prevent or cure a specific disease or clinical condition should first register with the Director of Health and obtain pre-market approval; such claims should be properly substantiated by research or trials.

Secondly, products claimed to have general beneficial effects on health will be exempted from registration as they are not seemingly posing serious threats. Secretary, we have been waiting for 12 years, and we are now repeating our debate in the Legislative Council. Can you tell us when these initiatives will be taken? Today, many Members have already told you that we received a lot of relevant complaints and that surveys and studies revealed a large number of

people consuming the so-called health food products. According to the surveys of the University of Hong Kong and The Hong Kong Society for Rehabilitation just mentioned by other Members, the market of health food products is very large, with an estimated annual sales volume of HK\$10 billion. As the population is ageing, many people will buy health food products; yet, such products are something between foods and medicines. Can the Secretary tell us when there will be a plan for addressing this issue seriously? It is an issue which has been put aside for 12 years.

In 2010, the Consumer Council (CC) received 78 complaints about the sales practice and efficacy of health food products. It reminded the public that many health food products were suspected to have exaggerated their efficacy; therefore, consumers should read the ingredients and efficacy of these products carefully and should not believe in health claims blindly to avoid wasting money and damaging their health.

Secretary, as suggested by a number of Members, the consumption of health food products may not just be a waste of money; sometimes, it may even cause undesirable interaction with the drugs taken by consumers. Can this problem continue to be overlooked? In fact, Hong Kong can draw reference from the regulatory rules of many other countries. In Australia, products between foods and medicines are called "complementary medicines". They are subject to statutory regulation which requires sponsors of complementary medicines to provide assurances on the safety of substances before products are approved for supply in Australia. As for Taiwan, which is closer to Hong Kong, it introduced the Health Food Control Act in 1999. In the Act, health food is defined as "food furnishing specific nutrient or specific health care effects and do not aim at treating or remedying human diseases". These products should also be regulated.

The Democratic Party suggests that the Government should formulate a new law to regulate health food products which are between medicines and general foods. This law must clearly define health food products and require all health food products to go through registration and approval procedures before being introduced to the market. Product manufacturers and importers must also be required to produce scientific proofs to substantiate their claims of efficacy.

President, I so submit and support the motion.

MR CHARLES PETER MOK (in Cantonese): President, food products claimed to be effective in health maintenance are very popular in recent years. Many people have the habit of consuming these products, the advertisements and labels of which often contain claims that they are able to prevent or cure a specific disease. However, since these products may not contain ingredients of Western or Chinese medicine, they are not regulated by the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance. As there are grey areas in the regulatory regime, members of the public may wrongly consume health food products with exaggerated or misleading claims and hence suffer from undesirable effects. The worst case is that medication is delayed, causing different degrees of harm to their health.

The subject of regulating health food products has been discussed repeatedly in the Legislative Council over the past decade or so. Yet, in the past, the Government stressed that health food products, which were neither Chinese medicines nor Western medicines, were regulated by the Public Health and Municipal Services Ordinance, and that the existing Trade Descriptions Ordinance and the Broadcasting Ordinance were sufficient in regulating the claims of health food products. As for the Undesirable Medical Advertisements Ordinance, though it has been amended several times, it cannot address the key issues stated in today's original motion and its amendments, failing to respond to the public concerns over health food products.

As there is a wide variety of health food products in the market, in terms of types and quantities, and coupled with the fact that they are not general foods but orally consumed products which may pose potential risks to people's health, I will support Dr Joseph LEE's motion and the amendments of other Members so as to urge the Government to strengthen its regulation. Meanwhile, I would like to point out that the regulatory measures to be taken must be focused and have clear standards. It will not only protect public health but also facilitate the industry to comply with the Government's regulation so that the ingredients, safety and sales practices of these products can all meet the requirements. We should no longer tolerate manufacturers, who are producing neither food nor medicine, to exaggerate the efficacy of their products and mislead consumers. In the meantime, when consumers are not provided with sufficient empirical proofs, we should not ask them to rely on the information provided by manufacturers and decide on their own whether to buy health food products.

Regarding the issue of combating counterfeit health food products put forth by Mr Alan LEONG, I think the Government should consider applying information technology in the supply chain of health food products. For example, radio-frequency identification (RFID), a technology now widely applied to foods, vegetables and other Mainland's supplies to Hong Kong, may be applied to health food products to enhance the transparency of their safety management. RFID also allows effective tracking and tracing, as well as anti-counterfeiting, to ensure the safety of health food products. It is now a common practice to adopt RFID in food supplies. Raw material producers will attach "electronic identity cards" to all their products at the origin and build up food safety databases. After that, the electronic labels will allow everything in the logistic process to be checked in the databases.

In recent years, Europe has advocated the idea of "From Farm to Table" or "From Farm to Fork", which is a comprehensive management strategy. Taiwan has also introduced a similar agricultural product regulatory system and a similar food tracing system. In the long run, I think Hong Kong should study the technology application model just mentioned and apply it to the production of health food products. We may make use of the Near Field Communication (NFC) technology equipped by some smartphone models in recent years. It allows consumers to clear their doubts about the health food products in hand by scanning their RFID tags to enquire about product information and check if they are counterfeits. In case there is any food safety problem, the authorities may trace it rapidly and order product recall. On the whole, the improvement of problem prevention and control in the production process will bring progress to the industry and enhance the safety standard of food products.

On the regulation of health food products, I think the Government should give serious thought or consideration to three issues. Firstly, the "health food products" under discussion now are "orally consumed products" which have health claims but are not registered under the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance. The Undesirable Medical Advertisements (Amendment) Ordinance only requires manufacturers to put a disclaimer to state that their products are not tested under the two Ordinances mentioned above. Should there be any problems, consumers will have to handle the problems by themselves. It is tantamount to shifting the responsibility to consumers. Therefore, regarding this issue, I agree to Mr Vincent FANG's amendment that we should explore the introduction of "claim requirements" so that consumers

will be informed of whether the product efficacy is empirically proven when considering whether it is safe to consume the products.

Secondly, while the legislation provides that labels of health food products must correctly set out the ingredients, it does not require the health claims in product labels, leaflets or advertisements to be substantiated by test reports so as to ensure that the safety, efficacy and quality of health food products meet the claims.

Lastly, the sales practice of health food products is also an issue of concern. Although the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance has been amended to cover more unfair trade practices, I support the amendment of Miss Alice MAK that we should strengthen the regulation of trade practices which do not make plain the business intention of product promotion. For example, promotion in the form of lecture and sharing, which greatly influences consumers' decision, must be subject to enhanced regulation.

President, previously, a life was lost in a tragedy caused by the ineffective regulation of medical beauty services. We do not want similar incidents to recur. It is the responsibility of the authorities to take care of public health and face up to the problems with health food products. While the authorities have legislated for the labelling of prepackaged food and such regulation is proved to be effective, they cannot shrink their responsibility by saying that there are too many health food products.

In conclusion, I support the original motion and the various amendments proposed by my colleagues. I want to urge the Government to, among others, expeditiously promote the regulation of health food products, review the existing legislation, consider developing clear requirements and focused guidelines, and strengthen the regulation of the safety of health food products.

President, I so submit.

MS CYD HO (in Cantonese): President, law enactment should be people-oriented so that laws will be made to protect people's health. In view of this, I hope that public health can be the first and foremost concern in legislating for the regulation of health food products.

As a matter of fact, we have already legislated on Chinese medicine. Of course, the industry will complain that the regulation is excessive because lots of medicinal cuisine or foods which may be eaten directly as snacks, such as longan pulp and medlar, are now subject to the regulation concerning the storage of Chinese medicine. However, from the perspective of protecting public health, it is better to be safe than regret. Currently, there are many so-called health food products in the market. They are either pre-made or processed, such as fruit extract and high-fibre extract. In addition, they are all prepackaged. We can also see that there are many advertisements making claims on the efficacy of relevant food products. While the Undesirable Medical Advertisements Ordinance is in place to regulate these advertisements, it is indeed more important to strengthen the regulation on ingredient labelling, requiring these labels to be clear, readable and accurate.

What are health food products? What ingredients do they contain? President, in Report No. 57 published by the Director of Audit at the end of last year, there was a chapter about nutrition labelling of infant and special dietary foods. In the course of audit review, the Audit Commission had communicated with the Centre for Food Safety. The so-called definition of health food products is indeed very loose, that is, any food products which are expressly or impliedly said to be relevant to people's health will be considered as health food products. As for special foods, they are prepackaged foods specially formulated to cure certain diseases or for certain special physical conditions. These are special health food products.

President, I would like to tell the Secretary through you that I want to narrow the scope to special health food products. If we have any health needs, say, diabetics can only consume low sugar foods and some patients have to take low GI or high fibre foods, we must look at the nutrition labels before buying any food products. Therefore, the labels of these special foods must be accurate. However, our existing legislation is very strange. According to the Food and Drugs (Composition and Labelling) Regulations under the Public Health and Municipal Services Ordinance (PHMSO), prepackaged foods are required to have nutrition labels which set out the "1+7" items; yet the Regulations do not apply to special dietary foods and some other food products. It is really weird. While the Regulations require food products consumed by ordinary healthy people to list their nutrients like energy, sugar, sodium, carbohydrates, fat, cholesterol and protein on their labels, special dietary foods are exempted from this requirement.

Let us look back on the history of requesting for this piece of legislation. As early as 2004, the Consumer Council, the Hong Kong Nutrition Association and medical groups came together to request the authorities to legislate on special health food products. Yet, the Government replied in mid-2005 that it was not necessary to make law for these products since they were already regulated by the Codex Alimentarius Commission.

What is the Codex Alimentarius Commission? It is a voluntary body providing non-binding recommendations under the Food and Agriculture Organization of the United Nations and the World Health Organization. The authorities said that it was good enough to follow these recommendations. However, in law enforcement, the penalties for violating these non-binding recommendations are unknown, and the special health food products are actually left unregulated. The only statutory power for regulating them is in section 61 of the PHMSO, which provides that any discrepancy between the information on food labels and the truth is subject to prosecution.

Nonetheless, the Director of Audit's Report published at the end of last year revealed that the authorities had never exercised this power to institute prosecution against special health food products. In this case, we cannot help but ask: For those people with special health or dietary needs, they have not been protected by law, and even though the present legislation is incredibly vague and general, the authorities have not even invoked it to protect these people, what then should we do?

Besides, medical supervision is needed for the long-term consumption of these special dietary foods. This is because while it is fine for a person to consume a food product at a certain moment, prolonged consumption may change his physical conditions over time. While it is fine for him to consume the product in the first month, it does not necessarily mean that he can consume it in the first month of next year. Therefore, it is highly undesirable for these special dietary foods to be left unregulated.

Lastly, I would like to ask the authorities not to consult the business sector alone in enacting legislation. For something as simple as soya source or candy labels, the authorities have failed to get things done after years of consultation with the business sector. The reason is that, to the business sector, additional labels and laboratory tests will mean extra costs. Nevertheless, when all other

countries in the world have imposed such requirement and Hong Kong is the only place which does not follow suit, unqualified products will then flow into Hong Kong.

Therefore, President, I support legislating for the regulation of health food products, and it should be done as soon as possible. Thank you, President.

MR WONG TING-KWONG (in Cantonese): President, whenever we leaf through a magazine about daily life, we will find many advertisements for health food products. In these advertisements, words like "secret formula" and "exceptionally effective" are often used; "slimming in seven days" and "no sweat taken to lose 38 pounds and 3.5 inches of fat in two months" are also common. Some health food products have even made exaggerated claims. For example, on the packaging of a fish liver oil product, it is stated that each soft gel contains 240 mg of EPA (an ingredient acclaimed as "blood vessel cleaner" for it can strengthen blood vessels); however, a test conducted by the Consumer Council has revealed that there is only 29.6 mg of EPA. It is 90% less than the claimed amount of 240 mg. When there are so many health food products in the market, how can people feel at ease to buy them?

In fact, the consumption of health food products is quite common among Hong Kong people. According to a survey conducted by the University of Hong Kong, 35% of respondents had consumed the so-called "health food products" within the past six months of the survey. Based on this finding, the survey derived that about 2 million adults had consumed health food products in the six months preceding the survey. The average number of products consumed by each person per day was 1.9. Meanwhile, the survey found that 99% of respondents considered it very important for those products to be safe for consumption, and 90% of respondents agreed or strongly agreed that health food products should be distinguished from general food products in their regulation.

However, in law, Hong Kong still does not have any specific legislation to regulate health food products. There is also no statutory definition of health food products. If health food products do not contain any ingredient of Western or Chinese medicine or do not claim to have any efficacy on curing diseases, they will be regulated as general foods. The authorities will only focus on their food safety but not the validity of their efficacy claims. As a result, sellers may make

various non-medical claims in their promotion, such as detoxification, slimming, whitening, anti-oxidation and anti-ageing. As such efficacy is not empirically proven or the claims may be false, the consumption of such products may be hazardous to health, or may even result in delayed medication, posing risks to patients' health.

Besides, the current legislation on food labels only requires labels of food products to include information like the name of food, ingredient list, nutrients and expiry date. The inclusion of usage, side effects, the maximum daily dosage and warnings is not compulsory. Because of this loophole, there were many overdose cases leading to poisoning or other side effects.

Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong supports imposing comprehensive regulation on health food products, studying the introduction of regulatory legislation on health food products, formulating a clear definition of health food products, distinguishing health food products from general foods in their regulation and prohibiting health food products from containing ingredients of medicine to protect public health; on the regulation of packaging and advertisements, manufacturers should be required to prove the efficacy and authenticity of their products before they are allowed to make efficacy claims accepted by the Government; they should also add warnings in their advertisements. Besides, the Government should set up a labelling system and review the information required for health food product labels to add in warnings, nutritional value, side effects (if any), the maximum daily dosage, so on and so forth.

We know that enhanced regulation will add pressure to the operation of the industry since it will drive up their costs. However, for the sake of the long-term development of the industry and the welfare of the people, we maintain that it is worth doing so, especially when the strengthening of regulation is so important to public health. Meanwhile, the Government should provide assistance and support to the industry, as well as improve its communication with the industry to grasp and relieve their difficulties. This will help seek a balance between the interests of the industry and the public.

President, I so submit to support the original motion and all the amendments.

MR WU CHI-WAI (in Cantonese): President, many of the colleagues who have spoken today highlighted the need to regulate health food products, which is indeed a broad direction which everyone will support and agree. I think this is a very good process because as Dr Helena WONG has said just now, since this issue was first brought up in 2000, discussions of the legislation on undesirable medical advertisements had actually commenced since 2003 or 2004.

Members may find that the industry has long been worrying a lot about the increase in operating costs arising from the regulation, which will affect its operation. However, over the past period of time, we could see that there is a huge market for health food products and the public has spent more money on such products. Health food products for slimming, detoxification and skin beautification with anti-bacterial and anti-inflammatory effects have proliferated the market, and therefore become a big business. Nevertheless, though the business is big, the inadequate regulation of health food products has given rise to varying standards, thereby prompting some members of the public or even numerous potential customers to think that it is undesirable to put their health at risk. In addition, the absence of regulation may also affect the robust development of the entire industry.

As a matter of fact, being District Council members, we often receive various complaints about health food products, which are mostly concerned with the inconsistency between the efficacy and descriptions of such products. However, it is not the money spent that is the prime concern. What worries us most is the adverse effects on our health. This is evident from an earlier report that some so-called slimming and detoxification products actually contain heavy metal.

We certainly appreciate the need to provide for and legislate on health food products in the long run, and I heard that colleagues also endorse this broad direction. Thus, I eagerly hope that the Government can expeditiously implement and push forward this proposal. And yet, in the short run, the authorities can make use of the amendments to the Trade Descriptions Ordinance endorsed by this Council in July this year, the scope of which had expanded to cover unfair trade practices. We urge the Government that in formulating the relevant enforcement guidelines, all sales materials regarding health food products, including some unprecedented unfair sales practices and conduct, would be included such that the problem can be temporarily contained and

thereby protecting consumers' interest before the entire set of legislation is put in place.

The Democratic Party proposes to introduce a new piece of legislation to regulate health food products which fall between medicine and general food. Certainly, we reckon that the Government will not make something out of nothing when the relevant legislation is to be formulated as it can draw reference from the relevant legislation enacted by various overseas countries and the Mainland. While Australia, China, Taiwan and Canada have long required that all health food products must be approved before sale, Australia and Canada have put in place registration systems requiring health food products that contain certain ingredients or even all such products be registered before sale. Though China and Taiwan do not have a registration system, all health food products are subject to approval by the authorities concerned before their introduction to the market. This would ensure that all safety standards are met, and the food products concerned are effective and of good quality. If a manufacturer claims that the product concerned contains certain health functions, appropriate scientific evidence must be provided to support such claims.

As regards the implication of the introduction of a vetting and approval system on health food products, given the growing market share, the increasingly ageing population and the mounting living pressure of the masses, health food products do have a big market which can fully offset the increase in operating costs arising from the regulation. What is more, following the introduction of regulation, potential customers will not be scared away by the varying standards of products in the market.

The advantage of the vetting and approval system is that it ensures that all health food products available in the market can meet a certain standard, thereby preventing unscrupulous businessmen from taking advantage of the situation for benefits. This is the most crucial step in safeguarding the reputation of the entire industry. I believe everyone would understand that the new regulatory regime will definitely deal a certain blow to the industry, we therefore hope that a grace period will be given after the regulation is put in place to allow the industry to make adjustment and adaptation.

The Democratic Party very much hopes that after the motion debate today, the SAR Government will see the need to regulate health food products in the

grey area, that is, products which do not fall under the category of medicine but claims to have certain efficacy. Otherwise, members of the public will not only suffer monetary loss, but their health will also be affected. We cannot shirk our responsibility in this regard.

With these remarks, I support the motion. Thank you, President.

DR LEUNG KA-LAU (in Cantonese): President, I would like to begin with a story. There is something called "placebo". Do you know what a "placebo" is? Yes, it is a sugar pill. With claims of certain therapeutic effects, it intends to "deceive" the patient so that he feels better. Is placebo used in Western medicine? In fact, it is. For example, for terminal patients who suffer from incurable metastatic colon cancer, they themselves or their families would often ask, "Does it help to take this product? Does it help to take that product?" Sometimes, they would tell me that their friends have brought some products from Beijing. Normally, how would I handle this situation? I will ask them whether the product is expensive; what is the price; how much is the monthly expenses; whether its effects have been tested on somebody I do not intend to find out its efficacy, but whether the product has harmful side effects. My primary concerns are whether the product has any harmful side effects, and how much it costs. If the product is not too expensive, I will generally not advise against its use by the patients.

But interestingly, even though the cancer patients are in terminal stage, they would, for some unknown reasons, really feel better after consuming these food products. To their children, even though they need to spend a small amount of money on these food products, they also feel good about it. Hence, I have never opposed the consumption of these products. In this connection, when discussing the regulation and control of health food products, what should we do about food products with placebo ingredients? That is a question we need to consider.

There is another story which relates to the regulation of Chinese medicines a few years ago. I recall that the contents of the Chinese Medicine Ordinance (CMO) were substantially finalized probably around 1997, but the ordinance was not fully implemented until December last year. After the implementation of the CMO, all registered Chinese medicines must satisfy certain requirements before

they can still be put on sale. One category of Chinese medicines is the so-called "ancient prescription" medicines which are produced according to well-documented prescriptions listed in classical medical books such as the *Chinese Herbal Materia Medica*. Another category is the so-called "new medicines" which must have proven efficacy before they can be put on sale.

Eventually, all Chinese medicines which have successfully applied for formal registration are "ancient prescription" medicines, while no "new medicines" has acquired such a status for their efficacy has yet to be proven. The reason is that it is very expensive to prove the efficacy of a medicine or food product. How expensive are the costs? When proving the efficacy of a Western medicine, it invariably involves tens of millions of dollars, and in some cases, even a hundred million dollars may still be not enough. The worst case is that after spending a hundred million dollars, the medicine may ultimately prove to be inefficacious. In other words, there is no way to proceed further even with all the research done.

Many people complain that Western medicines are very expensive. Why are they so expensive? It is because multinational pharmaceutical manufacturers would invest in studying the efficacy of 10 or even 20 medicines, but eventually only one may be efficacious, and not the other 19. Hence, the research costs of all 20 medicines would have to be recouped from the sale of the one and only efficacious medicine. That explains why Chinese medicines which are not "ancient prescription" medicines, as well as proprietary Chinese medicines which are not granted with exemption cannot be put on sale after the CMO came into formal operation last year.

Nevertheless, if considered from another perspective of having no regulation at all, what can we do about those expensive health food products with exaggerated claims of being a cure for all diseases, or even cancer? Under the current practice of the Government, health food products are prohibited to make claims in treating some particular diseases, for example, health food products are prohibited to make claims in treating cancer — Secretary Dr KO, am I correct? Likewise, no such claim can be made for some specific diseases.

Apart from making claims, health food products should not be too expensive, and they should not claim to have exaggerated or misleading functions, but there are no specific guidelines in respect of regulation in these

aspects. Of course, as pointed out just now, these food products should not be harmful. Under the regulation of general food, food products cannot contain harmful substance, heavy metals, excessive levels of microbiological quality, pesticide residue, and so on. Such regulation of general food is already in place.

How then should health food products be regulated? Actually, I have a keen interest in learning about the regulation of health food products in overseas countries, but it seems that their systems may not be effective in regulating the efficacy claims of health food products. One alternative is to set up a registration system for all self-claimed health food products, under which the Government will keep record of the products, including the claims made, the estimated selling price, and whether over-exaggerated claims have been made, and then inform the public accordingly. Health food products should not carry over-exaggerated claims — I think a little exaggeration is alright — they cannot claim to treat serious diseases because the patients may delay seeking medical advice and treatment; such products should not be too expensive or have harmful effects. Under this simple registration system, members of the public will be provided with information on the several aspects mentioned above. In case a person feels under the weather and wants to try these products, at least he needs not worry about any harmful effects or a financial burden. This may be the simplest approach.

Thank you, President. I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, as the saying goes, "illness finds its way in through the mouth; misfortune finds its way out through the mouth". For the meaning of "illness finds its way in through the mouth", everyone well understands that LIU Xiaobo is a good example. For "misfortune finds its way out through the mouth", my mother always reminds me not to eat indiscriminately.

As regards today's discussion on "urging the Government to regulate health food products", I think the Legislative Council has not fulfilled its responsibility to speak out, that is, not to eat indiscriminately. What are health food products? In fact most of them are attributed to urban diseases. When city dwellers have spare money in their pockets, they will use it for weight loss or other similar purposes, in the hope of relying on products under mass production to buy a miracle with money. This is impossible.

What are the so-called health food products and why is there a need for regulation? One point has not been mentioned, that is, these are commercial acts to generate desire, arouse fear and trigger the evil instincts of human beings profoundly. If people want to look better, they can consume health food products; if they want to be slimmer, they can consume health food products; if they want to be wiser, they can consume health food products. I am obliged to tell members of the public who are currently sitting in front of the television not to believe in such things. The health, beauty and ability of human beings can all be enhanced through practice. This is the most important point, why is regulation necessary?

The things going into our stomach must certainly be regulated because grave consequences can be resulted. First of all, food should not be harmful, and this should have been dealt with by imposing regulation on food. Everything going into our stomach is food; medicine is simply the food for curing diseases, but it does not include injection. In fact, injection is a kind of food injected into blood vessels. Regarding the issue that food should not be harmful, we regulate it under food-related ordinances, but currently there is a blatant "exploitation of loopholes in law" concerning some health food products. This is identical to the behaviour of Mr LEUNG Chun-ying, he claimed that "I have never said that I did not have any unauthorized building works", the situation is exactly the same. If you ask a manufacturer of health food products whether consuming his products is fatal, he will also say, "I have never said that consumption would not be fatal". If you ask him whether those food products are harmful, he will also say, "I have never said that consumption should not be harmful". He only claims that these food products have therapeutic effects on cancer but might cause diarrhea at the same time. The acts of these unscrupulous businessmen resemble those of shameless politicians; regulation is hardly possible.

Just as "Mr About-the-Same", a widely known national treasure, all such speeches are about the same. Actually he cannot be called a national treasure. Whenever a commodity is put on sale in the market, the cruelest situation will arise. As in the case of a businessman who found 100 pounds of rodenticide on the street some day, he would try every possible means to sell it; this is where the problem lies. Accordingly, my thoughts are entirely different from other people in the commercial sector. In my view, as these products are tricky in the sense that they manipulate the imagination and desire of human beings in the hope that

health, beauty and brilliance can be exchanged with money. Manufacturers who provoke such desire and make people blind should pay high costs.

An advantage of high costs is that at least poor people like me will be held back from purchasing. For rich people or people who are so senseless that they are willing to spend a large sum of their income to pursue the myth, I will just let them go. If manufacturers are required to fully comply with all legislation, and abide by the provisions of the Pharmacy and Poisons Ordinance, the Chinese Medicine Ordinance, the Trade Descriptions Ordinance and the Undesirable Medical Advertisements Ordinance, just to name a few, so that the legislation concerned can all regulate health food products and require the certification of all products, it will create big barriers.

Hong Kong is a society of mercantilism, we cannot of course compare it with the agricultural age of the 18th century, but we can make comparison with the people. In Hong Kong, whenever there is business, everything is made possible. As I have said many times, the Government will not take any actions against vessels using the poorest quality of fuel when they enter Hong Kong harbour, but such vessels are prohibited and denied entry to other harbours. The excuse of the Government is that it will be a serious problem if no vessels use our harbour. Since we have to compete with others, as long as there is business, it will not be a problem at all even if there is the problem of air pollution.

The problem under discussion now is the same. We know very well that these products are neither fish nor fowl, they tend to exaggerate their efficacy, but it does not matter, what matters most is that when we tackle them, we must first tell the public through civic education that these things are deceitful. Secondly, we must make businessmen manufacturing such products pay a price, while consumers have to pay a higher price for being senseless, so that they will not purchase these products anymore.

It follows that the whole direction of regulation should focus on two aspects, namely human life and human spirit. Apart from real food, human beings also need spiritual food. The Government has this responsibility as in the case of calling on the public not to smoke earlier. Why did Dr York CHOW fail? It is exactly because he had spent more than three years to deal with the issue of smoking ban, Secretary Dr KO Wing-man should also know about this. Hence, my argument is simple, the Government had failed to do so from 2000 to

2003, and from 2003 to the present, the Secretary should put some efforts to make it difficult for manufacturers to make profit, then you will have all the power. As a matter of fact, the manufacturers for the mass production of these deceitful commodities may mostly come from overseas or the Mainland. We always provide convenience to them because of business. Secretary Dr KO Wing-man, now you have to be stringent so as to make it hardly possible for them to do business. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Joseph LEE, you may now speak on the three amendments. The speaking time limit is five minutes.

DR JOSEPH LEE (in Cantonese): President, there is actually only one key point of the speeches given by many Members today, that is, at present, there is a lack of regulation of health food products. As mentioned by Dr Helena WONG earlier, the issue was discussed 10-odd years ago, what can be done when it is discussed again today after 10-odd years? The speeches of many Members and the amendments made by colleagues earlier have accurately highlighted several key points, apart from regulating health food products, one other area that should be looked into is the serious problem concerning sales practices, as raised by Miss Alice MAK, and the Government should also address this problem squarely. Although the Secretary would say that he has no idea how long it would take to introduce the legislation concerned, I hope he can make efforts in studying and seriously addressing the problem of sales practices. Please do not say that the Undesirable Medical Advertisements Ordinance or other ordinances can impose regulation, for the Secretary should also know that these ordinances are ineffective in regulating the situation.

Secondly, the amendment moved by Mr Vincent FANG seems to be quite controversial, but I think there is no conflict, so I will render my support. As a representative of the business sector, Mr Vincent FANG should certainly think that prudence must be exercised in monitoring, and excessive regulation is uncalled for; this is totally understandable. In his amendment, Mr Vincent

FANG proposed that there should be a definition, and most importantly there should be a clear definition. As I have mentioned earlier, there is no definition of health food products at present, the Secretary should be well aware of this situation, so please do not make any more excuses by saying that there is no international definition. Although this is a fact, the neighbouring Taiwan and the Mainland, or the United States, Australia and Canada from afar have formulated the relevant definition, we can draw reference from them. As I have pointed out just now, after the much-needed definition is formulated, risk assessment can be conducted along with consultation with the relevant industries. The issue of how to regulate certainly needs to be further dealt with in the process of legislation, but my proposal of "comprehensive regulation" is in fact no different from the amendment moved by Mr Vincent FANG. In imposing "comprehensive regulation", we still need to act very prudently in striking a balance, which is crucial. In this connection, I will support the amendment of Mr Vincent FANG.

In respect of the amendment moved by Mr Alan LEONG, some colleagues queried that since there is currently no regulatory legislation, how can there be counterfeit problem. I do not know if it is the real situation. However, as some health food products in the market are very popular, we should handle this problem carefully. Why do so many visitors come to Hong Kong to purchase health food products? This is because we sell "genuine products", does it imply that there are also counterfeit products? I do not know, but the focus of Mr Alan LEONG's amendment is to combat counterfeit health food products, which is an issue that must be handled carefully. The safety, efficacy, ingredients, effectiveness, and so on, of counterfeit products will be called into question, leading to a lot of problems indeed.

Therefore, to put it simply, the focus of today's discussion is to let the Government know clearly that Members support legislation as the way forward in respect of the regulation of health food products. I will support the amendments moved by Members. Thank you, President.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, today, I have carefully listened to all Members' speeches, and I decide not to give further account of the work we are doing now. Instead, I will conclude the views given by various Members and give my own views.

Firstly, most of the Members actually support the enactment of new laws to introduce independent regulation on health food products. However, some Members have remarked that if such regulation is really considered to be necessary, the Government must be prudent in the course of regulation to avoid excessive regulation. Members of this view include Mr Vincent FANG, Dr LAM Tai-fai and Mr Charles Peter MOK. Meanwhile, there are Members suggesting that if such regulation is to be imposed, it must be very strict. Members of this view include Ms Cyd HO. Some Members understand that such regulation, if to be imposed, will not be able to get done right away; therefore, they support imposing regulation in phases. Members of this view include Mr Steven HO, Mr MA Fung-kwok and Mr WU Chi-wai. Some Members have also suggested that, in the course of regulation, the Government should take heed of the support required for developing the industry and that a sound regulation should give the industry a bright prospect. Members of this view include Dr CHIANG Lai-wan and Mr WONG Ting-kwong.

Secondly, a number of Members have reminded me of the history of this issue and stated some relevant incidents which occurred 12 years ago and in 2003. I would like to give thanks to these Members who include Dr Helena WONG and Mr WU Chi-wai. Here, I would like to make a point on the safety issue. Some Members have accused the relevant departments of failing to enforce the law, but is it true? To be fair, I must point out that, among the 2 068 samples obtained in the market surveillance in 2012, the Department of Health (DH) had found 11 of them tainted with Western medicines. It had also conducted random tests on 914 samples of health food products and found that 45 of them were tainted with unregistered Western medicines. Moreover, the Centre for Food Safety (CFS) tested more than 50 000 food samples which included health food products in the period between January and October 2012.

Thirdly, I would like to speak on the issue of efficacy. Some Members, such as Dr LEUNG Ka-lau, have pointed in their speeches that while it is difficult to prove the efficacy of health food products, it is also hard to deny their efficacy. This remark is very true because both Western and Chinese medicines are facing a big problem, that is, it is very hard or expensive to prove the efficacy claimed. This problem is particularly acute to Chinese medicine, which wants to open up the world market. Therefore, many countries, though with a regulatory regime in place, can only focus their regulation on two points. The first point is safety. Even if the products may not be efficacious, they must be safe for consumption

and are not hazardous to health. The second point is the practices of making claims, promotion and sales. Just now, some Members have cited the United States of America as an example. As a matter of fact, the United States of America has not specifically required the efficacy of dietary supplements to be proved to the Food and Drug Administration. It just focuses on the promotion practice. In view of this, I must say that, in the case of Hong Kong, although we do not have a specific legislation to regulate health food products, we are actually focusing on the same issues to ensure that, first, there are no harmful substances or Chinese or Western medicine in health food products; and second, the practices of making claims, promotion and sales are regulated under various ordinances. I think it is also a sensible regulatory practice.

However, I agree to the various concerns raised by Members. Firstly, some Members have referred to a number of surveys which show that many people are consuming health food products. Therefore, the Government must not disregard this situation. If a large proportion of our population (50% of the chronically ill and 30% of the general public; or 20% of Hong Kong people as indicated by the statistics of the Census and Statistics Department) consume these food products, we should pay attention to this situation. In addition, as stated by Ms Starry LEE just now, many people consume health food products as they are in a sub-health condition.

Secondly, the issue of claims, which is really paradoxical. In fact, some of the claims just mentioned by Members are regulated. For example, the claims on diabetes are regulated under the Undesirable Medical Advertisements Ordinance, which provides that claims on diabetes cures are not allowed. However, in the sales practice example just given by Mr WONG Kwok-hing, some health food products are said to be suitable for people who are concerned about diabetes and blood sugar. This is indeed an implication, but these products do not claim to be effective in curing diabetes. Moreover, I am particularly concerned about the potential serious side effects and the undesirable interaction between drugs. A number of Members have raised this issue, and I think it deserves our attention.

Regarding promotion practices, such as celebrity advertising, we have no means to regulate them. However, if talks are held for promotion or to induce people to buy medicines, they are indeed regulated by the existing laws. This is what I must point out. It is also true that people are in lack of relevant

knowledge. As for other issues raised by various Members, such as animal protection, endangered animal protection, agricultural development and the application of new technology in the management or development of various industries, I am also very concerned about them. Yet, I think they are not that relevant to the theme of today's topic, though I share these concerns.

Lastly, I would like to talk about several issues that I care most. First of all, as I have just said, I care about the safety, especially the risk of causing serious side effect. Of course, this issue is related to whether there are reminders or warnings on product labels, informing consumers that these health food products may have undesirable interaction with certain medicines or are not suitable for patients with certain diseases. I think it is reasonable to raise this concern. Secondly, consumer rights, especially cases in which consumers are induced to spend much money or pay a price which is disproportional to the development, production and other costs of the medicines concerned. I think it is also an issue which deserves attention. If coercion or deception is involved, we will have to be even more vigilant, particularly when the consumers concerned are what we call "vulnerable groups", such as the elderly and people who are not well educated. We have the responsibility to protect them.

However, due to the various complicated reasons that I have just said, up till today, we have not yet made up our mind. Yet, we will implement the following measures. Firstly, we will ask the CFS to conduct target-based surveillance through random tests since most of the health food products are still regulated as food. The random tests of the CFS that I have mentioned earlier were not target-based; the samples of health food products so tested were collected for random tests of general foods. Therefore, we will later ask the CFS to conduct targeted random tests and check if there is any special problem in our existing health food products.

Secondly, we will consider the practices of overseas countries more carefully. Yet, as I have just said, when many countries seem to have a set of specific regulatory practices, you should look at the details of their regulation carefully and see if those practices are really practicable. I have serious doubts as to the practice of requiring all health food products to provide proofs on their efficacy though it is absolutely fine to ask for food safety proofs. If there are any countries making such a requirement, can they really put it into practice?

Thirdly, regarding whether a mechanism can be established to completely exclude those dietary supplements from the market, we will systematically collect data of dietary supplements from other markets and compile them.

Fourthly, the Government departments concerned will step up their public education efforts, including reminding consumers to pay attention to the claims on the efficacy and safety of dietary supplements, and whether the prices of these medicines are proportional to their real values.

We will also strengthen the enforcement of existing legislations through the various departments under our purview. I note that Members consider these legislations somewhat irrelevant to the issue in question as they are not tailor-made for regulating health food products. However, according to the information available, most of the problematic health food products are tainted with Western or Chinese medicine. In case consumers are not aware that the health food products they consume are tainted with Western or Chinese medicine and overdose on these products, or the Chinese or Western medicine in the health food products have undesirable interaction with the consumers' physical conditions or other drugs they are taking, they will be at risk. Although Members do not think that these legislations are intended to regulate dietary supplements, we should not understate the effectiveness of existing legislations in ensuring food safety of dietary supplements. Hence, the existing regulation of Chinese medicine, Western medicine and food safety will have to be further strengthened.

Lastly, if the Government decides to adopt any other measures, we will definitely conduct consultations. We will also carefully consider the phased measures suggested by some Members to see if we can start developing a code of practice. Yet, I must say that in considering whether to enact an independent law and establish an independent regulatory framework, I am obliged to first take care of other tasks which are given a higher priority in our departments or Policy Bureau. I hope you can understand this point.

In conclusion, I am gravely concerned about the issues that you have just raised, your stances, your advocacies and the various impacts of these dietary supplements on members of the public. I will also make efforts to strengthen the enforcement of existing laws and further collect comprehensive information

on dietary supplements in a forward-looking manner to help decide whether it is really necessary to propose legislation to give an independent regulation. In the course, I must consider the priority of other tasks.

Thank you, President.

PRESIDENT (in Cantonese): Miss Alice MAK, you may now move your amendment.

MISS ALICE MAK (in Cantonese): President, I move that Dr Joseph LEE's motion be amended.

Miss Alice MAK moved the following amendment: (Translation)

"To add ", given that" after "That"; to delete "and" after "in the market,"; to add "and different practices of selling health food products come up incessantly," after "increases gradually,"; to add ", as well as the sales practices for health food products" after "and ingredients, etc."; to add ": (1)" after "urges the Government to"; and to add "; (2) review the existing legislation to strengthen the regulation of sales advertisements of health food products, for example, sellers must submit relevant reports or proofs regarding health claims in product advertisements to avoid the public being misled; and (3) regarding the increase in complaints received by the Consumer Council in recent years about business operators promoting and selling health food products to the public in the form of lecture, physical check-up and celebrity sharing, etc., and that there were elderly persons feeling unwell due to consumption of health food products and needed treatment in hospital, strengthen the regulation of the sales practices for health food products to protect public health" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss Alice MAK to Dr Joseph LEE's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Vincent FANG, as the amendment by Miss Alice MAK has been passed, you may now move your revised amendment.

MR VINCENT FANG (in Cantonese): President, I move that Dr Joseph LEE's motion as amended by Miss Alice MAK be further amended by my revised amendment.

President, my revised amendment is not in conflict with the original motion and the other two amendments. I only wish to point out that comprehensive regulation proposed in the original motion must be exercised with due care to allow time for the industry to make adaption and to ensure that there is room for the survival of small and medium enterprises. As regards the amendments of the other two Members, I think that the category of food must be specified to set out clearly the category and definition of health food products for regulating the relevant advertisements and putting unlicensed health food products under monitoring.

PRESIDENT (in Cantonese): Mr FANG, you should only explain the revised wording now.

MR VINCENT FANG (in Cantonese): Yes, my amendment is for the systematic and effective regulation of health food products, I hope colleagues will support my amendment to Miss Alice MAK's amendment. Thank you, President.

Mr Vincent FANG moved the following further amendment to the motion as amended by Miss Alice MAK: (Translation)

"To add "; (4) formulate a definition of health food products, and separately categorize health food products from 'medicine' and 'food' to facilitate regulation; (5) comprehensively consult the relevant industries to explore the introduction of 'claim requirements' for health food products, i.e. products must be provided with empirical proofs such as inspection and test reports, etc.; and (6) conduct 'regulation risk assessment' beforehand if the Government plans to regulate health food products to ensure that small and medium enterprises will not be affected" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Vincent FANG's amendment to Dr Joseph LEE's motion as amended by Miss Alice MAK be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr Helena WONG rose to claim a division.

PRESIDENT (in Cantonese): Dr Helena WONG has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr LAU Wong-fat, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the amendment.

Mr Albert HO, Mr James TO, Mr CHEUNG Kwok-che and Mr IP Kin-yuen voted against the amendment.

Mr MA Fung-kwok, Miss CHAN Yuen-han and Mr KWOK Wai-keung abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Ronny TONG, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Dr KWOK Ka-ki, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mrs Regina IP, Mr Michael TIEN, Mr WU Chi-wai, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

Mr WONG Kwok-hing, Mr WONG Kwok-kin, Mr LEUNG Kwok-hung and Miss Alice MAK abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, 23 were in favour of the amendment, four against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 17 were in favour of the amendment, 10 against it and four abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Urging the Government to regulate health food products" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Urging the Government to regulate health food products" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Alan LEONG, as the amendments by Miss Alice MAK and Mr Vincent FANG have been passed, you may now move your revised amendment.

MR ALAN LEONG (in Cantonese): President, I move that Dr Joseph LEE's motion as amended by Miss Alice MAK and Mr Vincent FANG be further amended by my revised amendment.

President, I simply seek to withdraw the amendment to the preamble of the original motion and retain the proposals in relation to stepping up prosecution against counterfeit health food products and conducting sample tests on health food products in the market in the original amendment. Therefore, the wording and the numbering would have to be changed.

Mr Alan LEONG moved the following further amendment to the motion as amended by Miss Alice MAK and Mr Vincent FANG: (Translation)

"To add "; and (7) step up prosecution against counterfeit health food products, and conduct sample tests on health food products in the market to ensure that such products contain the health ingredients as claimed and do not contain bacteria or harmful substances such as heavy metals" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Alan LEONG's amendment to Dr Joseph LEE's motion as amended by Miss Alice MAK and Mr Vincent FANG be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Dr Joseph LEE, you may now reply and you have 15 seconds.

DR JOSEPH LEE (in Cantonese): President, before the relevant bill is introduced by the Secretary, I hope Members do not need to consume health food products and everyone is in good health. Thank you for your support.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Joseph LEE, as amended by Miss Alice MAK, Mr Vincent FANG and Mr Alan LEONG, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Third Member's motion: Vote of no confidence in the Chief Executive.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Mr WU Chi-wai to speak and move the motion.

VOTE OF NO CONFIDENCE IN THE CHIEF EXECUTIVE

MR WU CHI-WAI (in Cantonese): I propose this motion on "Vote of No Confidence in the Chief Executive" today, and hope that Members will support it.

A survey conducted by the Public Opinion Programme of the University of Hong Kong in early December showed that the net support rating — that is the support rating minus the opposition rating — of LEUNG Chun-ying has dropped by 6% to -12%, which was again a failure rating. As the survey was conducted after LEUNG Chun-ying published a written statement on 23 November, it reflected that Hong Kong people have been annoyed with the unauthorized building works (UBWs) issue and they have cast serious doubts on him.

Mr LEUNG Chun-ying said, "To my memory, I have never said that I did not have any UBWs". This remark has been echoing in the community in these days. In the Question and Answer Session, LEUNG Chun-ying has brought to life a political rascal who has no integrity and no sense of justice. During the one-and-a-half-hour Question and Answer Session, he did not talk about the issue of integrity and had not expressed the slightest sense of shamefulness. He merely admitted and apologized for his negligence.

Yesterday, he made another remark which again demonstrated his skill in sophistry. He said, "I just said that I have never said so during the Chief Executive Election". He has been evasive about his fierce attack at Henry TANG during the election, which is tantamount to "a thief crying thief". Actually, this is completely in line with the rationale behind his earlier remark that "UBWs already dealt with implies that they no longer existed".

Members may recall that during the television debate among candidates of the Chief Executive held in March this year, Mr LEUNG had used a minor UBWs issue to attack another candidate — Mr Henry TANG. He said, "Many people say that the problem about your UBWs is not simply a UBWs issue; rather, you openly lied to the public and concealed your UBWs. Not until the media published full reports with pictures on your UBWs did you honestly admit that you had concealed the fact".

The accusation made by Mr LEUNG back then can actually be made against himself today. Yet, LEUNG is more unacceptable than Mr TANG as he had only admitted negligence on his part after the media published full reports with pictures on his UBWs. Worse still, he put the blame on the previous property owner while glossing over his own responsibility.

LEUNG Chun-ying is the least credible Chief Executive in history. While TUNG Chee-hwa had partially shouldered the responsibility for the march of 500 000 people by resigning on the pretext of leg pain, Donald TSANG had apologized, out of remorse, to all Hong Kong people and sobbed beside the President of the Legislative Council for alleged corruption. LEUNG Chun-ying, however, has been reluctant to shoulder any responsibility and lacks integrity. I think that he should bear the political responsibility, take the blame and step down.

President, it would be extremely difficult to recount every single integrity issue surrounding LEUNG Chun-ying's UBWs incident. The difficulty does not lie in the problem being too few, but too many. He has been using one lie to cover up another, and has probably forgotten the lies that he has told. He might even pass off lies as truth, thinking that his lies are truth.

As stated in paragraph 46 of his statement, he discovered in October 2011 that the glass door of a small bedroom on the lower ground floor of House 4 was broken, and after inspection, he found that the position of the bedroom did not match with the building plans. He then checked the positions of other rooms on the same floor and found that the laundry room, part of the store room and the servant's bedroom had been expanded before the house was bought. He therefore removed the structures in November 2011 and bricked up the space, which has not been used since then.

Let us look again at paragraph 5 of his statement. He said that when he invited the media to a meal in his house in mid-2011, he was asked if there were any UBWs at his residence. He answered "No". Then why did he not make a clarification to the media immediately after he discovered the UBWs in October 2011? Why did he not clarify that the remark "there were no UBWs at my residence" made in 2011 when the media was invited to a meal in his house is misleading? Worse still, knowing that there were UBWs at his residence, he continued to attack his rival Henry TANG over UBWs at his residence during the Chief Executive Election debate in March 2012. The problem with Mr LEUNG is not simply an integrity issue, but a lack of due political ethics.

Certainly, Mr LEUNG's response to the media is most shocking or spectacular. He said that his understanding back then was that the UBWs had been dealt with and bricked up. As the UBWs had been dealt with, they no

longer existed. He had arbitrarily attacked Henry TANG out of such an understanding, thus I believe he is so shameless that he is second to none. His remarks have apparently insulted the wisdom of Hong Kong people.

Furthermore, by erecting a brick wall to conceal the UBWs, LEUNG Chun-ying has merely hid the UBWs with other UBWs and the Buildings Department had not been notified of the relevant works. In response to a relevant question, he said that as this was the first time he had handled UBWs, he was not sure about the procedures involved. And yet, previous records showed that after Mr LEUNG's former residence in Stanley was disclosed by the media to have UBWs in 2000, which were subsequently confirmed by the Buildings Department, the relevant UBWs were demolished. This clearly showed that it was not the first time he had handled UBWs. It is hard for the public to believe a professional surveyor has not learned a lesson from previous mistakes. Neither could they believe a professional surveyor would make such inadvertent mistake due to negligence.

LEUNG Chun-ying's integrity does not affect him alone, but also affect various government departments which Hong Kong has been proud of. Today, Secretary Paul CHAN reiterated time and again that the authorities have been impartial and adopted the same yardstick when dealing with LEUNG Chun-ying's UBWs incident. Nonetheless, while the authorities had initiated criminal investigation over Henry TANG's UBWs, former Secretary MAK Chai-kwong had vowed not to initiate any criminal investigation over LEUNG Chun-ying's UBWs. He had even issued a number of letters to LEUNG to ensure that he could buy time to evade the necessary legal proceedings. This has made people feel pretty worried.

President, it took 30 years for Hong Kong to build the world renowned Civil Service which is highly efficient, trustworthy and can impartially perform public services. However, the credibility of the Government has been called into question as a result of the integrity problem of LEUNG Chun-ying. Although he has taken office for only six months, he has already brought disastrous consequences to the Civil Service. So long as his integrity problem is not solved, the Government will not be able to resume its governance credibility.

We hope that Mr LEUNG Chun-ying will give a clear account of the UBWs incident and enable our society to embark on a new course of development. However, he has not only failed to do so, but has even left behind many question marks. Although he has apologized for his negligence, he was

not at all apologetic. A Chief Executive who has no integrity and is so used to telling lies can never win the support of the people, nor can he exercise effective governance.

This no-confidence motion proposed by me may not get passed today with LEUNG Chun-ying's supporters clearing the way for him. Yet, voices of dissatisfaction from the masses outside this Council are getting louder. In 2009, the Head of the Central Policy Unit, SHIU Sin-por, notified the United States that the 2010 New Year march would only be meaningful with at least 50 000 participants, and would arouse the attention of the Beijing Government with 100 000 participants. As the 2013 New Year march is approaching, I call on Members to take part in the march to make it meaningful. We do not simply intend to arouse the attention of the Beijing Government, but to convey a clear message: "LEUNG Chun-ying, please step down".

With these remarks, Deputy President, I beg to move.

Mr WU Chi-wai moved the following motion: (Translation)

"That this Council has no confidence in the Chief Executive, Mr LEUNG Chun-ying."

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I wish to state clearly that the SAR Government opposes the motion of no confidence in the Chief Executive proposed by Mr WU Chi-wai.

The origin of Members' criticisms and views against the Chief Executive is his properties. On 23 November, the Chief Executive made a detailed statement in this regard; two days ago, he responded to Members' questions in this Chamber in person and gave a clear account of the relevant matters. Hence, I will respond after Members have spoken.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, "Mr 689" (I would address Mr LEUNG Chun-ying, who obtained 689 votes in a coterie election as "Mr 689", with a "7" missing) came to the Legislative Council to answer Members' questions two days ago, thinking that the unauthorized building works (UBWs) incident would come to an end by admitting negligence. However, his apology was irrelevant and counter-productive. The UBWs problem concerning "Mr 689" does not lie in the UBWs or his negligence, but his act of being harsh to others (that is, Henry TANG) but lenient to himself; achieving his goal by hook or by crook; "a thief crying thief"; giving lame arguments after the incident came into light and the situation goes from bad to worse.

Details of the sins of "Mr 689" are known to all, and I believe Members will keep repeating them today. I nonetheless want to look at the success and failure of the Chinese Communist's policy towards Hong Kong from the life story of "Mr 689", and the ups and downs of the Hong Kong communist syndicate behind him. However, in view of the time constraint, I will not be able to finish within seven minutes. President, open your ears for my speech and I will try to be brief.

Ever since the drafting of the Basic Law, "Mr 689" had served as the Secretary General of the Basic Law Consultative Committee, he therefore knows much about the compilation of this deficient "mini constitution" and the various legal issues arising after 1997. In the aftermath of the 1989 pro-democratic movement and the 4 June Incident, "Mr 689" and many pro-communist people, like you, had once found their conscience. However, after XU Jiatun fled and the Chinese Communist resumed control over the Hong Kong branch of the New China News Agency, "Mr 689" had naturally rejoined those who were in more favourable situations. Since then, the pro-democratic camp in Hong Kong has been described by the Beijing Government as rivals who stir up troubles in Hong Kong and work against China. Also, language commonly used by local communists during the Cultural Revolution appeared in various official mouthpieces of the Communist Party, and is still being used today. When Chris PATTEN came to Hong Kong and introduced a political reform, the Chinese Communist fought back in an extremely "leftist" way as if it was combating imperialism. Since "Mr 689" had a part to play in the Preliminary Working Committee, Preparatory Committee and the Provisional Legislative Council, he was responsible for the division of society back then.

Following the transfer of Hong Kong's sovereignty in 1997, the "businessmen ruling Hong Kong" model was gradually formed. Compared with other local communists, "Mr 689" is luckier as he has intimate relationship with TUNG Chee-hwa and has become his "sworn son". Subsequently, he even unprecedentedly became the Convenor of the Executive Council in two different regimes. While there were rumours that he was the initiator for the 85 000 units policy, it was revealed this year that he was the one who worked behind the scene of using anti-riot squad against protestors of Article 23 of the Basic Law and forcing several hosts of radio programmes took themselves off the air. Of course, he denied as usual — "I cannot recall", "To my memory, I have not done so".

After the 1 July march in 2003, the Chinese Communist decided to expand the Hong Kong and Macao Work Committee to make it "the second governing team". Last year, the long dissatisfied local communists joined hands with the ambitious Liaison Office of the Central People's Government in HKSAR (Liaison Office) and LEUNG Chun-ying. Initially, the Liaison Office cheated local Chinese investors by saying that Henry TANG was the next Chief Executive nominated by the Central Authorities, thereby lowering the vigilance of Henry TANG and his agents. As power struggle within the Chinese Communist Party intensified early this year, "Mr 689" and his allies then used scandals to attack their rival. I think what happened thereafter needs no further elaboration.

Looking at his background and the road that he has walked, there is no hint of when he joined the underground party, as in your case. And yet, the Communist Party's manipulation in Hong Kong is obvious to all. The Chinese Communist Party's policy towards Hong Kong was initially "making long-term planning, taking full advantage", which was proven to be a success. But after the British had left, this old tune no longer worked. Hong Kong was subsequently co-ruled by local communists, local tyrants and civil servants. In the past year or so, however, local communists have become so impatient that they kicked away the local tyrants and civil servants, and dissolved the holy alliance. This can be evident from the Question and Answer Session held two days ago, during which "Mr 689" summed up the ups and downs of policies implemented by the Chinese Communist Party in Hong Kong over the past 30-odd years.

Allow me to turn the concluding remarks made by the historian Ray HUANG in *1587, A Year of No Significance: The Ming Dynasty in Decline* into a derivative work: "2012, the year of "ren chen", is the 15th anniversary of the handover of the HKSAR. It is a terrible year for Hong Kong as our SAR Government will soon come to an end The year book of the SAR for the year of "ren chen" can be said to be a complete historical record of its failure" — The year book of the SAR for the year of "ren chen" can be said to be a complete historical record of its failure.

Today, I support this no-confidence motion not simply to indicate that we have lost confidence in "Mr 689", but also to indicate that we have lost confidence in the policies implemented by the Chinese Communist Party in Hong Kong in the past two decades or so. People Power considers that Hong Kong's political system must immediately undergo a thorough reform instead of following the original schedule. We advocate that the SAR Government, including the Chief Executive, the Executive Council, the Central Policy Unit, the three Secretaries of Departments and 11 Directors and Bureaux, Under Secretaries and Political Assistants should resign altogether, and the Legislative Council should also be disbanded. The Permanent Secretaries under the three Secretaries of Departments and 11 Directors and Bureaux should then form a caretaker government to handle the day-to-day administration. A conference to amend Hong Kong's constitution, to be led by existing directly elected representatives and experts in common law, should be formed within the following six to 12 months to amend the Basic Law or formulate a constitution with the people, with a view to empowering Hong Kong people with the greatest autonomy. Upon completion of the amendment of the constitution, a one-man, one-vote dual universal suffrage for the Chief Executive and the Legislative Council election should be implemented without the barriers of the nomination and selection processes.

President, the proposal of no-confidence or impeachment motion is inadequate. Rather, we should immediately disband the three departments and 12 bureaux as well as the Legislative Council, with a view to formulating a constitution by the people and implementing dual universal suffrage.

I so submit.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG.

(Dr Fernando CHEUNG was not in attendance)

PRESIDENT (in Cantonese): Dr Fernando CHEUNG is not in attendance. Mr Ronny TONG, please speak.

MR RONNY TONG (in Cantonese): President, many people said that the most important attribute of a political leader is not his competence, but integrity. This is particularly important to the head of a country or a place who has all the powers. As we can see, the United States practises the presidential system. Likewise, under the Basic Law, Hong Kong also practises the presidential system rather than the parliamentary system. One President of the United States had stepped down for concealing facts, whereas another had been impeached for allegedly telling a lie, though the impeachment did not succeed in the end. From this, we can see that there is a universal standard. If a person has to resign for a Freudian slip or for telling a lie, should there be a greater need for a political leader who keeps telling lies and concealing facts to step down?

Under such an undemocratic system, we may not have the necessary constitutional procedure or power to remove this dishonest head from office. And yet, if he is genuinely enthusiastic in politics with no intention of taking advantage of his post or powers, or if he still feels shameful, he should step down on his own accord.

The person under discussion is Mr LEUNG Chun-ying, the third Chief Executive in Hong Kong. Hong Kong people are pretty miserable. While everyone agreed that TUNG Chee-hwa was a poor Chief Executive since the reunification, his successor Donald TSANG was even worse and he had fallen to the lowest point. He was then succeeded by LEUNG Chun-ying. Many people and netizens said that we have been unfair to LEUNG Chun-ying as he has yet started to genuinely work in the capacity of a Chief Executive. However, his blunders were revealed one after another. Before he has actually made some accomplishments, numerous lies have been told.

President, the first thing which has aroused Members' suspicion is his response to the unauthorized building works (UBWs) at his residence. The first UBWs detected is a wooden trellis. He initially told reporters and members of the public that it was an inadvertent error to replace the wooden trellis with a metal and glass structure without submitting a building plan. However, after a newspaper released a picture showing that the glass trellis was installed by him, he said his memory had failed him and he had mixed up the two houses. When asked if his former residence in Stanley had a huge basement, he refused to answer but simply said that professionals would be engaged to take follow-up actions. With regard to his house at the Peak, according to him, the vendor had specified that he could not cancel the property transaction because of the existence of UBWs. In that case, even an ordinary person would be aware of the existence of UBWs, otherwise why bother to include such a clause. He nonetheless took the lawyer's advice, and what is more, as he liked the house, he forgot about it, even though professionals were engaged to follow up on the matter.

It was not until a piece of glass was broken after moving in for some 10-odd years did he notice an underground room — which is a UBWs — but never mind, the area was then bricked up. Although he had once told the media that there were no UBWs in his house, never mind about that as he is not obliged to notify the media. Later in June, he had no choice but to engage four professionals to carry out an inspection in his house. And yet, these four professionals were not aware of this UBWs, they did not know that a wall had been erected to hide the UBWs. He did not tell them neither, not to mention the Buildings Department. Later, he responded that he had acted on legal advice not to make any comment as the matter was pending legal proceedings. However, there were no legal proceedings on 23 June, why did he not give an account of it?

I have counted that he had, on five or six occasions, defended by saying that it was none of his business; he had acted on legal advice; his memory had failed him and it was the first time he had handled UBWs — which is definitely not the first time. As Members may also be aware, he had dealt with UBWs 12 years ago. After he took office as the Chief Executive, this Council has passed a no-confidence motion against him, a motion proposing an investigation against him and even an impeachment motion, yet, he still clings on to the post. I think

that he is incurable and such a Chief Executive is unacceptable to this Council and Hong Kong people. I think his team should not accept him either.

President, regardless of whether this Council (*The buzzer sounded*)

DR FERNANDO CHEUNG (in Cantonese): President, I joined this Council in the hope of improving people's livelihood in Hong Kong. I wish to act as a bridge for Hong Kong people, especially the disadvantaged groups, so as to make their voices heard in this Council. Furthermore, I wish to help the Government rectify, through policies, its wrongdoings, which have caused injustice and undemocracy, as the common masses were suppressed while major consortium were supported.

Nonetheless, we have been tied down by the unauthorized building works (UBWs) incident of our Chief Executive and everything has come to a standstill. The entire Hong Kong society gets stuck and fails to move forward. Two days ago, LEUNG Chun-ying came here and made a pithy remark, "To my memory, I have never said that there were no UBWs". This remark has clearly illustrated where the problem lies — he has not said so because he deliberately covered up the fact.

He said that he found out in October 2011 that there was a room in the basement of his house, which is a UBWs. Yet, he had not notified anyone; he had not, based on his knowledge as an estate surveyor, notified the Government in accordance with the established procedures. Back then, Donald TSANG had called on all accountability officials, members of the Executive Council and Members to immediately check whether there were any UBWs in their properties. However, LEUNG dared not reveal the UBWs in his house but immediately found someone to erect a wall and seal it. Worse still, when he subsequently ran in the Chief Executive Election, he openly criticized Henry TANG that the problem about his UBWs was not simply a UBWs issue, but an integrity problem for he had openly lied to the public. In other words, he criticized Henry TANG for deliberately covering up the fact.

There is no doubt that Henry TANG had deliberately covered up the fact and was forced to admit his wrongdoings in a way like "squeezing toothpaste out of a tube" only after the media had kept on disclosing some "insider" reports.

He had even demonstrated how a man with no commitment and "backbone" would be. People abandoned him after he had put all the blame on his wife and LEUNG Chun-ying could then gain an upper hand. What he accused Henry TANG of his wrongful deed was precisely the misdeed that he had done, and this is why he remembered clearly that he have never said that there were no UBWs.

He has certainly not said so because he deliberately refrained from saying that there were no UBWs. This is indeed the deepest confession of his wrongdoings, which I think is unpredictable to him. He has never said there were no UBWs because he deliberately intended to conceal the fact. He is such kind of person. Although he has also made the same mistake, he pointed his finger at others. He has a lower level of integrity than Henry TANG. Henry TANG was poor in that he refused to admit his fault and used one lie to cover up another. What about LEUNG Chun-ying? He disregarded his wrongdoing and accused others of the same mistake, in order to gain an upper hand. How credible will this person be? He is inferior to Henry TANG as far as integrity is concerned. He won in the election because he is more cunning than Henry TANG.

How can we move forward with such a Chief Executive? In the past six months, he has used legal proceedings as an excuse. But after the relevant legal proceedings had been settled, he said that professionals would be engaged to handle the matter, so on and so forth. Later, he was invited by the Legislative Council to attend a Question and Answer Session, but this has caused a furore for more than a week before he finally came. While he agreed to take any kind of questions, he was evasive and playing tricks.

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

During the Question and Answer Session, he only admitted and apologized for his negligence, but refused to answer Members' question about whether he was regretful or shameful. He appeared as if nothing had happened. How can this be possible? From this incident, Hong Kong people can see clearly that this Chief Executive has been telling lies continuously. He won the Chief Executive Election by telling lies, and he keeps telling lies thereafter.

Yet, this Chief Executive has got other people implicated. Members of his governing team have to defend him time and again. After Carrie LAM defended him on a number of occasions, she disappeared. Today, we have invited Secretary TSANG to attend the meeting, and other members of the Executive Council are also present to defend him. He has actually buried the negligible credibility that this governing team has with his own hands. It is downright impossible for us to trust this Government.

Many people said that LEUNG Chun-ying should be given a chance after all. I do want to say "yes" as if nothing had happened, so that he can practicably address the numerous livelihood problems. I do not want to dwell on this matter any further. And yet, being a father, I despise this person for he has set a bad example to our children. He got his position by telling lies and he keeps on telling lies. How can I tell my children that this person is our Chief Executive?

I am shameful of him as a Hong Kong resident. How can such a Chief Executive lead Hong Kong forward? As a Member, I am obliged to cast a vote of no confidence in him today because he is not qualified to represent Hong Kong. If the current problem is not solved, I wonder what our way forward will be. I really want to cast this issue aside and hold no more discussion. I want to focus on discussing problems relating to housing, healthcare, education and social welfare. However, LEUNG Chun-ying has not given me a chance to do so for he does not have the courage to admit that he had made mistakes by deliberately covering up the fact. He should admit and openly make a public apology. I have read a book entitled *All I really need to know I learned in kindergarten* written by Robert FULGHUM. One should admit and rectify all wrongdoings, with a view to embarking on a new journey. Thank you, Deputy President.

MR CHARLES PETER MOK (in Cantonese): Deputy President, a colleague told me that yesterday, the media (probably a radio programme) uncovered that the question raised by me during the special Chief Executive's Question and Answer Session held on Monday was actually suggested by Mr Martin LEE. Here, I would like to be open and transparent. The question was suggested by "Senior Counsel LEE", but I decided to raise that question because its core touched a chord in me.

The core of the question raised by me is public interest versus personal interest. My question is: As Mr LEUNG has always used legal advice and legal procedures as his shield and refused time and again to give an account of the matter, was the advice given by his lawyer aimed at safeguarding the interests of his client Mr LEUNG or the public? If the client concerned is the Chief Executive, should we have higher expectation of him? Should Mr LEUNG have higher expectation of himself? Should his expectation override his desire for protection of personal interest?

I therefore asked if Mr LEUNG would give up his right to confidentiality regarding the unauthorized building works (UBWs) incident, and disclose all relevant documents and allow the media to carry out site inspection. Regrettably, Mr LEUNG had not given a direct response. Since I had, in putting the question, mentioned — which should not be mentioned — that the Buildings Department would very often refuse to disclose information or documents relating to individual cases without the consent of the person concerned, Mr LEUNG then merely responded by saying that he was not in a position to comment on the policy of the Buildings Department. Obviously, this is not the question that I had asked. I am aware that giving irrelevant reply is a very clever tactic in debates, but this is definitely not an open and transparent reply, and is not entirely true.

Deputy President, the sequence of events of the UBWs incident has been clear to all and there is no need for me to elaborate. I am still thinking about the issue of public interest versus personal interest. For a public officer, which should come first: public or personal interest?

According to Article 47 of the Basic Law, the Chief Executive must be "a person of integrity and dedicated to his duties". "Integrity" means to perform public service in an upright and honest manner for the sake of the interests of the community as a whole in an impartial way. In my view, to achieve "integrity", public interest should come first, meaning that public interest should be overriding. Regrettably, being the head of the SAR Government, Mr LEUNG has all along played the game of words in an attempt to gloss over his mistakes and cover them up with lies. This is not "integrity". What the Chief Executive has done has put personal interest above public interest.

Nonetheless, I also heard many people saying that this is, after all, a serious negligence on the part of the Chief Executive and does not involve integrity. Perhaps they have given a macro consideration, thinking that Hong Kong could not move forward without a leader, hence we should let him off and give him another chance of doing real work to make up for his fault. I was gravely disappointed to hear this. Can Hong Kong people accept someone who lacks integrity simply because he can do real work? I understand that many Hong Kong people have become so annoyed at the problems surrounding Mr LEUNG. In fact, I am annoyed too. Yet, I do not think that we should run away from it.

Deputy President, Hong Kong has become pretty divided. While some people support Mr LEUNG, some oppose him. I am very sad to see this. The saddest of all is that the majority of LEUNG's supporters do not believe he had not lied. This is really the most pathetic. Hong Kong people have swept the integrity problem under the carpet. No one is irreplaceable. Deputy President, we learn from history that if this problem is not properly handled, Hong Kong will definitely suffer.

Deputy President, all political leaders must be credible. And yet, Mr LEUNG has already lost his credibility and the relevant incident has also directly undermined the credibility of the governance of the SAR Government. Legislative Council Members are obliged to uphold the core values of Hong Kong society, namely credibility, transparency and fairness. The fact that the head of the Government shirked his responsibilities by telling lies might set a bad precedent and bring unpredictable negative impact on Hong Kong society in the long run. If we neglect the fact that LEUNG has not even blinked in lying and did not have a tinge of regret when making an apology in the Legislative Council on Monday, how can we face and educate our children?

Deputy President, I support the no-confidence motion proposed by Mr WU Chi-wai because Mr LEUNG has ruined the governance credibility of the Hong Kong Government in an attempt to shirk or evade from his responsibilities, thereby destroying the core values (including credibility, transparency and fairness) underpinning our society, undermining the credibility of the SAR Government, the efficiency of civil servants in implementing policies and public confidence. Even if Mr LEUNG can walk away from his criminal liabilities, his integrity and credibility have gone bankrupt. Since all persons are equal before the law, Hong Kong people should not tolerate such act.

Deputy President, I so submit.

MR ALBERT HO (in Cantonese): Deputy President, I believe many colleagues feel both infuriated and sad throughout today's debate. We have a total of three Chief Executives since the reunification of Hong Kong, as a number of Members have mentioned. The first one, TUNG Chee-hwa — incompetent; the second one, Donald TSANG — no integrity, and the third one, LEUNG Chun-ying — no credibility.

Actually, Members should clearly recall that two days ago when the Chief Executive came to attend the Question and Answer Session, he thought that he could make a once-and-for-all conclusion and walked away. He showed a poker face throughout the Question and Answer Session and gave irrelevant replies, just like a "human recorder". He kept repeating his lies and apologized for the so-called negligence, without the slightest tinge of sincerity and regret. However, a climax came all of a sudden when he let out a secret unwittingly and showed his true self in response to Mr James TIEN's question. He said that "To my memory, I have never said that there were no UBWs". This remark became the highlight of the day. He immediately came forward on the following day to give further comments, saying that what he meant was he had not said so during the election.

Members should think carefully what his words actually imply. Those who know the truth behind the incident should know that deep in his heart, he was saying "During the election, I was aware of the UBWs in my house, but I deliberately refrained from disclosing them. Nor did I admit their existence or talk about them in public. Therefore, I had not lied or breached the election law during the election. What can you do about me?" I believe he had directed these words particularly to me: Albert HO, "What can you do about me? Your election petition had not succeeded and I would continue to be the Chief Executive." This is it. Honourable Members, undoubtedly, it seems that he has skillfully absolved from his legal responsibilities, but that he has blatantly exposed all his lies and tricks in front of the people. To put it simply, in the eyes of the people, there are strong evidences indicating that he has misled members of the general public, and he is "guilty like hell".

In fact, the lies relating to the UBWs incident had been told many times. He had used one lie to cover up another and there were lies after lies. Let me quote some examples. In May 2011, months before he announced his participation in the Chief Executive Election, he told reporters that his residence

did not have UBWs. Of course, subsequently, no less than 10 UBWs were found. Yet, he insisted, "Based on my understanding, I had no idea of this." But is this the fact? Firstly, as Mr Ronny TONG has said, the relevant Sales and Purchase Agreement had uncommonly included a clause specifying that the property transaction should complete and could not be cancelled even if there were UBWs.

Secondly, as Members may be aware, purchase of such properties must be assessed by surveyors engaged by banks. He nonetheless admitted his inadequacy by saying that he could not read the building plans. How about the other surveyors? How come they could not read the building plans as well? Given that he had subsequently discovered the UBWs with his naked eyes, how come the surveyors were so incompetent that they could not even read the building plans though they were allowed to carry out site inspection inside the house? This is why up till today, he dared not disclose the names of the surveyors.

Thirdly, thanks to the photographs taken by *Ming Pao Daily News*, it is found that some alterations were obviously done after he moved in. Were it not for an aerial photograph, showing the differences of the trellis before and after he moved in, he would definitely insist his denial.

Honourable Members, his lies were not restricted to the abovementioned incidents. He was later forced to admit that upon inspection by the Buildings Department (BD) in June 2012, some problems were detected and four letters had been issued by the BD to inquire into the problems. And yet, he had not replied. He told the public that the relevant legal proceedings had started — but the truth is, as Mr Ronny TONG has said earlier, the legal proceedings had yet to start — he used this as a pretext to refuse to perform the duty of an ordinary citizen. Later, he noted that a response was unavoidable because the proceedings had concluded — he probably hoped that the case could drag on for four years. So, he finally responded that a big hole of 200 sq ft — which was later confirmed to be 300 sq ft — had been sealed and thus it no longer existed. This is a joke indeed. If this is the case, I believe many people would not have taken the trouble to solve the UBWs problem for they can simply seal it with a sheet of plastic. I trust that when the staff concerned entered his house for inspection, he would not be open and transparent and told them that the UBWs had been sealed.

Honourable Members, from this incident, we can see that he has intended to muddle through, trying to cover up the fact with lies. During the election, he even dared to use the UBWs issue to attack Henry TANG. This is virtually "a thief crying thief". He had deceived members of the public, the media and reporters, the then members of the Election Commission (including Members present at the meeting who had voted for him) and the Central Government. As we have said, he won the post of the Chief Executive with lies. Hong Kong people therefore consider this a great humiliation.

Actually, we know that he had such a precedent. The Nina Tower lawsuit is a case in point. He had wronged the former Secretary for Planning, Environment and Lands in court, saying that the latter had given an oral consent not to charge land premium. But the fact is, the case was not handled by the Secretary, thus the Judge considered him not trustworthy. Despite the fact that he was criticized for giving contradictory evidences during the Legislative Council's investigation of the competition relating to the Western Kowloon Cultural District, which involved conflict of interest, to our surprise, he said that his name was cleared.

Therefore, Honourable Members, his art of double-talk (*The buzzer sounded*) can be seen by all. He has no choice but to step down.

MR DENNIS KWOK (in Cantonese): Deputy President, the issue under discussion today is the motion on vote of no confidence in the Chief Executive. Nonetheless, it does not simply involve the personal integrity of the Chief Executive, but the entire system established under the Basic Law. The personal integrity of the Chief Executive does not only affect him, but will also affect and undermine our system.

Article 64 of the Basic Law stipulates that the SAR Government is accountable to the Legislative Council, and specifies that it must answer questions raised by Legislative Council Members. This is a very important constitutional duty of government officials led by the Chief Executive as stipulated under Article 64. I joined this Council in the hope of doing my part to safeguard the Basic Law and our system. However, I saw that the SAR Government, the Chief Executive and our officials have not complied with or respect this constitutional system.

When the Chief Executive came to this Council on 16 July 2012, a Member asked him about the unauthorized building works (UBWs). According to the official record of proceedings of the Legislative Council, he said, "..... in regard to this incident but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately" . I trust that the media has been repeating his remark these days. We do not mean to analyse if this involves serious negligence or misrepresentation on his part, or he has lied with eyes open. His remark, regardless of what it is about, reflected that the Chief Executive had not given a full account of the fact when he came to this Council to answer questions from Members, but had deliberately covered up certain facts and made misrepresentation. This has not only revealed the integrity problem of the Chief Executive, but his complete negligence of the extremely solemn constitutional undertaking and duty to the Legislative Council, and the separation of powers under the principle of "one country, two systems" to be pursued by the Chief Executive, as the head of the SAR Government, in pursuant to Article 64.

If the Chief Executive, who is the head of the SAR Government, and public officers can arbitrarily make misrepresentation and cover up the fact when they attended the meetings of the Legislative Council, what is the purpose of us sitting here? What is the purpose of the Legislative Council? If the Chief Executive can hold up or deliberately cover up facts in response to Members' questions, our constitutional system will collapse in the end.

When some Mainland officials recently proposed to tighten the principle of "one country, two systems" by further tightening or twisting the interpretation of the Basic Law provisions, what have we Hong Kong people done? The Chief Executive of Hong Kong has been infringing the Basic Law and our system. He not only disrespects the Basic Law and our system, but has even joined hands with others to destroy them.

Noting that Mr LEUNG Kwok-hung has recently indicated his wish to propose an impeachment motion, I told him that this motion is a very solemn and important mechanism and procedure under the Basic Law and therefore should not be proposed arbitrarily. We must carefully examine if the situation has genuinely met the conditions of an impeachment motion, and whether there is "serious breaches of law" or "dereliction of duty". I am aware that the SAR

Government (including the Chief Executive) would not take into consideration the provisions and spirit of the Basic Law, but as Members, we are obliged to look carefully at the provisions of the Basic Law. In case there is a genuine need to propose the impeachment motion, are the constitutional requirements met? We must be very careful with this as this is our fundamental responsibility to the Legislative Council and the principle of "one country, two systems".

In the United Kingdom, if the Prime Minister or a principal official lies or makes misrepresentation to the Parliament, the latter will propose a no-confidence motion. If the motion is passed but the new Prime Minister or public officer is not acceptable to the Parliament, the Parliament shall be disbanded within 14 days in accordance with the Fixed-term Parliaments Act 2011.

In review of the entire incident, what we need to examine is whether the Chief Executive has deliberately covered up the fact and made misrepresentation. Being a Member, we are obliged to carefully examine the need to propose an impeachment motion. This is a very important and solemn constitutional duty and is worth considering. And yet, as I can see, in the Chamber, the seats of the pro-establishment camp are almost empty. They supported LEUNG Chun-ying to seize the post of the Chief Executive back then, but now they have disappeared. For the Democratic Alliance for the Betterment and Progress of Hong Kong, only Dr CHIANG Lai-wan is present at the meeting Perhaps I do not see very clearly (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr KWOK, your speaking time is up.

DR HELENA WONG (in Cantonese): Deputy President, let me finish with the unfinished subject of Mr Dennis KWOK

MS CYD HO (in Cantonese): Deputy President, a point of order. A quorum is not present in the Chamber, please do a headcount. Sorry, "Pik-wan", I want to first request a headcount before you speak on the subject.

DEPUTY 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 returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): A quorum has now been present. Dr Helena WONG, please speak.

DR HELENA WONG (in Cantonese): Deputy President, we finally see Members of the pro-establishment camp return to the Chamber; where have they been just now? Just now, they have disappeared, and some Members return to the Chamber only after the summoning bell has been rung.

In the Chief Executive's Question and Answer Session held days ago, the Chief Executive stated that, "To my memory, I have never said that I do not have unauthorized building works (UBWs)." Deputy President, after he made this remark, attending Members were all shocked, and the reaction in the community was even more riotous. As we listened to the Chief Executive's replies, he only admitted his negligence, but adamantly refused to admit that it was related to the question of integrity. He had apologized, but what was that for? He apologized only because he had handled the matter unsatisfactorily or carelessly, or he had been acting carelessly such that so many problems were uncovered by other people. It had nothing to do with the question of integrity. When he was asked by Members whether the matter involved a question of integrity, whether he knew how to spell the word "shame", whether he had felt ashamed, whether he would consider stepping down Even Mr Paul TSE, the "sworn son" of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, had said that we might as well give him a year or two, so that he could tactfully resign on his own accord without interfering the operation of the Government.

Deputy President, Members of the pro-establishment camp have all disappeared today, and only pathetic few were in the Chamber just now. Now a few more Members are present. I do not know whether they intend to speak or not, or do they have anything to say? They just allow Members of the

pro-democracy camp to speak in turn and then return to the Chamber on the sound of the division bell. They will take "action upon returning" and press the "Against" button to this motion proposed by Mr WU Chi-wai. I hope I am wrong, but that could be their plan tonight — do they still want to "spare the rod and spoil the child"? Do they still want to confuse right and wrong? Do they still want to protect a Chief Executive with loads of lies?

Deputy President, perhaps let me play the role of a Member who is in the Chamber now. She is fond of saying, "He only has some UBWs; does he have to die for that? He has just told some lies; does he have to be 'beheaded' for that? He has just built a wall; does he have to step down for that? He has just removed a structural wall; does he have to die for that? Who can take up his post if he stepped down?" Deputy President, do we really want to see this Council and the SAR's governance be degraded to such a stage?

Deputy President, if you ask me whether the Chief Executive must really step down, I would unequivocally reply, "Liar, get out of the SAR Government", which is also the wish of the people. Why do we demand his stepping down immediately? It is for the sake of savoring some shred of dignity for the SAR Government. Why must he step down? It is because we dread to see the Development Bureau, the Buildings Department (BD), as well as other accountability officials and politically-neutral public officers to follow can no longer enforce the law. In the present case, the Chief Executive dared consider the UBWs at his residence as nothing important; he dared say he did not know that they were UBWs, and when he knew, he had handled them immediately; or when he knew they were UBWs, he built a wall to cover it, and once they were covered, there were no UBWs.

Deputy President, a few hours ago, the Secretary for Development was still in this Chamber telling us that below the ground level of LEUNG Chun-ying's Peak residence, there was a space of about 300 sq ft in the basement; as the underground floor space was an actionable UBW, LEUNG Chun-ying was required to submit a remedial proposal for its removal — this is unlike what LEUNG Chun-ying had said previously that he had already dealt with the UBW by bricking it up, although the Secretary for Development did say that no prior approval from the Development Bureau or the BD was needed for the erection of this wall.

I implore Members of the pro-establishment camp to act with conscience today and stop protecting this shameful Chief Executive who is full of lies. Please act with your conscience and make a fair judgment. Deputy President, if we continue to tolerate a Chief Executive with loads of lies, it will not only undermine the credibility of the entire SAR Government's governance and dampen the morale of civil servants as well as the accountability team, but also make Hong Kong people and this Council lose face completely.

Deputy President, there is a limit to Hong Kong people's tolerance, and LEUNG Chun-ying has been treating Hong Kong people as idiots and imbeciles. Deputy President, if we list out his deeds carefully in a chronology order, we can see that — I invite Members of the pro-establishment camp to see for themselves — before the Chief Executive took part in the Chief Executive Election, he already knew that there was a big underground hole below his residence, and he built a wall trying to cover it up. Nonetheless, after his legal dispute with Mr Albert HO was resolved in November, he issued a statement on 23 November and stated shamelessly that he had already timely and fully co-operated with the BD in conducting inspections and there had never been any stalling or obstruction, and that he himself had already handled the matter in an open and transparent manner — who would believe that there was no stalling on his part? According to the BD, four letters had been issued one after another, and the Chief Executive kept stalling and ignoring them — is that not stalling? Let me respond to the earlier question as to whether he should be "beheaded", the answer is clearly that he should be "beheaded".

Members of the pro-establishment camp, at the meeting of the House Committee a few days ago, Mr LEE Cheuk-yan proposed that the Legislative Council (Powers and Privileges) Ordinance be invoked to investigate into LEUNG Chun-ying (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Dr WONG, your speaking time is up.

DR HELENA WONG (in Cantonese): Members had opposed it Please act with your conscience

DEPUTY PRESIDENT (in Cantonese): Dr WONG, please stop speaking.

DR HELENA WONG (in Cantonese): and support this motion today.

DR KWOK KA-KI (in Cantonese): Deputy President, some people consider the Chief Executive LEUNG Chun-ying's Question and Answer Session two days ago a farce, I consider it a tragedy. Let us look at the Legislative Council today. Many Honourable colleagues know very well that LEUNG has covered up his lies with lies; he has been covering up his own ugliness with lies ever since he took part in the election. I really feel sorry for our many Honourable colleagues of the pro-establishment camp for they know very well that this person has been telling lies, and that as Mr James TIEN has said, he more or less obtained this post through some minor cheating — albeit minor, it was cheating after all — yet they cannot act according to their own free will. The reason is, of course, something we all understand, and that is Hong Kong's tragedy.

"689", 689 members of the Election Committee have been cheated — the situation is somewhat similar to the triad society — they have been cheated by LEUNG to elect him as the Chief Executive. Hong Kong people, as onlookers, consider this a great tragic incident. I have been listening to phone-in programmes for the past two days, and many ordinary citizens kept calling to say how we could tolerate such a person to represent Hong Kong.

Let us take a look at LEUNG Chun-ying's "Roadmap of Lies" — I borrow this expression from newspaper editors — it turned out that his problems of unauthorized building works (UBWs) began some 30 years ago. He first got involved in UBWs when he bought the mansion in Tung Tau Wan Road, Stanley, yet he dared tell the media and the public that the UBWs in his Peak mansion were his first incidence of UBWs. From then on, he has been telling lies after lies.

Nonetheless, we are most ashamed that the *Times Magazine*, in its cover story on 30 June about LEUNG Chun-ying, already asked the question: "Can Hong Kong trust this man?" Seemingly, the international media has greater foresight than Hong Kong people as it knows very well that LEUNG is not a man to be trusted.

Nobody can forget that on the live television debate among the three Chief Executive candidates held on 16 March this year, LEUNG Chun-ying had spoken fiercely and righteously, accusing his then opponent Henry TANG that his UBWs was not simply a UBWs issue, but an open lie to the public to conceal his UBWs, and it was not until the media published full reports with pictures that Henry TANG honestly admit that he had concealed the fact. In fact, the person he was accusing is he himself, LEUNG Chun-ying. Had it not been the media's disclosure in June, I think this "vanishing secret chamber" will keep hiding in House 4 of his mansion.

In fact, had it not been the media's disclosure, the Buildings Department (BD) and Paul CHAN might still be saying to this date that this incident had never happened, and we would still be in the dark Today, when replying on behalf of the BD, Paul CHAN pointed out that no enforcement action had ever been taken over the past four to five months since 28 June, that is, no request had been made to the owner to remove the wall. What we consider to be most ridiculous is that we can now see that the Policy Bureau and even the government departments concerned are also "involved". If we allow LEUNG Chun-ying — this man who covers lies with lies — remain in the post of the Chief Executive, the credibility of the entire Government will be ruined eventually.

Today, Paul CHAN came forward to say that the Government would definitely enforce the law impartially, but we all know that the matter would not be handled impartially. The Buildings Ordinance (Cap. 123) has already stated clearly that even if the erection of a wall for the purpose of covering up is an exempted works, the relevant person must apply to the BD in writing for exemption. It might eventually be proved that what Paul CHAN said today in this Council were just lies, that is, there was no letter applying for exemption and the relevant works is not an exempted works. More ridiculous still, the authorities have obviously treated different people, *viz* LEUNG Chun-ying and Henry TANG, with different yardsticks and standards; in other words, the entire Government and the relevant departments have colluded with him in perpetuating acts of dishonesty.

With 160 000 civil servants, as well as three Secretaries of Departments and 14 Directors of Bureaux in the Government, so many people have joined him in this reckless game. I do not know how he can continue to govern Hong

Kong? I really do not know. We do not know how to explain to officials in the international community, or even to local or Mainland officials, why a man who lies through and through can continue to be the Chief Executive. We do not know how to explain the matter to children. All of us will not forget the story of Pinocchio, and even small children know that Pinocchio's nose will grow longer and longer after telling lies; now, they are watching if LEUNG's nose will grow longer every day. How are we going to educate our next generation? What explanation can we give to the next generation so that Hong Kong can deservedly be called an international city in Asia, Deputy President?

I consider that it would be most responsible for us if this Council can Although we know that this motion will not be passed under our distorted constitutional system, we have at least tried our best in this Council. As Members of the Legislative Council as well as elected representatives of the people, we have tried to pinpoint this person – who has lost all credibility, and cast him (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

DR KWOK KA-KI (in Cantonese): a vote of no confidence.

I so submit. Thank you, Deputy President.

MR NG LEUNG-SING (in Cantonese): Deputy President, all Hong Kong people will agree totally that unauthorized building works (UBWs) is a long-standing problem in Hong Kong. It has been reported that UBWs are commonly found in Hong Kong, Kowloon and the New Territories. It is estimated that there are more than 400 000 UBWs over the territory, and the problem has never been resolved. It is not until this year that this "political bomb" left behind since the reunification has finally triggered off a constitutional crisis. This indicated that the return of a colony is indeed a mammoth and complex undertaking. As the crisis has not been resolved expeditiously, the new term Government cannot concentrate all its efforts on implementing the relevant election manifesto. As a result, the development of different areas in the

community has remained stagnant. Ultimately, the Chief Executive himself is definitely not the only person who suffers; the SAR Government as a whole, as well as our economy and people's livelihood will also be affected.

Based on my own observation, Mr LEUNG has indeed handled his UBWs inappropriately without giving thorough consideration. At the Question and Answer Session held this Monday, he has time and again admitted his negligence, his failure to give a clear explanation, as well as his lack of prudence in the matter, and he has apologized to the public once again. He also expressed his apology to civil servants and the accountability officials for the pressures they were put under with regard to this matter. While I concur that his mistakes were made basically due to negligence, I have reservation about whether the matter is so serious that it merits sanction by this Council with a vote of no confidence. If the Chief Executive is asked to step down merely due to his negligence in handling his UBWs, I think some members of the public will find it difficult to understand. Politically and constitutionally, actions taken must be duly balanced, rather than the more radical the better, or the harsher the better. I remember that a sage once said, "There is but one step from truth to falsehood." The matter could easily get worse if this Council has acted too impulsively. I think this is a point Members should consider carefully.

There is an old saying about the government being the people's business, and there is another old saying which goes, "Gold can't be pure and man can't be perfect". The evaluation of a politician should be measured against his political achievements, that is, whether he can bring more benefits for the people. The manifesto proposed by Mr LEUNG during his election campaign sets out 11 work priorities of the Government, all gearing towards increasing Hong Kong's competitiveness as well as raising the living standards of the people, and those are what Hong Kong needs in its present stage of development. After winning the election, he addressed this Council on 17 October and explained to us his concept of governance as well as his policy direction. When assessing Mr LEUNG's performance, we should concentrate on monitoring whether he has fulfilled his pledges; and if he fails to make any achievements over a period of time, the people shall have the right to say "No" to him, and this Council can also hold him accountable. But if we merely embroil ourselves in one problem of UBWs to the extent of impeding many Government policies, it is unfair to all parties concerned.

The matter of UBWs in LEUNG's residences has been going on for months, and even the Old Age Living Allowance has been affected without reason. I consider that it is about time for the matter to conclude. Speaking from a fair and rational perspective, we should allow the Government to proceed with normal administration, which includes the early implementation of various important livelihood policies on poverty alleviation, housing, and so on. At the same time, I also hope that the Chief Executive can learn from this incident by raising his political sensitivity and improving his methodologies; he should continue to serve the people humbly by doing more real work and expeditiously implementing more sound policies for "promoting the economy and benefiting the people's livelihood", in order to prove with actions that he is capable of leading his team to better serve the people in a concerted manner.

Deputy President, I so submit.

MR JAMES TIEN (in Cantonese): Deputy President, the Chief Executive's unauthorized building works (UBWs) have triggered off questions about his integrity. During his campaign for the Chief Executive, did he cheat the people to get a high rating in the public opinion surveys, and subsequently win in the Chief Executive Election? In this connection, Honourable Members as well as the Liberal Party have all along hoped to obtain more information before making a judgment. A few weeks ago, he provided us with a document of 10-odd pages, but a substantial part of it was merely quoting the remarks made by the former owner in a radio programme, and the information concerned was not very concise. Hence, when the House Committee proposed to invite him to answer Members' questions in detail in the Legislative Council for about one and a half hours, the Liberal Party supported the proposal.

He came to the Legislative Council on Monday, but the outcome after the Question and Answer Session is — and I absolutely agree with the observation made by Members of the pan-democracy camp — that we are even more convinced that he has UBWs. There is one big illegal structure measuring some 300 sq ft, as well as some smaller illegal structures, including a trellis and a roof cover of the parking space. As to whether he has a problem of integrity, I think the problem has become more serious than the time before he left Hong Kong. When he replied my question, he even said: to my memory, I have never said that

I did not have any UBWs. Naturally, we can draw a conclusion, that is, since LEUNG's popularity rate was so high in the course of the Chief Executive Election, while Henry TANG's popularity rate had plummeted, the Central Government supported LEUNG Chun-ying out of respect for the public opinion of Hong Kong. Hence, for me and the Liberal Party, there is absolutely an element that he obtained the post of the Chief Executive by deception, and the only difference is a matter of degree, but ultimately he obtained the post by deception.

With regard to the above questions, the caucus of the Liberal Party held a discussion for two hours over lunch yesterday in order to decide whether the problems involved in this incident were very serious, including his UBWs, his integrity, as well as his election campaign for the Chief Executive. After a discussion of the above questions for less than five minutes, all caucus members agreed that the answer was "Yes". Nonetheless, our discussion went on for about two more hours on how to handle the incident. Many Members of the pan-democracy camp consider that the three-step process should be initiated immediately, that is, firstly, moving a motion of no confidence, and then conducting investigation under the Legislative Council (Powers and Privileges) Ordinance, and finally, impeachment. Ultimately, the objective is to make him step down.

Personally, I tend to treat this matter emotionally and consider that it is the right decision because he should step down for the explanation he gave us that day. However, my other colleagues are more prudent and tend to consider the matter in a more comprehensive manner. They consider that we should take our time and have further discussion on how the matter should be handled. For instance, if he really steps down, who should become the Chief Executive? As another election will be held, should we revert to electing Henry TANG? But his UBWs are much bigger than LEUNG's; moreover, he is now travelling around in South America and does not seem to be interested in running for election again. As regards Mr Albert HO who is not in the Chamber now, while it is not my intention to criticize him, his chance of getting elected is indeed very slim. Of course, we may also consider I am not referring to you, Deputy President, but the President himself. Nonetheless, I think our President, Mr TSANG, is not keen on becoming the Chief Executive; but if he does become the Chief Executive, Deputy President, you may have to be the President, and I believe you do not want to take up the post.

As such, we have also discussed the possibility of Mrs Carrie LAM as the next Chief Executive. However, as the incumbent Chief Secretary for Administration, Mrs Carrie LAM has already lost 10-odd pounds merely helping the Chief Executive "put out the fire"; if she were to become the Chief Executive — I am not cursing her — she might even lose her life. Furthermore, if the Chief Secretary were to become the Chief Executive, who could take up the post of the Chief Secretary, and what about the posts of other Directors of Bureaux? Considering the many policies he has proposed — honestly, the Liberal Party is not a supporter in LEUNG's camp — some are quite well-received by the public after implementation, and I believe that like us, the pan-democracy camp would also agree that the policies on "doubly non-permanent resident pregnant women", the Old Age Living Allowance — although there is dispute on the assessment criteria, it is still desirable for him to increase the monthly allowance to \$2,000 — the North East New Territories New Development Areas, and so on, should be implemented.

Hence, during our discussion, we considered that while he obtained the post by deception, he seemed to be working quite diligently now, even though we had no idea whether he could really achieve some good results. Should we give him a chance or not? The Liberal Party has discussed this matter at length at noon yesterday, in order to explore all the options. The Liberal Party is a very democratic party. Although I am the Party Spokesman, having heard the views of other Members of the Legislative Council as well as members of the Central Committee — I admit that quite a number of members in the Central Committee are businessmen and they tend to act more prudently — the decision was taken to give him another chance so that he needs not step down immediately. When we decided to abstain from voting, I also stated the view that as abstention might create a lot of trouble, could I, James TIEN, be allowed to vote in support of the motion, while other Members abstained? But the Party decided against my proposal, and I finally gave in. As the Party Spokesman, I should of course speak on behalf of my fellow Members.

Our final decision now is a tough choice, that is, we will give him a chance, hoping that he will do a good job in addressing various issues of concern to the people such as housing, and so on, in the future. Regarding this so-called "probation", Mr Paul TSE who is sitting in front of me has in fact made a similar suggestion yesterday, but he proposed that LEUNG Chun-ying should step down after two years, whereas we consider that if he has done a good job in the next

two years, he should not be required to step down; if he has failed to perform in the next two years, he should be asked to step down then.

Deputy President, lastly, I want to reiterate that the Liberal Party's stance towards LEUNG Chun-ying is that we neither support nor oppose him. As our goal is to support Hong Kong, we consider that if he steps down now, the situation of Hong Kong will become worse, and if all of us follow his act, the situation will also become worse. Hence, we have made a final decision and hope that other Honourable colleagues will let him off this time, and give him a chance to do some real work in the next two years; if he fails, they can then ask him to step down by moving a motion of no confidence or impeachment against him. In that case, we will — I must speak carefully — seriously consider the matter again, OK? We will then support Members' further move to impeach him. Thank you, Deputy President.

MR ALAN LEONG (in Cantonese): Deputy President, I want to tell a story to the friends of the Liberal Party. In the Mainland, there is a six-year-old girl who says that she wants to be a corrupt official when she grows up because in her eyes, corrupt officials can get everything they want. Isn't that an epitome of the terrible consequences of teaching by negative examples in our society?

If LEUNG Chun-ying can stay for good even though he has cheated his way to become the Chief Executive, and if he is still safe and sound even when his lies have been revealed, how can we explain all these to our next generation? Has the moral standard of Hong Kong been degraded to such a low level? The Civic Party can hardly accept that he can stay in his office even after his lies have been revealed. LEUNG Chun-ying is an ethical tumour through and through; if he stays, he will only spread the evil habit of telling lies and ruin the system ultimately. We must remove this tumour.

Deputy President, according the latest public opinion survey conducted by the University of Hong Kong, LEUNG Chun-ying's net approval rate was -12%, that is, those who opposed him exceeded those who supported him by 12%. The Chamber is quite empty now, and when we speak, it sounds like echoes in a valley — is it because the pro-establishment camp dare not speak in his defence, and the officials do not want to attend the meeting to show their support? Has

he been deserted by his followers? I think it is really the consequence of his own doing.

Deputy President, what can we see from the present incident of LEUNG Chun-ying's UBWs? We can see the arrogance of power; we can see that LEUNG Chun-ying arrogantly thinks that he can deceive all Hong Kong people with lies after lies. This arrogant attitude has left Hong Kong idling away the time without accomplishing anything; and if LEUNG is still allowed to stay in power, he will only be a burden hindering Hong Kong's development during his reign.

Deputy President, before LEUNG Chun-ying was elected, 120 000 Hong Kong people had in fact cast a blank vote to signify that they neither wanted the "pig" (Henry TANG) nor the "wolf" (LEUNG Chun-ying). On the first day he assumed office, 400 000 people had taken to the streets; the way he handled the National Education incident had incited a procession of 90 000 people and a rally of 120 000 people at the Central Government Offices; he had no qualms about violating the order of this Council when he submitted the proposals of "five Secretaries of Departments and 14 Directors of Bureaux", the Old Age Living Allowance, and so on; the integrity of two successive Secretaries for Development and one Executive Council Member he appointed has been called into question one after another — all these incidents clearly illustrate that LEUNG Chun-ying not only lacks political wisdom, but also the capability to continue leading Hong Kong.

Deputy President, if we consider that the incident of Henry TANG's UBWs involves a question of integrity, LEUNG Chun-ying is unethical in covering up the unauthorized floor space so that he could accuse TANG for having a problem of integrity during the television debate in March, which had resulted in the tremendous drop of TANG's popularity rate and hence, he could be elected.

Deputy President, he has even put civil servants in a bad light. According to the chronology of events, the Office of the Chief Executive-elect had lied on his behalf on 25 and 26 June with its statement that his mansion did not have an "unauthorized servant's room" as reported by the media, which was a direct claim that such a space did not exist; yet the Buildings Department (BD) had subsequently issued four letters to LEUNG Chun-ying successively after its site inspection, and he had not responded. Is that putting civil servants in the BD in

a bad light for they are now under the suspicion of harbouring the Chief Executive?

Deputy President, I believe what I have just said well proves that LEUNG Chun-ying is not qualified to continue leading Hong Kong, and we should not let him allocate our public resources. The Civic Party supports today's motion of no confidence. I so submit.

MS CYD HO (in Cantonese): Deputy President, Mr James TIEN has gone through the baptism of several direct elections, and he is a Member whom I respect. Although our stances are different, he is willing to speak out and explain to the people the reasons for their voting decision, so that this record will serve as the basis for the public's monitoring of the Liberal Party. When the next election comes, the people can make reference to such information and decide on how they should vote. I respect his attitude.

However, many Members have not spoken yet. If Members simply vote against the motion without speaking, it is in fact another act of evading their political responsibility. Hence, I challenge those Members who still support and defend LEUNG Chun-ying to this date, as well as those who oppose this motion of no confidence to fulfil their duties as Members of the Legislative Council by standing up to speak and explain the reasons for their voting decision.

(THE PRESIDENT resumed the Chair)

In fact, unauthorized building works (UBWs) are nothing new; both former and incumbent public officials and Members have had this problem. The UBWs concerned may have a long history which already existed at the time they bought the properties, while some may be minor works which already existed before the detailed statutory requirements have been enacted. Nonetheless, some officials would immediately admit mistakes and remove the UBWs concerned at their residences when revealed; Stephen LAM and KO Wing-man are two such examples. Although the problem of KO Wing-man's UBWs has been revealed, he is still among the top three officials with the highest popularity rate. As he has admitted responsibility frankly, the people can accept and forgive him.

However, to date, LEUNG Chun-ying still insists that he was only negligent; does he want to convince us that he was not breaking the law knowingly? He also said that he had handled the problem immediately; does it mean that even if he broke the law knowingly, he had not broken the law if the problem was immediately handled? He also said that, "he has never said that he did not have any UBWs"; does it mean that he had not cheated the public if he had not said so? More ridiculously, he immediately clarified the next day that he had not said that he did not have UBWs only on a particular occasion. Does it mean that he has no problem of integrity if he had not lied or cheated on that day?

In fact, by LEUNG Chun-ying's art of double-talk and logic, he can absolutely say that, "LEUNG Chun-ying does not have any UBWs" because he had never personally held a spade and an electric drill to erect the UBWs, and he merely employed workers and other professionals to do so on his behalf.

At the Question and Answer Session on Monday, LEUNG Chun-ying told us that, "I have never said that I did not have any UBWs". At that time, Members of the pro-establishment camp also knew that this remark could be fatal and asked him to take it back; yet he refused to do so. It is evident that he is an incorrigible person. On the next day, however, he clarified that his remark was only confined to the occasion of the election debate.

All kinds of ridiculous things can happen in Hong Kong. When he accused his opponent of having no integrity because of UBWs, it is alright so long as he had not publicly declared that he also had the same problem. Isn't that shirking his responsibility to the public? Does it mean that so long as the public did not ask him on the spot whether he had UBWs, he could be a thief crying thief?

In fact, LEUNG Chun-ying is a public officer as well as a professional surveyor, I do not believe that he has no knowledge about the relevant laws. When carrying out property valuation, he has to know the usable floor area of a building or a property. If there is an authorized basement, the floor area will certainly be increased. He must also know whether the building or property has any legal liabilities left behind by the former owner so that the price would be reduced accordingly. He is a professional, and there is no way he has no

knowledge about the relevant laws. It is unimaginable that he had not probed into the reasons when the seller told him several days before completion that he could not rescind the agreement.

This "integrity cliff" is no longer a personal problem of LEUNG Chun-ying because Carrie LAM has also been implicated now. When handling the UBWs of Henry TANG and LEUNG Chun-ying, she has acted very tough against the former by saying that anybody who broke the law would be handled impartially, but when it comes to LEUNG Chun-ying who has appointed her as the Chief Secretary for Administration, she said that the UBWs in his Peak mansion were only a matter of negligence.

In fact, the relevant provisions under the Buildings Ordinance relating to UBWs are extremely stringent. For any structure which protrudes over the external wall by 14 cm or more, the relevant plan must be submitted by a registered professional to the Government for record. Now that an entire underground room has been revealed, how can we accept that it is just an error of negligence? Now, the surveyors in the BD have also been implicated in this incident for they are coming under public suspicion of perverting the law and acting impartially, as well as breaching their professional conduct and the Civil Service Code due to pressures.

Now, LEUNG Chun-ying's actions have already called into question whether senior officials can be above the law. Can he enjoy legal privileges because he is the Chief Executive? If that is true, that is, this query is substantiated, it will ultimately ruin the spirit of rule of law of Hong Kong fundamentally. How can the Government have the face to ask members of the public to abide by the law? How can the authorities have the face to institute prosecutions against unlawful small houses in the New Territories in future?

President, LEUNG Chun-ying's actions have ranged from cheating the people, to withholding the truth, covering up his offences, and even putting himself above the law, and he could easily abuse his powers and bend the law for personal gains in future. That is the root of corruption. He should resign as soon as possible.

The voting result today will also reflect the attitudes of political parties and groupings in respect of corruption and integrity. I recall that Ms Starry LEE and

Mr Christopher CHUNG of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) have used the slogan of "Fight corruption and promote a clean government" in their election campaign. I will see how the DAB is going to vote in this motion and determine whether they have violated their election pledge.

MR SIN CHUNG-KAI (in Cantonese): Mr James TIEN just now called on the pan-democratic camp or Hong Kong people to let LEUNG Chun-ying off. Instead, we would like to request LEUNG Chun-ying to let Hong Kong people off. During the Chief Executive Election, the biggest scandal is the unauthorized building works (UBWs) issue; after the election, we are still plagued by the same issue. According to Dr LAM Tai-fai, "Yesterday is the cause and today the consequence; today is the cause and tomorrow the consequence". I would rather say "if you are mean to others, people will be mean to you".

The weapon which LEUNG Chun-ying used to attack Henry TANG in the first place is the UBWs it should be the integrity issue. Given that the UBWs issue of Henry TANG is concerned with integrity, why would the UBWs issue of LEUNG Chun-ying not concerned with integrity? Members should be aware that Henry TANG had been open and transparent. Although he had not allowed reporters to enter his house for site inspection, he openly admitted his fault after the Buildings Department conducted an inspection. On the other hand, although LEUNG Chun-ying has admitted that there were problems, he was hemmed and hawed in his reply. More importantly, LEUNG Chun-ying was fully aware of the existence of UBWs in his house in November 2011, and he had rectified it by erecting a wall to seal the space.

President, he is a professional. A surveyor had called to a radio programme and said that there were two ordinances which a surveyor trainee must learn by heart, namely the Buildings Ordinance and the Building Management Ordinance. Surveyor trainees who have not learned these two ordinances by heart would certainly be chided by their bosses, and their qualification would also be called into question. Being a senior partner of a surveyor firm, LEUNG Chun-ying advised that formal application had been made to the Buildings Department (BD) for permission to carry out addition and alteration works in six places at his residence, and the relevant procedures had

been completed. Why did he not apply to the BD when he discovered the UBWs in November 2011? Given that he had already dealt with six different UBWs, how come he did not know how to deal with the seventh one? Apparently, this is because the election was around the corner. If he reveals the UBWs at his residence, this might cause serious consequences. Furthermore, in May last year I mean in May 2011, a number of Directors of Bureaux — including "Uncle SUEN" — were found to have UBWs at their residences. Donald TSANG had therefore clearly instructed all accountability officials and members of the Executive Council to check if their residences had UBWs. As LEUNG Chun-ying was the then member of the Executive Council, had he done so? Evidences have clearly shown that he was well aware of the UBWs at his residence, but he had covered them up.

President, he is the only person who knows if this is negligence or deliberate attempt to cover up the fact. Although he kept stressing that this is negligence on his part, objective and environmental evidences showed that this is not negligence, but a deliberate attempt to cover up the fact. Any deliberate attempt to cover up the fact is an attempt to lie. He has not only lied to members of the Election Committee, but more importantly, to Hong Kong people. Mr James TIEN, we should better ask LEUNG Chun-ying to let Hong Kong people off. Ever since the Chief Executive Election, we have proposed three motions in this Chamber to request public officers to step down. Given that Hong Kong is an international city, this is indeed ridiculous. There is a saying in the Mainland that internal attrition should be minimized to enable more discussions on other issues. If LEUNG Chun-ying let us off, he should pack his bag and resign. We can then carry out a by-election so that Hong Kong can embark on a new course, which is the best alternative.

It is believed that the no-confidence motion will not be passed today. In fact, Members from the pan-democratic camp should consider proposing a motion entitled "This Council has confidence in LEUNG Chun-ying" and then vote it down

MR ALBERT CHAN (in Cantonese): President, regardless of whether the motion can be passed, a quorum is not present in this Council.

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 returned to the Chamber)

PRESIDENT (in Cantonese): Mr SIN Chung-kai, please continue with your speech.

MR SIN CHUNG-KAI (in Cantonese): President, just now I said that today's motion will probably not be passed. We have high hopes on the Liberal Party as they have initially indicated that they would consider supporting the motion. And yet, LEUNG Chun-ying's appearance in this Council to give an account of the incident has given its Members an excuse to abstain from voting.

(Mr Dennis KWOK rose to his feet)

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

MR DENNIS KWOK (in Cantonese): I wish to ask why the Government has only deployed Deputy Secretary for Home Affairs to attend a meeting which discusses such an important motion while all other public officers are not required to come.

PRESIDENT (in Cantonese): Mr KWOK, the public officer being deployed to attend Legislative Council debates is a decision of the Government. Mr SIN Chung-kai, please continue to speak.

MR SIN CHUNG-KAI (in Cantonese): Some netizens suggested that, instead of proposing a no-confidence motion, the Democratic Party should propose a confidence motion and then vote it down. This will achieve the same effect of a no-confidence motion. President, however, this is ridiculous.

This Chamber has been preoccupied with the unauthorized building works (UBWs) issue since 1 July. How many discussions have been held on the issue? This is nonetheless the beginning of a series of actions taken against the integrity of LEUNG Chun-ying, which has exceeded the issue of UBWs. Later, the Labour Party will invoke the Legislative Council (Powers and Privileges) Ordinance to request for the setting up of a select committee and there will be a march on 1 January. What can Hong Kong people do? They should take to the streets and participate in the march. Also, we will draft an impeachment motion and solicit 18 Members to sign jointly to trigger the impeachment mechanism.

LEUNG Chun-ying can actually come clean from the integrity issue. He can appoint a judge to conduct an investigation of the UBWs incident — to replace the proposal to be put forward by Mr LEE Cheuk-yan next week — to look into the circumstances leading to the incident and therefore clear his name. Is he bold enough to do so? Will he set up an investigation committee on his own initiative to examine records of the past years, so as to see if this is negligence or a deliberate attempt to cover up the fact? He thought that by merely attending the Question and Answer Session and answering questions raised by 15 or 16 Members, the issue would come to a full stop and he could walk away. However, it is not so simple. There are subsequent actions to show our lack of confidence in him. Today's no-confidence motion only marks the kick-off of a series of actions.

With these remarks, I support the motion.

MR PAUL TSE (in Cantonese): President, I think the most important thing is to first clarify the nature of the problem. Is the issue under discussion about unauthorized building works (UBWs) or a higher-level issue of integrity? Or, is it about a more serious ethical issue which involves obtaining the Chief Executive post by deception? If we do not clarify the nature of the problem, it is possible that the debates and views expressed by the public or Members may hit the wrong target.

President, the most important of all is that we or all members of the public should ask ourselves if the public officer concerned, that is, Mr LEUNG Chun-ying in this case, is still trustworthy. Being the highest-level trustee in Hong Kong, he is entrusted with the highest authority. Can he still exercise such authority in that capacity? As Members may be aware, the legal concept of

trustee is that people should have full confidence in him, otherwise the consequence will be detrimental. Thus, the question is whether members of the public can still trust this trustee, who holds the highest authority, but not whether he should step down.

The focus of this no-confidence motion is whether or not he is still trustworthy. In a democratic and civilized society, this helps to prevent bloodshed, revolution or any of these kinds of problems, for a civilized system enables us to express views, and views are very important. The governance of a government, the ability of the governing team to attract expertise, the implementation of policies by the government and its remarks will be put under a microscope. Hence, any involvement of personal interest or secret motive will be called into question. All these boil down to the question of trust.

This is not a legal issue, but a political one. Many colleagues, especially those with legal background (including me), may probably tend to look at the issue from the perspective of standard of proof. Mr Ronny TONG, for example, has examined what he did on a certain date to make inference on whether he has lied, concealed the fact or being negligent. I nonetheless do not think that this is the genuine concern from a political perspective.

On the political front, a no-confidence motion is a matter of emotion or feeling, such as whether or not we have trust in the person concerned. Most importantly, we must ask ourselves if we really think that the person in question will genuinely act for the sake of public interest or for personal power and personal interest by all means. If people do have such a feeling, they absolutely have the right to cast a vote of no confidence in him. As to whether he will step down in the end, it depends. And yet, at this stage, the most important of all is to follow our conscience and examine how we feel. This is not necessarily a very rational process, like the handing down of a court judgment, in which the sentence of each count will be assessed. Feeling or instinct is all that matters.

Many people said that he is simply negligent not intentional. Yet, this saying may be wrong because it is possible that both elements were involved throughout the entire incident or process. An act may be both intentional and negligent. In an attempt to destroy all evidence, acts of negligence may arise if one is not prudent enough. Thus, the two of them may exist at the same time, and it does not mean that a negligent act does not involve deception and cheating.

On the contrary, they may co-exist. This is another blind spot which I wish to clarify.

President, given that this is a political accusation, no matter this is a no-confidence motion or a motion on vote of no confidence, it boils down to a question of trust. It was reported that Mr Michael TIEN had played a game of words with reporters by using tricky words to explain his position. His attitude has been described as "no respect", meaning disrespectful. Again, this is a matter of trust.

Therefore, if someone said that a no-confidence motion will not be supported but a no-respect motion will be supported, I totally cannot understand the rationale behind. To me, this is nothing but a game of words and many other words can be used, such as no confidence, no respect, no honour, no obedience, no reverence, no esteem, no admiration, no regard I do not know where my thoughts have led me. This is meaningless because, after all, it all depends on our trust in him. It is a matter of trust. I am afraid that such a rationale or excuse is not an appropriate shield.

President, if people feel that the person in question is not trustworthy, what should they do then? What kind of remedy can be made? What can we do about it? This is the next issue to be dealt with. Of course, many people think that in view of the chaotic situation, changes may not be desirable as there is no successor. This is a possible consideration. According to the international practice, once a no-confidence motion is passed, a decision will have to be made by the person concerned. The conventional practice requires the person to resign, which is one of the consequences. However, there is no standard stating when the person should resign. In some places, the resignation will only come after orderly arrangements have been made; whereas in other places, important follow-up actions may have to be taken for the sake of the country and society. Both are acceptable.

And yet, the most important of all is we must show our stance and ask ourselves if the decision of no-confidence should be made from a psychological perspective. I once said that it is better to endure short-term pain than prolong the agony, but the choice of short-term pain or prolonged agony is not to be made by LEUNG Chun-ying, but by the entire Hong Kong society. Would we rather endure short-term pain so that Hong Kong can get rid of the burden and move

forward, or very reluctantly entrust important business to a trustee whom we have no confidence in for the coming four to five years? Thank you, President.

DR KENNETH CHAN (in Cantonese): President, LEUNG Chun-ying indicated in his election manifesto that "Every step of the way, we were accompanied by the media, reporting and helping us to spread our messages to those who were not able to come to the gatherings. We were mindful that every proposal which we put forward would be examined and every promise which we made would be remembered, and we fully expected that we would be held accountable." The point is, LEUNG Chun-ying went further to say that "I firmly subscribe to integrity, the rule of law, a clean government and democracy as our core values and the foundation of our prosperity and stability. I shall do my utmost to safeguard the rights of every citizen and ensure that those rights are fully respected".

Today is the 165th day since LEUNG Chun-ying has assumed office. Let us see what the Chief Executive has done in respect of integrity, the rule of law, a clean government and democracy, core values which he claimed to firmly subscribe to, so as to convince us that we should continue to have confidence in him.

Democracy — what we saw was a neglect of democracy and deliberate procrastination. In his manifesto, he has mentioned in passing that the timetable for a democratic universal suffrage would be implemented. And yet, after assuming office for nearly six months, he has done nothing concrete or specific in this regard. Rather, there was deliberate procrastination. I am worried that he would put forward and force this Council to accept a "rotten" proposal at the very last minute.

The rule of law — he failed to uphold the rule of law and has therefore ruined our own achievements. Although Ms Elsie LEUNG, Deputy Director of the Basic Law Committee, had made remarks which undermined Hong Kong's rule of law and repeatedly criticized the Judiciary, LEUNG Chun-ying said that this was a manifestation of the freedom of speech. Though he has vowed to uphold the rule of law, he has exposed Hong Kong's rule of law to attacks. Upholding the rule of law is therefore nothing more than empty words.

A clean government — he connived the shielding of wrongdoings as if nothing has happened. First we have MAK Chai-kwong being a Secretary for just 12 days, next Secretary Paul CHAN who operated sub-divided units and then Executive Council member Franklin LAM who is on an indefinite leave. Nonetheless, LEUNG was silent on these three incidents which have aroused grave public concern. He has adopted an evasive attitude and refused to assume responsibilities.

How about freedom? He has restrained freedom by mandatorily implementing the "brainwashing" national education. LEUNG Chun-ying insisted to introduce the "brainwashing" national education until some tens of thousands of people besieged the Legislative Council Complex and the Central Government Office. He then reluctantly agreed to shelve the implementation. He absolutely intends to suppress our freedom of thought and turns our next generation "red". With regard to the Central Policy Unit, it has recently resumed the power to vet and approve Public Policy Research Grants disregarding the academic circle's concern and persistence in academic freedom.

Last but not least, the issue of integrity. He has been telling one lie after another and his integrity has gone bankrupt. From "West Kowloon-gate" to the unauthorized building works (UBWs) at his residence, he has been using one lie to cover up another. He has gone astray from "integrity". Two days ago, in this Chamber I asked him, "To put it simply, do you think that you have any integrity problem?" He remained silent and looked stern, and then he leaned forward and replied like a human recorder: negligence, negligence, negligence, negligence. He did not answer because he dared not do so. No matter the answer is "yes" or "no", there will be serious consequences.

President, in LEUNG Chun-ying's manifesto, the last paragraph of his foreword is worth quoting. He said, "If I am elected, I solemnly promise that I shall uphold the rule of law, enhance the standard of governance and promote democracy. I shall take steps to expand our economy to enable businesses to thrive and people's livelihood to improve. I shall also protect our environment and conserve our heritage to make Hong Kong the place we want it to be. Together we shall build a more prosperous, just and progressive Hong Kong that we call home." Let us use our creativity and adopt the art of double-talk by rephrasing this paragraph. "If I am elected, I, CY, solemnly promise that I shall trample the rule of law; suffocate democratic development and lower the standard

of governance. I shall take steps to promote hegemony, encourage UBWs and make people's lives miserable. I shall also destroy the environment. Together with the Communist Party, we shall build a more ridiculous, unjust and regressive Hong Kong that we cannot live in peace and work with contentment. Together we deceive Hong Kong, and this is the crux of my manifesto, which is also a gift for all Hong Kong people".

President, the five-year term of LEUNG Chun-ying adds up to a total of 1 826 days. I wonder how low he would like to drag down our standard of governance, and how slow he would like the pace of democracy to be before he feels happy. It is not yet one tenth of his term and we have been living in great pain and peril under his leadership. How can we endure the remaining 90% of his term?

Therefore, President, I eagerly want to tell Mr LEUNG, "Please give way and let Hong Kong people off". We want a genuine democratic system, a Chief Executive with integrity and a group of responsible public officers but not a cheering team for you. We do not want to join the LEUNG camp and be LEUNG's fans. Nor do we want to see Directors of Bureaux giving high five to each other after the no-confidence motions were voted down. That is an awful scene. Hong Kong society needs a government which is returned by democratic universal suffrage, but not any Chief Executive who has no integrity and uses one lie to cover up another.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, Chief Executive LEUNG Chun-ying has admitted time and again of his negligence and thus willingly apologized to members of the public. This perfectly exemplifies that a nonsensical argument, when repeated a hundred times, may become the truth. This is because some present Members from the pro-establishment camp agreed with him and considered that the existence of unauthorized building works (UBWs) at his residence is purely attributable to negligence, and thus there is no need to cast a vote of no confidence in him.

President, is the UBWs problem of Chief Executive LEUNG Chun-ying really attributable to negligence? I would like to discuss this with Members. What is meant by negligence according to the general understanding?

Negligence means something that should have been noticed was left unnoticed. However, the case of LEUNG Chun-ying is just the opposite because he has not left anything that should have been noticed unnoticed. On the contrary, he has been very attentive to things that should be noticed. He noticed the existence of a 300 sq ft space in the basement of his house, yet he told the public that the only UBWs was a servant's room of about 200 sq ft. And, in order to attack his rival, he immediately erected a brick wall to seal the space as if it does not exist. Under this circumstance, how can we regard this negligence? He was fully aware of the UBWs but insisted that it was negligence on his part. This is ridiculous. I hope that Members will not turn nonsense into the truth again as this will set a very bad example.

While it is certainly not negligence on his part, Members have accepted his excuse. While we accused him of having integrity problem, Members said that the incident has nothing to do with integrity. Is this the truth? President, when we discuss if someone is a person of integrity, the focus is whether he is honest and trustworthy. As I said earlier, can LEUNG Chun-ying be regarded as honest? He erected a wall to conceal the UBWs in his house and then said that the UBWs already dealt with no longer existed. Is this an honest act? Is he still trustworthy? How can a person who is not honest and trustworthy be regarded as a person of integrity?

There is an old saying, "Since ancient times it's great to keep faith with the people, a word of honor is mightier than the worth of gold."¹ It means that faith is worth more than money. Why would we attach so much importance to the integrity of the Chief Executive? It is not because we require all public or political figures to be perfectly pure, but given that public figures are directly involved in public interest, it is therefore important for them to win over people's confidence with their integrity. Otherwise, the implementation of policy will be difficult. This is precisely why integrity is so important. Above all, we hope that he will not put personal interest above public interest. However, our Chief Executive has failed to do so.

The existence of UBWs, as many colleagues have said, is actually a minor issue and a number of Members present at the meeting (including me) may

¹ <<http://history.cultural-china.com/en/60History13218.html>>

probably have UBWs in our flat. I have nonetheless admitted their existence and even dismantled them without trying to cover up or conceal them. Furthermore, the UBWs in my flat, which is a pretty tiny canopy, was left behind from the previous owner. It was removed and I made no attempt to conceal it. Our Chief Executive, on the contrary, had not done so. Not only had he covered up the fact, he had even used the same issue to attack his rival in order to win the present post. This is the most important and significant part of the issue.

This explains why we have to cast a vote of no confidence in the Chief Executive. Nonetheless, the question raised by Mr James TIEN earlier is worth considering: What should be done after casting a vote of no confidence in the Chief Executive and forcing him to step down? Who will be the successor? Actually, Mr James TIEN is not the only person who raised this question, many members of the public also have this query in mind. The most paradoxical point is that our political system also has deficiencies.

Under the existing political arrangement, the Chief Executive is returned by a coterie election rather than elected by the entire society. Let us imagine if the same case happens to the president or head of a foreign country. Would he be saved from resignation because of an absence of a successor? This is indeed ridiculous. In other countries, the person in question will have to step down at once. A general election will then be conducted to elect a successor to take up the post. This is a manifestation of the principle of accountability, under which universal suffrage can serve as a mirror to monitor the ethics of government officials and important elected representatives. If the person concerned has to remain in office because of the failure to identify a successor, people will have to continue to endure the hardship. This is too miserable. We are not the only one affected, the reputation of the community will also be prejudiced, which is highly undesirable.

Therefore, today, in saying that LEUNG should step down, our political system should also be abolished. The coterie election has already resulted in the resignation of TUNG Chee-hwa on the excuse of leg pain and the shameful departure of Donald TSANG, bearing the name of "corrupt Donald TSANG". Now, Mr LEUNG Chun-ying also faces the problem of integrity and he is doomed to step down. And yet, the saddest part is that we are not allowed to choose able and virtuous persons to replace him. I think we should not endure this anymore but to expeditiously replace the coterie election because LEUNG

Chun-ying (*The buzzer sounded*) also has the original sin as he was returned from the coterie election.

MR GARY FAN (in Cantonese): President, George ORWELL, the author of the famous novel *1984*, once said that political language is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind. Today, someone in Hong Kong has raised the art of language to a higher, new level. Hong Kong people call it the "hypocritical rhetoric". It is "hypocritical", a variant of "hypocrisy" and "hypocrite".

The question about this hypocrite has dragged on for months. His explanation was that he had to wait for the legal proceedings on the election petition to conclude, and then he would talk frankly and openly, speak frankly and openly, elaborate frankly and openly, explain clearly, so and so forth. However, in the end this hypocrite only made a 14-page written response in a sneaky manner. If members of the public, the media and Legislative Council Members had not expressed strong opposition and the Legislative Council was not going to discuss this motion on "Vote of no confidence in the Chief Executive" today, this hypocrite would not have come to attend the Question and Answer Session of the Legislative Council the day before yesterday.

On 26 November this year, this hypocrite told reporters that since no one had made any inquiries, he did not disclose the issue about his unauthorized building works (UBWs). However, according to the news report, when this hypocrite invited reporters of the media to visit his mansion on 14 May 2011, he claimed that he had submitted the plans for all the structures in his house. He had also commissioned two lawyers to ensure that these structures complied with the legal requirements. However, in the Question and Answer Session held the day before yesterday, he said: "To my memory, I have never said that I did not have any UBWs." It was only when a number of newspapers quoted such "hypocritical rhetoric" employed by him as the headline the following day that he immediately took remedial action and explained yesterday that this statement simply meant that he did not say, during the election period, that he did not have any UBWs. Once again, he has demonstrated right before us the "hypocritical rhetoric" in his political language. In fact, since the middle of last year, the hypocrite has been covering up one lie with another for as long as 18 months —

President, it has been 18 months. We cannot allow him to continue to deceive members of the public any longer.

President, it is not the first time that the hypocrite has lied. In June this year, the report of the Select Committee of the Legislative Council which studied the "West Kowloon Gate" incident already pointed out that it found his forgetfulness rather surprising. It also expressed dismay and disappointment for the incompleteness of his declaration of interests, and it considered that he had unshirkable responsibility. With regard to such a strong accusation, the hypocrite dared to remark loudly that the investigation report had finally cleared his name. How could he have the cheek to say such things? People with discerning eyes could see right away that he had lied again. Of course, what gave us a deeper feeling was that when he ran for the Hong Kong Chief Executive, he made use of the issue of UBWs to attack the other candidate so that he could win the election and become high above all people as the head of the Hong Kong Special Administrative Region (SAR). How can you describe all such behaviour if it is not hypocrisy?

This hypocrite has broken two records. The first one is that on his first day in office as the Chief Executive, he already triggered 400 000 Hong Kong people to take to the streets to question his integrity and governance ability and request him to step down. I remember that Mr TUNG Chee-hwa, the first Chief Executive, had been in office for six years. It was only because he ran into the incident on legislating for Article 23 of the Basic Law and the SARS epidemic that 500 000 people took to the streets to put forward a similar demand. During the term of Mr Donald TSANG, the last Chief Executive, the occasion where the largest number of people took to the streets occurred in 2011, and the number of people was close to 220 000. On the hypocrite's first day in office after he was elected the Chief Executive, he already surpassed TSANG and was catching up with TUNG. His second record is that he became the Chief Executive who faced a motion of no confidence within the shortest time since the reunification of the SAR. Of course, I believe many Hong Kong people hope that this hypocrite will break one more record, which is to become the Chief Executive who takes the blame and resigns within the shortest time.

President, from today's motion on "Vote of no confidence in the Chief Executive", we can see members of the governing team implicated in the uproar over integrity one after another, giving rise to more and more problems with the

administration. First, there was MAK Chai-kwong, former Secretary for Development, who was alleged of corruption. Then there was Secretary Paul CHAN, who was alleged of operating "sub-divided units" and drink driving. Of course, there was also the issue of the "brainwashing" national education.

The predicament which we are now facing is that the governing team in Hong Kong has lost its governance ability and integrity. The purpose in discussing this motion of no confidence today is to convey a strong message to the Chief Executive in the hope that he would know when to press forward and when to retreat. As some Honourable colleagues have said earlier, the power of the Hong Kong Chief Executive is similar to the power designated under the presidential system of the United States. Moreover, under the Basic Law, even if this motion of no confidence is passed today, the Chief Executive will not have to step down since the motion does not carry any legal effect.

Under the British parliamentary system which is presently adopted, it is not possible to request the Chief Executive to step down unless a motion initiated jointly by one-fourth of all Members of the Legislative Council is passed to conduct an investigation, and after such investigation is carried out by an independent investigation committee, the Council conducts deliberation and passes a motion of impeachment by a two-thirds majority of its Members. As Mr James TIEN has said just now, Hong Kong will not collapse because the Chief Executive steps down. On the contrary, if the Chief Executive steps down or takes the blame and resigns, it will give Hong Kong a chance to start afresh and set off reform in the system.

NIXON, former American President, chose to take the responsibility and resigned on the eve of the passage of the motion on impeachment by the Congress. After resignation, he chose to offer counsel and contribute advice to his country in his own way in writing seven books. In his funeral (*The buzzer sounded*) four Presidents

PRESIDENT (in Cantonese): Mr FAN, your speaking time is up.

MR GARY FAN (in Cantonese): including the then American President, attended. In other words

PRESIDENT (in Cantonese): Mr FAN, please stop speaking at once.

DR JOSEPH LEE (in Cantonese): President, since the Chief Executive assumed office, issues concerning his integrity have emerged one after another, which have directly resulted in difficulties in governance. The Chief Executive should have nobody to blame but himself and hence, we have this motion of no confidence today. The Question and Answer Session on Monday is indeed disappointing. Although he had apologized twice, we cannot see any sincerity for he still kept telling lies. Seemingly, he reluctantly replied Members' question because of this motion of no confidence today. President, as the Cantonese saying goes, "Admit your mistakes and stand still when you get a beating", it seems that our Chief Executive does not behave like that. He had been trying repeatedly to exonerate himself by making various excuses and evading; and he only make an apology resignedly at the very last moment.

As a politician, what matters most is not to find excuses for oneself, but bravely face up to the problems and bear the consequences. Regarding the issue of unauthorized building works (UBWs), we fail to see how the Chief Executive has faced up to the consequences; instead, when he knew that he had an underground room, he chose to seal or block it up in his own way, rather than report to the Buildings Department (BD). When the BD carried out a site inspection upon receipt of a report in June, he did not admit it honestly, but hoped to resolve the matter privately, so that it could be resolved without anybody knowing. How can the public accept such practices? Afterwards, he even claimed that he did not know or understand that he should file a report with the BD.

As a professional — notwithstanding his claim that there are building surveyors and estate surveyors in the surveying profession — I believe that he should know how to read a plan. By carrying out some minor works to erect a wall to seal up the space, did he actually believe that it would be undetected or even approved by the BD staff? If he considers himself a professional, is he actually trying to exonerate himself and evade his responsibilities by claiming his

professionalism as an excuse? Moreover, that is not what has happened. The BD has already confirmed that the concealed underground room is an actionable UBW, indicating that the problem is not as simple as what the Chief Executive had contemplated. Knowing that it was an illegal structure which contravened the Buildings Ordinance, he had handled the matter privately and illegally. Like a gambler, he considered that nothing had happened if nobody could find the UBW. His way of handling the matter is an utmost disrespect for the law, a deliberate violation of the law, as well as disrespect for public officers. Actually, as a professional, how can he use it as an excuse? If that is the case, how can this professional be a public role model, or does he want the public to follow him and use the same reason? The Chief Executive possesses the relevant knowledge, and as a relevant professional, it is in fact very easy for him to consult the views of other professionals; besides, in the course of handling these issues, he had many contacts with the BD, how come he had no knowledge about it? All in all, there is no explanation why he had no knowledge about it and hence, "I don't know" is absolutely not a plausible reason.

Regarding the remark about "I have never said so", President, I have actually made this remark today here, but the Chief Executive told us that, "I have never said that I do not have UBWs", which was really astonishing; it turns out that we have all misunderstood him — was the Chief Executive saying that actually he had never denied that he had UBWs, but it so happened that we had misunderstood him. If the Chief Executive knew he had UBWs, but still used the tactic of attacking his opponent on the issue of UBWs during the election campaign, isn't it a case of him "seeing a mote in another's eye and not a beam in his own", and lacking the air of a politician or the Chief Executive?

I believe that apart from involving the question of integrity that we have been discussing, this incident has also dealt a heavy blow on the morale of the Civil Service. In the present UBWs incident, the BD's handling has become the target of criticisms. I believe that in the Civil Service, their professionalism should not be neglected; it is only because of the Chief Executive's personal problem that the entire Civil Service's confidence was lost, which is absolutely unfair, and we should respect the civil servants. As the new Chief Executive, Mr LEUNG has not only failed to improve the morale of the Civil Service, but adopts a stalling and ambiguous attitude in taking the lead to implement policies to combat UBWs, and this has eventually undermined the morale of the civil

servants and dealt a heavy blow to the morale of the Civil Service. Also, the Chief Executive has neither offered any explanation voluntarily nor respected the existing system in handling the UBWs incident, and this has caused great embarrassment and difficulty on the part of the Civil Service. As the leader of the Civil Service, the Chief Executive's performance is disappointing because his personal problem has made the Civil Service come under pressure, and he should make a proper self-criticism.

Undoubtedly, the Chief Executive's performance has impacted directly on his administration, undermined his credibility in governance, prevented the fostering of co-operation and solidarity in the community, made it difficult to conduct rational consultation, and triggered off confrontation in society easily, which will eventually hinder the effective operation of both the Government and the entire Civil Service. The Chief Executive needs to improve his working style, show an attitude of respect for this system in future, make expeditious and timely responses, handle his affairs and policies prudently — not merely with words but deeds — and stop acting negligently; otherwise, his administration will only become even more difficult and the society even more plagued by disputes.

President, that is why I support this motion today.

MRS REGINA IP (in Cantonese): President, it so happened that I had led a historic and cultural site visit of my students to Xian since last Friday as part of their education on China's conditions, and missed two "good shows" in a row, namely, the dramatic resolution of the Old Age Living Allowance funding proposal last Friday, and the Chief Executive's Question and Answer Session on Monday. Although I was in Shaanxi, I was still concerned about Hong Kong's conditions, and my office had kept sending me highlight clips of the Question and Answer Session. Upon my return, I have also read and studied carefully the full text of the Chief Executive's Question and Answer Session provided by the Government to the Executive Council, but of course, I could not feel the atmosphere on the spot through SMS messages on my mobile phone.

Personally, I am very concerned about the incident involving the Chief Executive's unauthorized building works (UBWs) and lies. For me, what I want to know most is whether, besides the UBWs in his Peak mansion which he has also admitted himself, there is any UBWs in his property in Stanley? If there is

also UBWs in his property in Stanley, the issue will become more complicated. In this regard, I notice in particular that Mr TAM Yiu-chung also asked the same question, but I note the Chief Executive's reply was basically that no UBWs had been discovered by the Buildings Department (BD) after two inspections, and that he would co-operate with the BD fully. However, Mr TAM Yiu-chung had asked the Chief Executive a very straight-forward question, that is, whether he could confirm that there was no unauthorized hidden room with an area of 2 000 sq ft, and if he could confirm, the case was closed. However, the Chief Executive LEUNG Chun-ying had actually not answered the question directly. He had evaded the question.

I note that throughout the process, he had been evading the questions; I also consider his performance in this Question and Answer Session unsatisfactory in terms of both sincerity and integrity. Given the high expectation of Hong Kong people of our leaders as they consider that the Chief Executive should have a very high moral standard, the Chief Executive's performance in this regard is slightly not up to standard.

I also heard the harsh criticisms made by some Honourable colleagues just now, such as the Chief Executive should "pack his bags" and leave, or the Chief Executive should not be the only one who needs to step down, the entire political system should be disbanded as well because many government officials are useless. I would like to point out that the problems of Hong Kong cannot be resolved by simply asking the Chief Executive, or any particular officials, or even the entire political system to step down. Because as a matter of fact, it is by no means easy for Hong Kong to implement the unprecedented "one country, two systems" arrangement over the past 15 years since the reunification, and it is by no means simple for Hong Kong to have come this far today. If we are to destroy what we have now, it may be very easy to do so; but if we are to rebuild the system after demanding the Chief Executive to step down; the political system to disband, and those mediocre officials whom many Honourable colleagues consider unsatisfactory to step down, it will be a very difficult task.

Just now, some Honourable colleagues pointed out that it is by no means easy to find a replacement for the Chief Executive; in fact, needless to say that it is not easy to find an outstanding person to take up this important post, even if we turn to the Civil Service or the accountability system, it is generally known that talents are lacking with some civil servants choosing to retire early, and some

take up employment with non-governmental public bodies, while many new accountable Directors of Bureaux have been questioned about their competence. In other words, I consider that although we are dissatisfied with the Chief Executive's performance, the saying that "It is easier to destroy than to create" still holds true given that Hong Kong is still facing many difficult problems, and we need a Chief Executive who is determined as well as diligent in his work to bear the responsibility.

Hence, after considering all options, we in the New People's Party (NPP) opine that we still need to give the Chief Executive a chance today. Of course, as I pointed out just now, there are still unanswered questions, and we believe that it is something the Chief Executive LEUNG Chun-ying must still face some day, and he must answer those questions one by one. But considering the circumstances now, as I said earlier, although the motions of the Legislative Council are not binding, Members of the Legislative Council, albeit returned by the functional constituencies or geographical constituencies through direct elections, are representatives of public opinion, and if they pass a motion of no confidence in the head of the SAR, it will create an enormous impact on the SAR resulting in a governance crisis, which I consider to be not beneficial not only to the Chief Executive LEUNG Chun-ying himself or the governing team of the SAR, but Hong Kong as a whole as well. Hence, after thorough deliberation, we in the NPP decide that we will not support this motion of no confidence; of course, we consider that the Chief Executive could have handled the matter in a better way.

I also suggest that Honourable Members should read the statement made by Mr TAM Wing-pong — a former senior government official and an Executive Committee Member of the NPP — in his column today, in which he explains how he would have replied the questions in the Legislative Council if he were the Chief Executive LEUNG Chun-ying. I believe that if LEUNG had answered the questions in his approach of having more self-initiative and sincerity, the response from all sides could have been different.

With these remarks, President, I oppose this motion.

MR IP KWOK-HIM (in Cantonese): President, this motion of no confidence today is among a series of actions taken by the pan-democratic camp to attack Mr

LEUNG Chun-ying over his unauthorized building works (UBWs). More of these attacks will follow one after another, which include invoking the Legislative Council (Powers and Privileges) Ordinance to conduct an inquiry into the incident, invoking the impeachment procedures, and mobilizing a mass rally on New Year Day. This series of actions has only one objective and that is, to request Mr LEUNG Chun-ying to step down. There is no denying that the Chief Executive's approach in handling this incident involving UBWs warrants criticisms in many areas, but the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it inappropriate to request the Chief Executive to step down for this incident involving UBWs.

The pan-democratic Members call on the Chief Executive to step down on the ground that Mr LEUNG Chun-ying is alleged to have purposely concealed the UBWs at his residence during the Chief Executive Election and that he was elected by attacking his opponent, Mr Henry TANG, for having UBWs. In fact, I must point out here that as stated clearly in the judgment made by the Court on an election petition filed by another candidate, Mr Albert HO, there is no proof of a breach of the electoral legislation by Mr LEUNG Chun-ying in his acts and statements made in relation to UBWs before and during the election.

The focus of this incident concerning UBWs is whether the whole incident boils down to serious negligence, as Mr LEUNG Chun-ying has put it, or does it involve an issue of personal integrity? Integrity is not a legal issue, but a moral issue that often does not have a clear distinction between right and wrong. A judgment on whether or not there is problem with Mr LEUNG Chun-ying's integrity will, to a certain extent, depend on how far a person trusts Mr LEUNG Chun-ying. I have personally known Mr LEUNG Chun-ying for more than two decades and I understand him in certain ways. I do not think that this incident concerning his UBWs involves a problem with Mr LEUNG's integrity. But to the pan-democratic Members who always think that LEUNG Chun-ying is a "wolf", how will they possibly trust LEUNG whom they call a "wolf"? Even if Chief Executive LEUNG Chun-ying has further explained his UBWs for a thousand or 10 thousand times, I think the pan-democratic camp will continue to slam him and continue to attack him for telling lies. Just now, I heard Dr Helena WONG passing strictures on the Chief Executive when she spoke in this Chamber earlier, accusing him for digging a big hole of some 200 to 300 ft. Dr WONG has neglected the fact that even the former owner had openly admitted digging this hole. I have no idea whether she knows this fact, or whether she

does know it but still made these remarks. If it is the latter case, I urge Dr WONG and others to respect the facts and not to lie through their teeth.

In fact, after the Chief Executive was found to have UBWs at his residence, he has expeditiously carried out removal and restoration works, and he has given explanations for the UBWs in writing and by coming to the Legislative Council in person. He has done his best to explain what needs to be explained and repeatedly made an open apology to the public. This incident has been lingering on for more than six months, and the public have started to grow tired of it which seems to be never-ending. From the overall interest of society, it is now time for this matter to come to an end.

The DAB considers that the Chief Executive must sum up experiences and learn a lesson. He must deeply reflect on his handling approach in this incident, especially as the public can hardly accept the stalling attitude of the Chief Executive when facing questions from the public. This has fallen far short of the community's expectations of the principles and values that political figures should go by. On the other hand, we in the DAB all the more hope that the Chief Executive can do his utmost to fulfil the pledges that he made during the election, in order to prove his integrity to the public. It is all the more necessary for him to focus his energy on doing practical work, so that in respect of issues relating to economic development and the people's livelihood, he can address the various social, economic and livelihood issues truly faced by the people and of concern to the people, thereby enabling Hong Kong to start anew.

With these remarks, President, I oppose the motion.

MR IP KIN-YUEN (in Cantonese): President, we, being teachers, have to face a lot of naughty students. I remind myself every time that we must never be biased against any student and we must, by all means, give students an opportunity to make explanations, in order to understand the root of their problems. This is why I listened very seriously to Mr LEUNG Chun-ying's speech in the Question and Answer Session on Monday. Then I asked a brief and direct question, hoping that Mr LEUNG would likewise give a brief and direct answer. My question to Mr LEUNG Chun-ying was whether he felt a sense of shame in this incident, and I would like to find out whether he would

again be evasive in the Question and Answer Session. Mr LEUNG only reiterated that he was negligent and that he had already made an apology, adding that he would learn from his mistakes and would seriously sum up experiences and learn a lesson. In fact, he did not answer the question of whether he was ashamed or not.

He chose to evade even this innocuous question from me and this, I think, is a very serious matter indeed. To me, when he did not reply directly whether he was ashamed or not, he was actually saying that the negligence was committed unintentionally. In making an apology for unintentional negligence, it is like unintentionally stepping on the foot of the person in front of you while you are walking on the street and then saying "sorry" to that person. It is as simple and carefree as that. Therefore, it is not enough to say that this is sheer negligence and apologize for that. If it were my students who did this, I would consider it totally unacceptable. I put this question to him in order to ascertain whether he genuinely regretted what he had done in his apology. Only if he is genuinely remorseful that he will truly mend his ways. Regrettably, he chose to evade my question and only admitted negligence on his part, refusing to say whether or not he was ashamed, which means refusing to say that he was wrong. An apology with no regret is not a sincere apology.

When I teach at school, I sometimes come across students quarrelling with each other. I sometimes ask the student who is wrong to apologize to the other student. For example, when I say, "John, do apologize to Peter", then John may say, "OK, Peter, I am kind of sorry." If a student says such words, I know that while he does make an apology, he actually does not do it sincerely. If John has said such words, I will continue with my counselling, but for Mr LEUNG Chun-ying who has now risen to be the Chief Executive, I think this is not a question of counselling and he must take responsibility for what he has done. So, I think this incident involves not only an integrity issue, but also the sincerity of his apology.

President, the ruling team in Hong Kong is currently made up of principal officials under the accountability system and the Civil Service. An accountability official who made a mistake or was involved in serious mishaps or grave personal misconduct and hence failed to meet the relevant requirements of the Basic Law will have to leave. The political appointment system is all very

clear, and it is stated expressly in the Code that officials shall uphold the rule of law, abide by the law, and protect the integrity of public office. The general principles on the conduct and integrity of the Civil Service also stipulate that civil servants must not engage in activities or behaviour which may bring into question the impartiality of the Civil Service or bring the service into disrepute.

Obviously, it is very important to the Government as to whether it is brought into disrepute and whether the integrity of the entire Government can command public trust. The same rule applies to officials and to the civil servants in that they must not bring disgrace on the SAR Government. But now, Mr LEUNG Chun-ying, who is the head of the SAR Government, has dealt a serious blow to the morale of civil servants and public confidence for what he has done over his UBWs and for telling a pack of lies and for his pretentious rhetoric. Although Mr LEUNG Chun-ying did not answer direct whether or not he felt ashamed, his deeds have already made the public, the Civil Service and even his team of accountability officials feel ashamed for having such a Chief Executive.

We think that people on the top, be they headmasters or teachers, must strictly abide by rules and regulations and set a good example. People in higher positions should be subject to heavier punishment than that for people in lower positions, and they should be required to meet more stringent standards. But what have we seen from this incident? We have seen that members of the public are fined for having UBWs in their small houses, but the UBWs of the Chief Executive, his subsequent procrastination in giving an explanation and the heaps of lies that he has told can be resolved by a mere apology in this Council and worse still, an apology that seemed to be made only out of no choice because of the circumstances at the time, not an apology made out of sincerity. Civil servants who committed a mistake may be subject to punishment which includes warning, reduction in salary, financial penalty, reprimand, severe reprimand, reduction in rank, compulsory retirement, and dismissal, but when our Chief Executive has done something that brings disgrace on the SAR Government, he can nevertheless remain untouched.

What kind of situation is this? I think the most crucial problem lies in our political system because under the electoral arrangements and all the arrangements for the appointment of the Chief Executive, the voices and grievances of the people can be neglected as long as there is support from Beijing. Such a system is the crux of the problem. If we truly wish to prevent

the recurrence of similar problems in future, and if we hope that our future Chief Executives will be persons of integrity or persons who value integrity, we must revamp the system and we must move towards democratization. Thank you.

MR CHAN CHI-CHUEN (in Cantonese): President, today, I have heard some pro-establishment Members ask, "If you topple LEUNG Chun-ying, who will fill his shoes?" They even came to his defense by saying "it is hard to find someone to be the Chief Executive". This reminds me of a small anecdote. One morning, Chip TSAO from Cable TV had a telephone interview with me. He told me LEUNG Chun-ying indicated that the Policy Address to be announced next year would propose to launch a public consultation on the enactment of a sexual orientation discrimination law, and he asked me if I could stop following up on his unauthorized building works (UBWs) problem in return. I said, "That is crazy. Is this a trade-in?" I hung up and thought, "No! If Mrs IP fills LEUNG Chun-ying's shoes after he steps down, it would probably be easier to legislate for sexual orientation discrimination." That, of course, is just a joke. I only want to illustrate that the post would certainly attract many greedy eyes after LEUNG Chun-ying steps down as many people want to be the Chief Executive. If it turns out that nobody wants to be the Chief Executive, I reckon that President Jasper TSANG, though reluctantly, would accept the office. How can we use "it is very hard to find someone to be the Chief Executive" as a reason to vote down this no-confidence motion?

When LEUNG Chun-ying ran for the election, he attacked his rival Henry TANG over his UBWs problem while concealing that of his own. He had openly deceived the Central Government, members of the Election Committee and members of the public. Even so, he had deceived just 689 votes to secure the Chief Executive post. While the small-circle Chief Executive Election is a joke itself, this "Mr 689", LEUNG Chun-ying, has even made himself a big international joke. Hong Kong people have been living in great pain from the small-circle election for over a decade. God knows that this "Mr 689" daringly violated the hidden rules laid down by the Central Authorities. He toppled Henry TANG by calling on people to catch a thief when he is one, and brought local politics to the ugliest "Hong Kong Communist era".

In fact, there were countless cases of unscrupulous rise to power in history. Apart from WANG Mang who usurped the Han Dynasty, there were also CAO Pi and SIMA Yan. Although LEUNG Chun-ying did not seize the post from

Henry TANG, his case is a bit similar to that of WANG Mang. And yet, after all, WANG Mang could still be regarded as a knowledgeable, humble and polite man who had put aside personal interests and shared the fruit with the people. This "Mr 689", however, had not even made proper window-dressing efforts. As evident from his previous residence in Stanley to his current residence at the Peak, he has all along been putting personal interest above all things, building UBWs and covering up for himself over and over again, merely for the sake of getting more for himself. This year, he even "stole" the Chief Executive post. In fact, he has not only built UBWs in his houses, but also intended to make unauthorized additions to expand the Government structure to "five Secretaries of Departments and 14 Directors of Bureaux" by jumping the queue, in an attempt to wreck the established structure and appoint his trusted allies to work for the Government. Fortunately, Members used filibustering to fight against his "unauthorized move", and his intrigue fell flat.

I have to remind "Mr 689" that, after WANG Mang overthrew the previous dynasty and ascended to the throne, he had implemented new policies, which he thought was smart, and turned the well-established governing structure into a mess. Administration became ineffective and people led a terribly hard life. He ended up in failure at the end of the day. This "Mr 689" can be dubbed as a "five-not" Chief Executive — he is not knowledgeable, not competent, not law-abiding, not trustworthy and not shameful.

He is not knowledgeable in the sense that, as a professional surveyor, though the vendor had suddenly included a clause in the Sale and Purchase Agreement for the Peak property requiring the buyer to accept the transaction even if UBWs were found, he claimed that he was so determined to buy the property that he had not looked at the building plans. Upon completion of the transaction, he had engaged some anonymous professional surveyors to check for him and then told the world that there were no UBWs at his residence. Yet, some people recently found that the building plans were actually attached to the agreement. After living there for 10 years, he discovered all of a sudden that a covert room was actually UBWs. Besides, there were two other UBWs in his house. He subsequently explained that the lapse of memory made him think that the UBWs were inherited from the previous owner. When he ran for the Chief Executive Election, he miraculously discovered that there was a room built illegally in his house after living there for a decade. However, not knowing that he had to notify the Buildings Department for follow-up, he erected a brick wall on his own to seal it. Once again, he blamed this on the lapse of memory and

unawareness of the handling procedure. Nevertheless, his explanations were often proved to be erroneous and false. When he attended the Question and Answer Session held in the Legislative Council on Monday, he again played the art of double-talk, saying that he is an estate surveyor but not building surveyor. He implied that his unawareness of the handling procedure was forgivable.

He is not only a "five-not" Chief Executive, but also a three "nots" Chief Executive — not yielding, not apologetic and not willing to submit. We invited him to the Legislative Council for a 1.5-hour Question and Answer Session, but he did not cherish this opportunity. He had wasted people's time and electricity to watch him on the television. He had neither addressed the doubts nor felt remorseful, but only given lame arguments to confuse the public. Judging from his remark, "I have never said that I did not have any UBWs", we know that he is not truly repentant but is still trying to pass the buck to others.

What is most disheartening about the SAR Government is not that the leader has set a bad example for his subordinates, but the subordinates are required to adamantly support LEUNG Chun-ying though he has set a bad example. While some people urged that he should not be toppled so as to enable him to do real work, we also urge him not to topple Hong Kong, and beg him to step down so that our public officers and civil servants can do real work.

The following phrases, "getting back on the right track", "being repentant"; "realizing one's mistake and rectifying it" are not dedicated to "Mr 689" as he is incurable. He is so used to telling lies and has actually become a pathological "lying guru". I have prepared an "honest red bean bun" for him. He may have two if one is not enough. Yet, even if he has eaten the buns, the efficacy may not be so high as to make him tell the truth. What I have just said was dedicated to those who have wrongly trusted "Mr 689". They are also victims who have been cheated, not only their money donations and votes, but also their hearts. I hope they would be repentant and support this motion today.

I know that some Members did not vote for "Mr 689" last time. Those 689 votes were not cast by them, including the next speaker, Dr LAM Tai-fai. I nevertheless hope that he would take this last opportunity to reconsider supporting today's no-confidence motion and the initiation of the impeachment mechanism, and join the "Done with LEUNG Chun-ying" rally on 1 January.

DR LAM TAI-FAI (in Cantonese): President, I would first like to take this opportunity today to express my gratitude to a group of people who care about me very much, including my friends, my teachers and classmates, my family members, as well as my good friends in the industry. They are all very concerned about how I will handle this motion today, and they worry that the enormous pressures I face would affect my health and my decision. In fact, right up to the moment I speak, I have still received short messages, gently reminding me not to put too much pressure on myself.

President, I would like to reassure everyone that I am not under any pressure. Of course, I know that my voting decision today will be nothing but easy. I believe in karma; I know that different decisions will result in different consequences, but I would still face and handle it calmly.

President, my political vision is to speak for the people and monitor the Government. I would remain steadfast in doing things I believe are right; when faced with things I believe are wrong, I would never bury my head in the sand, trying to deceive myself and others, nor choose to run away.

President, when I decided to venture into politics five years ago, my wife just asked me to never turn into another "LAM Tai-fai". Therefore, I have always remembered her words; I would remind myself not to get lost and always be the real me. Many people have also cautioned me that politics is so full of temptations that a person can hardly stand firm for good causes except with remarkable courage.

In fact, the incidents relating to the unauthorized building works (UBWs) of Henry TANG and LEUNG Chun-ying, as well as their handling of the matter have already stirred up a lot of trouble in Hong Kong by arousing many conflicts and confrontations in society, causing much grievance in the community, breaking the hearts of many citizens and supporters, and leaving them deeply disappointed.

President, recently, an old folk has been fined by the Court on charges relating to UBWs. While the Government strictly enforces the law to remove UBWs in village houses, why does it consider the Chief Executive's UBWs not a big deal? How could he consider that nothing had happened just by building a wall to seal up the basement room? Ordinary members of the public do not know the Secretary for Development, they will not have experts to inspect the

UBWs on their behalf, nor have the financial resources to engage in a lawsuit with the authorities. Do Members consider they are fairly treated? Would they think there is justice in society? Can they accept this kind of treatment?

President, if we want to change people's views on us, as well as regain their trust and confidence, we must first change our way of handling things. Today, I would like to present to the Chief Executive a mantra of "Four Its" — face it, accept it, handle it and leave it behind. Whenever the Chief Executive makes a mistake, he must face it bravely, accept it whole-heartedly without shirking his responsibility by making excuses, and handle it to the best of his wisdom, compassion and sincerity, as well as account for it and apologize to the public sincerely, so that the 7 million people of Hong Kong can genuinely accept him, forgive him and support him; by then, he can face his own conscience, feel relieved, leave it behind and proceed to do some real things for Hong Kong people.

President, under the separate voting system, I am absolutely sure that today's motion will not get passed. However, even if today's motion were passed, it would not create a constitutional crisis in Hong Kong, and the Chief Executive would not and need not step down. Some say that if this motion is passed, there will be a change of regime in Hong Kong. I consider such a remark over-exaggerating and scare-mongering. Nonetheless, we have to understand that even if this motion is negated, it does not mean that the Chief Executive is not at fault in this incident. As I see it, the Chief Executive should regard this motion as a shot across the bows.

President, given that this motion of no confidence is just a show of stance with no binding effect constitutionally and legally, I think if we defend it blindly against our belief and conviction, it would just be sugar-coated poison that entices the Chief Executive into making mistakes again, and it is definitely not a blessing for Hong Kong people.

The Legislative Council is a microcosm of society, and our voting preferences today reflect, to a certain extent, the values held by the general public. I do not want the Chief Executive become the leading character in the fairy tale "The Emperor's New Clothes", who can only learn about the truth through a child.

President, I know that my decision today may not have the support and agreement of all people, but I would still vote by my conscience because I genuinely want what is best for Hong Kong, and I love Hong Kong very much.

As the saying goes, "Good medicines taste bitter but cure diseases; Sincere advice offends the ears but helps improve conduct." It holds true universally. If voting can take place today, I will vote in support of the motion. However, if voting is to take place tomorrow, I might not be able to take part in it as I will leave Hong Kong tomorrow on a flight at noon.

President, I so submit.

MR ALBERT CHAN (in Cantonese): President, before I formally deliver my speech, may I give my best wishes to Uncle Ray on his 88th birthday today. Uncle Ray, happy birthday!

President, whenever the "689 executive swindler" is mentioned, Hong Kong people will feel enraged. LEUNG Chun-ying's popularity rating has hit a record low when compared with that of previous Chief Executives and former Hong Kong Governors, either immediately upon or a few months after they assumed office. The popularity rating of Chris PATTEN was 60% when he assumed office, TUNG Chee-hwa 64.5% and Donald TSANG 72.3%, whereas LEUNG Chun-ying's was 52.5%, which even dropped to 49.2% a few months later — I am talking about his support rate.

At the time of their stepping down, TUNG Chee-hwa's popularity rating was 47.9%, and Donald TSANG, 47.9%. At present, LEUNG Chun-ying's popularity rating is 49.2%, which is not far from 47.9%. LEUNG Chun-ying's popularity rating may plunge to the bottom this month as members of the public have witnessed his attitude as well as his repeated lies over more than an hour during the Chief Executive's Question and Answer Session held shortly before. I believe that his popularity rating as indicated in the upcoming opinion poll will certainly be lower than 47.9% — this is already the benchmark for his stepping down.

President, LEUNG Chun-ying must step down basically for five major reasons. Firstly, his public support is fairly low. At present, his net support

rating is -12.6, while it was +4 when he assumed office. In other words, it has dropped by 16.6 within just a few months. "166" is another figure.

Secondly, he lacks support in this Chamber even from the pro-establishment camp generally. Given the democratic camp's objection to small circle elections, we will of course continue our fight to topple this serial liar, the "689" Chief Executive, yet his support from the pro-establishment camp is likewise fragile.

Thirdly, the business sector — especially those groups with vested interests in Hong Kong — generally does not approve of LEUNG's governance because of his despicable personality and unscrupulous tactics. The fact that he lacks support even from the pro-establishment camp, groups with vested interests, as well as Hong Kong's business sector which is regarded as the pillar in society by the Communist Party, must be a sign of his governance crisis.

Fourthly, he is extremely incompetent, which is an apt description of his performance the day before. Despite his lengthy preparation for the Chief Executive's Question and Answer Session, he still kept telling flat lies, and even concluded by saying, "I have never said that I did not have any unauthorized building works (UBWs)" — a testimony that he is unexceptionally inept in terms of his political wisdom, ability to handle emergencies and ways of dealing with problems, when compared with previous Chief Executives and Governors as well as other politicians. Despite his original intention to resolve the problems, he just aggravates his own political crisis as his explanation continues.

Fifthly, his character is flawed. As "Yuk-man" has said, he has a degenerate personality. He had questioned about Henry TANG's UBWs, but it was later revealed that he himself also had UBWs. Another example which illustrates his degenerate personality is that being the Convenor of the Executive Council, although Donald TSANG had repeatedly instructed the principal officials and Executive Council members to check whether they had any UBWs, he withheld the truth and did not carry out such an instruction.

He was the then Convenor of the Executive Council, yet he adopted a double-faced approach towards the Chief Executive's instructions and deliberately withheld the truth. I must use the words "shameless" and "despicable" to describe this person's personality and behaviour. He does not have any team

spirit. As he lacked team spirit even when he was the Convenor of the Executive Council, now that he is the Chief Executive, how can he lead the Executive Council and the 160 000 civil servants? As he did not even follow the Chief Executive's instructions when he was the Convenor of the Executive Council, now that he is the Chief Executive, why do Executive Council members have to listen to him? Hence, given his lack of leadership skills and degenerate personality, there is absolutely no way he can continue to serve as the Chief Executive.

The present problem is the escalating public grievances, and 1 January is the day when people take to the streets. Back then, we had requested TUNG Chee-hwa to step down when his popularity rating gradually fell. When I made the then request for TUNG Chee-hwa to step down in the Chamber of the old Legislative Council Building, some veterans in the democratic camp opined that TUNG Chee-hwa should not be allowed to step down because if he continued to serve as the Chief Executive, he could help canvass votes for the democratic camp. They even described TUNG Chee-hwa as the best canvasser for the democratic camp. However, I did not accept this logic because what matters most is the people, and what matters most is their well-being. When the Chief Executive makes Hong Kong people suffer, we must demand him to step down.

When I put forward the request for TUNG Chee-hwa to step down, no one thought I could make it. But eventually, 500 000 people took to the streets, forcing TUNG Chee-hwa to step down on the pretext of "leg pain". Hong Kong people have already awakened. They know that people's power can change the regime and force incompetent officials to step down. Therefore, on 1 January, the People Power and the Anti-CY Alliance will besiege the Government House. We will go to the Government House and tell LEUNG Chun-ying: "You are despicable and shameless. You must take the blame and step down!"

So long as LEUNG Chun-ying does not step down, Hong Kong people will definitely continue with their fight and opposition in order to bring justice for themselves. Hong Kong must not lose our core values, and more importantly, we should not put up with these despicable and shameless officials.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR LEUNG KWOK-HUNG (in Cantonese): President, I originally intended to speak later, knowing that a lot of lame arguments will be put forward to support LEUNG, so I bore with them.

President, here are three pieces of props (*Mr LEUNG Kwok-hung was holding some props*), including this nose of LEUNG Chun-ying. The first time I wanted him to be "beheaded" in the Council was 15 July. It is really hard for me. Knowing that he has told an obvious lie, I have got to see him every day, and every time I see him, I have to keep asking him the same question in order to arouse people's concern. He is therefore quite a piece of work.

President, what is "divine retribution"? It means one can hardly go against the will of heaven. I have quoted FANG Xiaoru's words before: "People who concern about the world will only consider issues which they consider difficult but to the neglect of simple matters, and they will only be vigilant on matters which they are afraid of but to the neglect of non-dubious issues." LEUNG Chun-ying could never have thought that dining with WANG Yang would lead to such serious consequences. We also thought that we could do nothing about him.

President, I heard many Members of the royalist camp and LEUNG's fans say that his sins were not fatal. What is meant by "his sins were not fatal"? Do you know how terrible telling lies could be? MAO Zedong, the founder of the country, was pretty sagacious, right? It was he who defeated the Kuomintang. He lied to the whole country — let me recount his lies one by one. After the transfer of five Party leaders to Beijing, GAO Gang was framed and accused of treason. He then jumped off a building and died. Without taking a glance, MAO Zedong agreed with the accusation.

Another example is HU Feng. He was merely a writer who talked about art and literature. He too was accused of being a member of an anti-party group, and was locked up until he turned mad. That was also because the public security officers had lied. And yet, some people said that no one should oppose the Chairman. But what if the Chairman passes away? Turning to the anti-rightist movement, it was meant to be an overt plot. What a scoundrel! How can LEUNG Chun-ying compare to him? Let me tell you, this is an overt plot intended to make people come into the open. Afterwards, millions of rightists were exiled to the Great Northern Wilderness.

In the aftermath of the "Three Years of Natural Disasters" and the Lushan Conference, the anti-leftist movement became an anti-rightist movement. Again, it was MAO who maneuvered people attending the Conference — DENG Xiaoping was the most cunning because he hurt himself and was therefore excused from the Conference — both in the anti-rightist movement and the Lushan Conference. In the Cultural Revolution, he had gone to the extreme. A single word uttered by him would override tens of thousands of words said by other people.

This Council thinks that telling lies is no big deal. But how can the head of a state, or he, being the leader of a place, tell lies? Can he maneuver? Did you not notice that the higher the position a person holds, the greater the harm his lies will do? Can we connive at this? I will be accused of setting a bad example for the kids if I throw this "head" from here. Do you not have lofty morality? Can you tolerate a Chief Executive who has repeatedly lied? Can you connive at a Chief Executive who claimed that an unauthorized building works (UBWs), that is, an illegal room at the basement which he was well aware of, had been dealt with by erecting a wall to seal it, and then told other people time and again that there were no UBWs until he was bogged in a lawsuit? I beg all of you to shut up. I beg Members from the pro-establishment camp to jump into the sea and not to drag down the country. Is the ending that Chinese people have today not attributable to their submission to the lies of the tyrants?

President, I really do not have any personal grudge against him. I do not know who he is. I only know that we have the same surname. Today, I am not speaking about LEUNG Chun-ying's personal fate, but whether the fate of 6.9 million Hong Kong people will be dictated by someone who keeps lying and maneuvering. Another thing about him is that he has deceived the sovereign, which should be given a death sentence of dismembering the body. Has he not joined the Communist Party? He is not only a person deeply trusted by the Communist Party, but also the Secretary General of the Basic Law Consultative Committee. Is that right? Later, after the reunification, he had been the leader of the Executive Council for a long period. He is a target to be groomed and a tool used by the "local communists" to defeat the "rich landlords". Buddy, he was groomed by you. How is your move to protect a person groomed by you different from that of people conniving at MAO Zedong's evil deeds back then? Do you need to be locked up in a cowshed before you will repent?

President, this Council is indeed pathetic. It turns out that he could always get away though he has lied over and over again simply because he is indispensable. Or, without him, someone may feel too ashamed to stay. Buddy, if the doctor you consulted mistakenly, removed your lung and stomach, and transfused the wrong blood in your body, you may give him another chance to treat you. Allowing LEUNG Chun-ying to stay is tantamount to asking a quack doctor to treat you. Given that you have survived under his treatment, you consult him again — not just you, but the 6.9 million people, meaning all of you — You have been cheated once, but you still bought the Lehman minibonds to give it another chance. Is this the way you conduct yourself? Do you have any common sense? It is a waste of effort to reproach you. Think about what you have said. How can you still act as though justice is on your side? Will you die if he is gone? What if he dies of a stroke?

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR LEE CHEUK-YAN (in Cantonese): President, I think we can guess the result of the motion today. When the pro-establishment camp refrains from speaking, we know what they think. They may as well vote against the motion. Yet, do they think that Hong Kong people will trust LEUNG Chun-ying just because the motion is negated?

Hong Kong people know clearly that LEUNG Chun-ying cannot be trusted. LEUNG Chun-ying is a big liar. He has been covering one lie with another. What is the biggest lie he had ever told, President? It is the remark that "I have acted in an open and transparent manner right from the very beginning". He has turned honesty and openness into some laughing stock. On that day, when I read the *Hong Kong Economic Journal*, it was said that such remark was an insult to ZHUGE Liang, for ZHUGE Liang was really practicing honesty and openness. Therefore, it is the biggest lie told by LEUNG Chun-ying for claiming his honesty and openness.

As I listen to his speech, I think of a serial killer, yet he is the serial liar. Serial killers adopt a certain pattern in committing crimes, and now he is telling serial lies. This serial liar also adopts a certain pattern. What is his pattern? First, he tries to conceal the facts. When facts can no longer be concealed, he

lies. When his lies are exposed, he claims that this is due to negligence. This is his pattern in handling the incidents.

Let me cite the case of the secret basement as an example. Last November, he secretly built a wall to seal up the basement and thought that it would not cause him any trouble. Unfortunately, when staff of the Buildings Department (BD) found that there was something wrong when they conducted a site inspection in June, they issued a letter to him. Knowing that there was a problem, he procrastinated and did not reply to the BD. Later, when he could no longer deny it, he lied and defended that he wanted to restore the original state of the structure as soon as possible and thus had not informed the BD. We all know that he was just lying. If he had been so smart to apply to the BD for additional and alteration works, why not notified the BD in this case? In this case, his pattern was to tell lies when his misdeeds were uncovered, claiming that he wanted to restore the original state of the structure as soon as possible. When this approach did not work, he had to admit the case. He would then say that it was an inadvertent mistake, and in retrospect, he could have handled the case in a better way.

Yet, another lie is involved. The BD had actually sent four letters to him. What was his lie? He said that since the case was in judicial proceedings, he had not replied to the BD. Indeed, he knew that if he replied, it would affect the judicial review. As such, he did not give any reply. He chose to procrastinate and made judicial proceedings an excuse. He was actually putting the BD in disgrace. In fact, one more lie was involved in the case. Though he claimed that he did not reply to the BD for his case was in judicial proceedings, he was not involved in any judicial proceedings when the first letter was issued by the BD. Members should bear in mind that the letter was issued around 20 June, when he had not yet "ascended the throne". The problem is obvious: It is but another lie.

In the glass trellis case, the same pattern was adopted. What had he lied about? He told lies to shift his responsibility to the former owners, stating the trellis was built by the former owner. Unexpectedly, someone found a photo showing that the trellis was built after he moved in and when he was the owner. When the case was uncovered, what pattern did he adopt? Once his misdeed was uncovered, he apologized for his negligence. Will anyone believe in him?

Surely, he was playing on words, the art of double-talk. The climax of his art of double-talk is the remark that, "I have never said that I did not have any UBWs". This is truly a piece of arts. He is right. He had not said so during the election campaign. Though he had not said so at the time, he pointed his finger at Henry TANG and said, "Your biggest problem is not about UBWs, but your creditability." Think about it. When he said the above remark, he had already sealed up his basement secretly. He is unrighteous at heart. Will Members consider this horrifying? His unrighteousness at heart is frightening. His art of double-talk has really excelled.

Nonetheless, it is just useless for me to say so much. The motion today will not be passed after all, for the pro-establishment camp has already got the order from the highest echelon — "Criticism allowed but toppling not permitted". However, the pro-establishment camp today is even worse, for they "dare not criticize and defend LEUNG all the way". They have all become directors of "Pro-LEUNG Kuk" — I have to apologize to the charitable organization, Po Leung Kuk, for I have dishonoured its name. The LEUNG in "Pro-LEUNG Kuk" is LEUNG Chun-ying. As such, they are all directors of "Pro-LEUNG Kuk".

Therefore, there is no person who is the most shameless in the world, but only those who are more shameless. Today, the pro-establishment camp on the pro-LEUNG front is the most shameless, more shameless than LEUNG Chun-ying. Their favourite remark as said by Mr Michael TIEN, "There is the integrity problem, but no evidence of proof." Or as Mr IP Kwok-him has said earlier, "his attitude of procrastination is undesirable", yet this was glossed over. Perhaps as Mr NG Leung-sing said, "It is only about UBWs, and 400 000 people in the territory have UBWs". To cite the previous remark of LEUNG Chun-ying, it is not a matter of UBWs but a question of integrity. This remark was made by LEUNG Chun-ying against Henry TANG. I now said so to him. For some unknown reason, Mr WONG Kwok-kin has not spoken today, and I wonder where he has gone. All Members from the Hong Kong Federation of Trade Union has not spoken in this debate. What had Mr WONG Kwok-kin said some time ago? He said that "he lacked sincerity". Actually, Mr WONG wanted to speak for LEUNG Chun-ying at the time, and he tried to put it in a more presentable way. However, LEUNG Chun-ying eventually found it useless to make his excuse sound plausible, and Mr WONG Kwok-kin thus said

that he lacked sincerity. However, in the entire incident, what is the final shameless argument they share? It is that "LEUNG's mistake is not fatal and should not be asked to step down".

When you say that "LEUNG does not warrant capital punishment", you have handed down a death sentence on Hong Kong, for integrity is the foundation of all governments. Without integrity, no government can win the trust of its people, and it can in no way govern. When no one believes in what he says, no policy can be implemented. If you allow him to stay in power, are you trying to put Hong Kong to death? The society will continue to doubt his integrity and distrust him, and internal strife will go on.

Therefore, President, though we will lose today, we will go to the Victoria Park on 1 January. We will use our leg to (*The buzzer sounded*) win the battle, to get justice done

PRESIDENT (in Cantonese): Mr LEE, your speaking time is up.

MR LEE CHEUK-YAN (in Cantonese): and to make LEUNG Chun-ying to step down. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MS EMILY LAU (in Cantonese): President, I speak in support of Mr WU Chi-wai's motion. President, we are now toppling LEUNG. Ha! Ha! Ha! President, Mr LEE Cheuk-yan condemned Members of the pro-government camp just now. When you look at their faces, they may be painful as well.

Today, I have not heard anyone speaking righteously to express his support for LEUNG Chun-ying. Honestly, everyone says that he is incapable. Yet Mr NG Leung-sing is still finding excuse for him, claiming that the problem of illegal structure is a bomb leaving behind by the colonial government. Man, do you really mean to start a new chess game as said by LEUNG Chun-ying? Every

government has to take over the game of the previous government. No wonder Dr Priscilla LEUNG asked him to deal with the unauthorized building works (UBWs) problem once and for all? President, is she asking him to drop dead? Should LEUNG come forward immediately to grant exemption to all UBWs in the territory, so that his UBWs will also be exempted? Dr CHIANG Lai-wan even asked him to sell his house. President, Members in the pro-government camp are really brilliant in giving bizarre ideas.

Mr NG Leung-sing is quite objective indeed. He said that we are stranded in the present predicament because the Government has failed to implement the policy rigorously, and as a result, the economy and people's livelihood of the whole society are affected. However, he then went on to say that we should act properly and should not topple him. President, Mr IP Kwok-him is most "brilliant" in saying that the Chief Executive had done many things that should be subject to criticism, yet he said that he had not violated the Chief Executive Election Ordinance. President, Mr Albert HO is not in the Chamber now. However, if the recent remarks made by LEUNG Chun-ying were said prior to the submission of the election petition, can we still say that he has not violated the legislation? Many people say that he has concealed a lot of facts, and if all those facts had been laid bare before the Court, the ruling might be different.

Mr IP Kwok-him said that there was serious negligence on LEUNG Chun-ying's part, yet it did not involve criminal offence, for integrity was a matter of moral ethics and conduct. As such, he said that he trusted LEUNG Chun-ying, and it would not be a problem. What was he saying? He said that the pan-democratic camp was wrong in calling LEUNG "the wolf". But this is not the case. We are not the one calling him "the wolf". Who gives him such a name? Those who know him well give him such a name. How would we have known him for 10 to 20 years? People who know him well know his style and practice.

Moreover, have Members listened to a radio programme? On one occasion, Mrs Regina IP and Ms Selina CHOW quarreled in English in a radio programme about whether Mrs Regina IP had said LEUNG Chun-ying would do harm to others. What is most scary thing about this "wolf"? President, it is his determination to take revenge. Otherwise, the business sector would not have been so frightened. The honesty of Mr James TIEN from the Liberal Party is amiable. He told us about the contents of the two-hour discussion at the party's

lunch. He said that the issue could have been dealt with in five minutes, for the UBWs and the integrity of LEUNG Chun-ying were called into question, and he had obtained this post by deception. However, after discussing for two hours, they still could not come to a conclusion on how to handle the issue. Mr TIEN is a Member returned by direct election, and he thus agreed that the motion on vote of no confidence should be supported. Yet other Members who are not directly elected disagreed. He then suggested that he should be allowed to vote for the motion, while other Members of the Party would abstain from voting. He said that the situation was extremely confusing, and eventually his suggestion was banned.

President, is the incident telling us that functional constituencies should be abolished as soon as possible? Certainly, President, directly elected Members from your political party may continue opposing the motion on vote of no confidence, yet I hope you and your comrades in your political party will later go outside and explain your case to Hong Kong people. I think you have also heard of the comment from many Hong Kong people, "Well, we have had enough, he should step down!" Many people concur with the comments made by a number of Members from the pro-government camp today, that is, he has problems on his part and he had obtained the present post by deception. As Mr NG Leung-sing has said, should this problem continue to plague Hong Kong for four and a half years, can Hong Kong withstand the consequences? President, if the SAR is to be plagued by LEUNG Chun-ying and his problems for four and half years — if it can last so long — the credit should go to Members now in the Chamber. For if the motion on vote of no confidence is passed today, President, I believe even the most shameless person will have to follow the previous practice of the SAR by giving a deep bow and stepping down, or he should have done so before the motion is passed.

Yet should he be spared? Thanks to you Member who are now sitting in the Chamber. Even if he has made mistakes, even if he lacks credibility and even if he gets the present post by deception, you will continue to support him. Indeed, there is a reason behind, that is, the exchange of interests between both sides. President, the election of the deputies to the National People's Congress is now in the way, and there are also business opportunities and jobs. In other words, fame and honour and riches and prosperity will be readily available if they act properly.

Hong Kong people should keep their eyes open. The camera man making live television broadcast should give a close-up of each Member, so that television audience at home may see their faces clearly. They will then know why we fail to force "LEUNG Chun-ying, the wolf" to step down though we are most eager to do so. That is because we are defeated by these Members. If any of these Members are elected by Hong Kong people, they should give a clear account to their electors: Why this man whose integrity has gone bankrupt and who is likely to lose the support of everyone may continue to govern Hong Kong? President, why will he be deserted by his friends and allies? I think when a man has come to this pass, people around him should indeed leave him.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR CHAN KAM-LAM (in Cantonese): President, the problem of unauthorized building works (UBWs) at the Chief Executive's residence has caused a stir for several months. The incident has been played up as if it is the only incident worthy of concern in society. In fact, upon the assumption of office of the new Government, a lot of issues have to be dealt with, and there are numerous livelihood issues requiring immediate actions.

Today, Members from the democratic camp propose the "investigation and toppling of LEUNG". It is not a new topic. Since LEUNG's participation in the election of the Chief Executive, the opposition camp has been attacking him incessantly and urging him to step down even before he took office.

The Chief Executive of the SAR is elected according to the Basic Law. Even leaders of the opposition camp, such as Mr Alan LEONG and Mr Albert HO, had participated in the election proactively. However, all along, the opposition camp, in particular Mr Alan LEONG and Mr Albert HO, have been speaking volubly that the Chief Executive is not returned by direct election of all people and lacks public mandate. As such, they do not acknowledge and accept him, and they repeatedly adopt various tactics to hinder the Chief Executive's governance under the law. President, the Chief Executive elected according to statutory procedures is conferred with the authority and responsibility by the Basic Law. Those remarks made by the opposition camp are a disregard for the

Basic Law and the spirit of law. Besides, it is extremely misleading to the public. Strictly speaking, these remarks have prompted queries about the integrity and credibility of the two Members who have been engaged in legal profession for a long time.

Mr WU Chi-wai proposes a motion on vote of no confidence on the ground that there are UBWs at Mr LEUNG Chun-ying's residence, and that Mr LEUNG attacked other candidates during the election, and hence, Mr LEUNG's integrity has been called into question. President, in my view, the opposition camp has escalated the UBWs at LEUNG's residence to an unlimited extent, trying hard to strike a fatal blow against Mr LEUNG Chun-ying, and pressing him to step down for his mistake. This ambition is palpable to all. The reason for doing so is hardly justified, for it is political power struggle in *de facto*. Mr Albert HO lost the election, and he attempted to overturn the election result by submitting the election petition. Since the application was ruled invalid by the Court, his attempt to topple LEUNG should also be regarded as a failure.

Since Mr LEUNG Chun-ying announced his participation in the election early this year, there were widespread remarks in the community that LEUNG Chun-ying should not be refrained from being elected the Chief Executive. All kinds of attempts had been made to pull him out. Media in the opposition camp had written articles to portray LEUNG Chun-ying as the "wolf" and Henry TANG as the "pig", and they vigorously publicized the preference for the "pig" to the "wolf". When the opposition camp depicted candidates who love the country and Hong Kong as a "wolf" or a "pig", they are definitely trying to belittle the two candidates and promote the other candidate. Regrettably, the third candidate is not comparable to a wolf or a pig.

This movement to force LEUNG Chun-ying to step down indeed started at the time he took part in the election. The investigation into the West Kowloon incident was an act to wrong LEUNG Chun-ying, yet the attempt to topple LEUNG failed. The opposition camp is determined to fight this political battle to the very end. This movement is neither a matter of UBWs, nor a matter of integrity, but a matter of politics under a predestinated conclusion.

President, it is certainly undesirable that UBWs are found at LEUNG Chun-ying's residence. According to the explanation made by him recently, the incident has been clearly accounted for and issues arousing concern have been

clearly explained. Moreover, he has made apology a number of times and honestly admitted his fault. As a matter of attitude, he has shown the sincerity in reflection. However, the opposition camp is making vigorous effort to pursue the incident and is determined to make a mountain out of a molehill.

Actually, UBWs is a common phenomenon in Hong Kong. I also have UBWs in my flat. Many people have UBWs in their flats. Members applauding in the Chamber have UBWs in their flats. Mr Ronny TONG, Mr Albert HO, Mr LEUNG Yiu-chung and many other Members also have UBWs in their flats. If you have UBWs in your flat, are you going to come forward, explain the situation, and make an apology? Why are you justified to condemn a person who is more honest than you?

(Dr KWOK Ka-ki stood up)

PRESIDENT (in Cantonese): Mr CHAN, please hold on. Mr KWOK, what is your point?

DR KWOK KA-KI (in Cantonese): Mr CHAN Kam-lam presents in a way that all Honourable Members have unauthorized buildings works (UBWs) in their flats, I hope he can produce evidence to claim who has UBWs because this is a serious accusation.

PRESIDENT (in Cantonese): Just now, I heard Mr CHAN Kam-lam mention the names of three Members. I did not hear him say "all Honourable Members" have UBWs.

DR KWOK KA-KI (in Cantonese): President, he said "you" and he is facing us when he said those words.

PRESIDENT (in Cantonese): Mr CHAN, please clarify do you mean to say that "all Honourable Members" have UBWs?

MR CHAN KAM-LAM (in Cantonese): President, just now, I mentioned the names of three Members, but perhaps more Members may be involved. Nonetheless, if someone knows that he has UBWs in his flat, he needs not be afraid to admit it here.

PRESIDENT (in Cantonese): Mr CHAN, please continue with your speech.

MR CHAN KAM-LAM (in Cantonese): How can you be accountable to the electors who have voted for you? It again shows that the opposition camp is "targeting the person rather than the matter", which is unjust and biased.

Since the Chief Executive has assumed office, he has implemented policies which are beneficial to people's livelihood, such as halting "doubly non-permanent resident pregnant women", introducing various "tough measures" in the property market, introducing the Old Age Living Allowance, and so on. The opposition Members have never uttered a single word of praise, but instead they have been adopting an opposing and filibustering attitude. Today, to the disappointment of Hong Kong people, they would rather waste time escalating a political issue limitlessly than be practical and do things for Hong Kong people. President, we hope that society can be back on track after today's debate. Of course, it is our wishful thinking because the opposition camp will continue to work towards the objective of toppling Hong Kong.

Thank you, President.

MR ANDREW LEUNG (in Cantonese): President, at the request of the House Committee, the Chief Executive attended a Question and Answer Session of the Legislative Council on Monday to answer questions from Honourable Members. However, my Honourable colleagues of the Business and Professionals Alliance for Hong Kong and I consider that Mr LEUNG Chun-ying has not capitalized on this opportunity to address the queries of Honourable Members as well as the general public; at the same time, he has not provided any further information on this matter. Nonetheless, we believe that the people will have their own views and judgment on this matter.

All along, the community has a very high expectation on political figures, and as the Chief Executive, he must take into account all possible impact by his

handling of any small matters or personal matters. Regrettably, Mr LEUNG Chun-ying's performance over the past few months when handling the question of unauthorized building works (UBWs) has given the public an impression of procrastination. This incident, which has been lingering on for several months, has even called into question his governance ability, and his handling of the matter should indeed be criticized.

Nonetheless, as he has already given an explanation of the incident, apologized time and again, reiterated repeatedly that he had already given a full account of the facts to the Legislative Council, and stated explicitly that he would definitely assume responsibility as the owner, we should trust the Civil Service and have confidence that the responsible civil servants will certainly handle the matter impartially in accordance with law, and will not give any special treatment because of the identity of the owner.

Last week, I met a taxi driver who told me that everyone knew LEUNG Chun-ying had UBWs and he was certainly at fault in this matter, but as the incident has been dragging on for so long, it was meaningless to embroil in it further, and for the sake of Hong Kong, he should be given some room to do his work. I think this taxi driver's remarks do reflect the wish of some Hong Kong citizens who are feeling resigned and do not want to see such clamour continue in Hong Kong.

In my view, as there is no new development in this incident and the Chief Executive has explained the matter time and again, it will only make the entire Government's administration extremely difficult if we keep on arguing. Moreover, the Civil Service has already been dragged into the incident innocently for it has come under the criticisms of protecting the owner, resulting in low morale. At the end of last month, the Director of Buildings even made a stern statement that the Buildings Department had absolutely not protected the owner or stopped its investigation due to pressures from senior officials.

Hong Kong is now facing many economic and livelihood problems, and since the Chief Executive assumed office, he has contacted different factions and groupings as well as Members of the Legislative Council, listened to people's views proactively, and conducted consultation for his policy address, but he has invariably met with violent opposition which hampers rational discussion as well as the forging of consensus. We consider that the Legislative Council and the

community should give the Chief Executive and his new team some opportunities, as well as sufficient time and scope, so that they can implement the pledges in the election manifesto, display their governance ability, focus on developing our economy and improving people's livelihood.

President, as no new information or factor has emerged at this stage, we cannot support this motion of no confidence today. If this dispute continues in society, it may trigger a governance crisis, expend social resources needlessly and delay the implementation of other pressing policies and measures, which is absolutely not beneficial or even detrimental, so to speak, to the overall development of Hong Kong society. Hence, I hope Members will look forward and do not lead Hong Kong to a dead end. I so submit.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR ABRAHAM SHEK: President, I have been spending a few hours listening to all the speeches. President, tonight's debate on the "Vote of no confidence in the Chief Executive" is indeed a very important debate on constitutionality. This is not a matter for joking, and I take it seriously.

Before I came, my daughter asked me how I was going to vote. Obviously, she is a supporter of the Civic Party, and she asked me not to speak because Dr Helena WONG has challenged me to speak for myself why I am going to vote "No" on the motion. The reason for my voting "No" is not that it is my job to defend "Chun-ying" — he does not need my defence. In tonight's debate, I have heard many colleagues referring in their speeches to Mark ANTONY's funeral oration for Julius CAESAR. In his speech, Mark ANTONY said, "Friends, Romans, countrymen, lend me your ears; I come to bury Caesar, not to praise him". I come here not to praise CAESAR, nor to bury him; I come here to speak the truth, and in proof I believe.

Firstly, what "Chun-ying" did was wrong, but that was 12 years ago. We have to judge history at the time when history took place. In those days, the unauthorized building structures were not defined as illegal structures, and so it was a common practice. But because he is now the Chief Executive, we hold him fully responsible for the things he did before he became the Chief Executive.

Give him a chance. Let him, like the other citizens, have a right to right his wrong. In this particular case, I rest my case. I will not vote for the vote of no confidence against him.

Secondly, yesterday, we spent hours sitting here, listening to all the debates during the public hearing of the Public Accounts Committee (PAC) on the Auditor's Report on polluted air. No polluted air is more disgusting than the air of hatred which is actually finding a place in this Chamber. This Chamber is now full of hatred, full of disgusted feelings against each other. That is not necessary. We are all colleagues. We are all here for a common purpose: for the good of Hong Kong.

President, I remember when I was young, I like reading essays, and one particular essay that I like most is by Francis BACON. If I may quote from this essay which is quite relevant to my reason for voting against the motion tonight, it goes: "Revenge is a kind of wild justice; which the more man's nature runs to, the more ought law to weed it out. For as for the first wrong, it doth but offend the law; but the revenge of that wrong putteth the law out of office. Certainly, in taking revenge," — as my colleagues now are somehow doing — "a man is but even with his enemy; but in passing it over, he is superior; for it is a prince's part to pardon." And he continues, "And Solomon, I am sure, saith, *It is the glory of a man to pass by an offence.* That which is past is gone, and irrevocable; and wise men have enough to do with things present and to come. "

We have a lot of things to do and we are all wise men. I hope we can give Hong Kong a chance, not "Chun-ying". Let us give Hong Kong a stable Government. Let us give ourselves a chance so that we can continue building our roads, building our buildings, building a better environment for our children. This is the whole purpose of this debate. I think this debate is really good. It gives us a chance to learn, and it also gives our children a chance. Let us all work together. Let bygones be bygones and start afresh.

MR ABRAHAM SHEK (in Cantonese): President, when "Chun-ying" attended the Question and Answer Session that day, some Honourable Members criticized that he had deceived many members of the Election Committee, but "Chun-ying" had not deceived me because I did not vote for him. President, my decision of not voting for him has nothing to do with whether there is a basement in his home or not, but because I am most concerned about the candidates' political platform.

Members criticize that "Chun-ying" has lied, but in fact he has not. President, I have visited his mansion and I know he is telling the truth. He has already provided a clear account through his 14-page statement, but the crux is how he has made his oral explanation. Members must understand that even if we were to question him for four more days, he would still be stating the facts set out in that 14-page statement. President, at the PAC, we would use the expression "mean with truth" to describe some officials. An official who is "mean with truth" is not necessarily telling lies, but he would answer our questions bit by bit in a toothpaste squeezing fashion, and this makes a lot of Members very angry — and rightly so.

Hence, "Chun-ying" is not necessarily the devil, neither is he god. I hope Hong Kong people — regardless of whether they are in the opposition camp or the pro-establishment camp — can join together, cast aside our different views, and build up Hong Kong for our future generations.

Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR KENNETH LEUNG (in Cantonese): President, I thank Mr Abraham SHEK for his speech. Having worked with Mr Abraham SHEK in the Public Accounts Committee (PAC) for a period of time, I also know about the PAC's approach in collecting evidence. All Members, irrespective of their political parties and groupings, work for Hong Kong.

Actually, this motion of no confidence proposed by Mr WU Chi-wai today is just a very humble motion. Have you watched the movie *The Story of Qiu Ju*? In this movie, GONG Li went hither and thither to ask for legal assistance. She did not aim to seek revenge. Nor did she carry any anger in her mind. She only wanted to get an equitable judgment. Today, even if this motion is passed, it only represents Members' subjective judgment on this matter. The sky will not fall, and it will not give rise to any political crisis. I hope Members will vote with conscience.

I am not angry at the moment. Nor am I being vindictive. I simply hold a practical and realistic attitude. Regarding this issue, many people talk about what he had said at such and such a time, what he had done at such and such a time, what he had not said at a certain time, and what he had said at another time. All these do not matter at all. When we consider this issue, actually we need to look at two focuses and three basic points. What are the two focuses? We may focus on the incident concerning the basement room in Mr LEUNG's mansion. We should also look at Mr LEUNG's attitude in sealing off the basement room back then. As I am not a mind reader, I do not know what was in his mind then. What are the three basic points? Mr LEUNG has used a large number of words to describe his behaviour, including negligence and serious negligence, and some of our Honourable colleagues in the Council said that this is a question of integrity.

Should this matter be judged by our perception or by law? Mr Paul TSE has also mentioned this earlier. In my opinion, both approaches should be taken into account in forming our judgment. What does "negligence" mean? With my modest and limited legal knowledge, I know that if a person has committed an offence, contravened a regulation or violated the law inadvertently or without knowledge in this regard, and he is simply being reckless, this person's behaviour can be called negligence. Then what is "serious negligence"? To certain legal academics, there is actually no difference between "negligence" and "serious negligence" as far as the law is concerned.

Some legal academics have also said that if, objectively speaking, a person has professional knowledge, academic qualifications and experience, as well as rich expertise in the matter concerned, but he still acts against the law, the regulations or the legislation recklessly or without care, then such an act is serious negligence.

What is a question of integrity? If Mr LEUNG Chun-ying had thought about whether he should inform the Buildings Department on the day he sealed off the basement room with a wall, even if this question had crossed his mind for just a split second, if he had really thought about this, that already constitutes a question of integrity. Since Mr LEUNG was clever enough to seal off the basement room with a wall, he was not negligent because he knew he had violated the regulations or the legislation. If he had thought about whether he should seal it off with this wall or whether he should inform the Buildings Department, that already constitutes a question of integrity.

I do not know what was in Mr LEUNG's mind. Neither do I know his purpose in sealing off the room with this wall. He told us in this Chamber that he knew he was wrong, and he had immediately handled the matter. Of course, many people ask on the Internet, suppose a person killed someone and then buried the body, could we say that there was no problem in handling the matter in such a way? I will not make such a comparison because this comparison has gone too far. Let me cite two simpler examples. If I steal something and then return it to its owner, have I broken the law? After all, I still have broken the law.

Let me give another example. Suppose someone uses insider information to conduct a transaction, and afterwards, it is found out that he has made a lot of money. As many officials or Executive Council Members have said, if such money is donated to a charitable organization, the problem is regarded as having been resolved because not a penny has been gained. After all, is such an act against the law? My subjective view is that it is still against the law.

I hope Members can concentrate on these two focuses and three basic points. I also wish to simplify a complicated issue and then handle it expeditiously. Yet this is only a humble motion of no confidence. Do you actually believe in this person? It is as simple as that. Object to this motion if you believe in him, and support this motion if you do not believe in him. Think about whether you believe in him, the two focuses and the three basic points. Nevertheless, I do not believe him.

President, I so submit. Thank you.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

DR CHIANG LAI-WAN (in Cantonese): President, there is a saying that if A says a particular person is not good, and B also says that person is not good, then all other people will consider that the person is not good. Originally, I am still thinking whether I should stand up and speak today because many people consider that I am a LEUNG's supporter; I think it is alright if I do not speak in this debate and let other Honourable Members present to state their own views.

But I just heard Mr Kenneth LEUNG's appeal that if Members believe in LEUNG Chun-ying, they are free to do so; if Members do not believe in LEUNG

Chun-ying, they should, like him, say: "I don't believe in LEUNG Chun-ying". Having heard Mr LEUNG's remarks, I must stand up and say: "President, I believe in LEUNG Chun-ying, I believe him!" Why do I believe him? There are many lawyers in the Chamber now; for them, motive is everything, and they would always ask what the motive is. LEUNG Chun-ying has served Hong Kong for many years. As we can see, over the past 10-odd years, he has expressed so many views on various social policies and people's livelihood in Hong Kong that they could be published into books, and many of the relevant policies are not easily understood without thorough study and analysis. On account of this sincerity on his part, I will not make a judgment that he is not a trustworthy person and should step down simply because he has not explained himself clearly enough today, or Members are not willing to accept his 14-page statement or his account of the unauthorized building works (UBWs).

Members now present in the Chamber should all know that if a matter is considered from different perspectives, different answers will emerge. Why do we have the pro-establishment camp today? You say you are the pan-democrats, but then you also say you are the opposition camp. Sometimes, when we consider a matter from a different perspective, the answer will be different.

Nonetheless, I hope Members can consider the entire incident from the three perspectives of rightness, reasonableness and legality on the basis of objective facts. I have read his 14-page statement in detail, and I concur with many of the points therein. The most important thing is that — I will not go into the details here — when he attended a regional forum yesterday, I can see that he looked very tired and heavy-hearted, and even when he was scolded and criticized by many people at the venue, he still attended the forum as scheduled so that he could talk about some policy directions or issues of general public concern. I know he is having a hard time and under a lot of pressure, and I would liken his attitude to a famous Chinese saying as follows, "Brows knit, coolly I defy a thousand accusing fingers; Head bowed, willingly I serve children like a dedicated ox." We are now discussing a very serious matter, and Members should not grin cheekily.

I believe the general public is concerned about the Chief Executive LEUNG Chun-ying's problem with UBWs. Given that the Chief Executive LEUNG Chun-ying has already provided a detailed account of the UBWs in his mansion, which some members of the public have accepted, and some not, I think

it is quite alright, but ultimately, we must consider the big picture of Hong Kong. What I am thinking is that, if the Legislative Council continues to embroil itself in this incident in future, say, for one, two or three more years, or even throughout the entire term of LEUNG Chun-ying, by making him come to this Council to answer questions, to the extent that no other issues can be raised for discussion, are we doing something good for the people of Hong Kong? As we all know, it is totally not beneficial to the society as well as the general public.

Personally, I believe in LEUNG Chun-ying, and I have read all his documents. I do not want him to step down because he has made a promise to me as well as to many citizens. According to his manifesto, he has a lot of work to do. I hope that in the next few years, we will focus on the way he works, and whether he has implemented the pledges in his election manifesto. If he has not implemented the pledges in the manifesto or if he fails to do a good job, we can then criticize and blame him. But, today, I think we cannot make a judgment and jump to a conclusion because "I think he is trustworthy", "You think he is not trustworthy", "I think he has integrity", "You think he does not have integrity", and so on. I implore Members to give the Chief Executive LEUNG Chun-ying more time so that he can do his work properly according to his manifesto.

I so submit. Thank you.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, on behalf of the SAR Government, I state clearly our opposition to Mr WU Chi-wai's motion of no confidence in the Chief Executive.

Honourable Members have focussed their speeches on the unauthorized building works (UBWs) found in the Chief Executive's properties. As I have said at the onset of this debate, apart from issuing a detailed statement on 23 November, the Chief Executive had given a clear account on the relevant matters and responded to Members' questions in person in this Chamber two days ago. With regard to the speeches made by a number of Members just now, I would like to give a consolidated reply.

As we all know, Mr LEUNG Chun-ying has been in public service for many years; he fully understands people's high expectation of the conduct of public figures, and all along, he has been cautioning himself to handle his affairs prudently. After the media reported that UBWs were found in his Peak residence in June this year, Mr LEUNG, as the Chief Executive-elect, had immediately co-operated with the Buildings Department (BD) in conducting inspections, and fully respected their independent and professional judgment. Moreover, he had taken actions to rectify the problems as detected by the BD as soon as practicable.

All along, the Chief Executive has attached great importance to the matter, and he is willing to bear his responsibility. After knowing that UBWs were found, he had handled the matter in a responsible manner. He had responded to media enquiries on many occasions, and even invited the media to visit his residence for reporting and filming.

The Chief Executive had already clearly admitted that there was negligence on his part when handling the matter, and he might not have given a clear explanation. For instance, in purchasing the Peak property, he had not conducted a thorough check for UBWs; after moving in, he had carried out works to erect the trellis and resolve the problem of UBWs by himself. Such actions might not be prudent enough and could give rise to misunderstanding easily.

In this connection, he had sincerely apologized to the public time and again. He had stated clearly that he had no intention to conceal anything, and pledged to be extra prudent in future. It is clear that the Chief Executive understands and fully accepts the people's demand and expectation of himself as the Chief Executive.

I also want to take this opportunity to reiterate that the BD had all along dealt with the Chief Executive's case impartially in accordance with law. The BD is a professional department responsible for law enforcement. In line with the Civil Service's excellent tradition, the BD has been enforcing the law honestly and impartially in accordance with the system, the policy and the rules, without any regard to the identity of the person concerned. Similarly, both the former and current Secretaries for Development did not and will not give any instructions to the BD regarding enforcement work in individual cases. The doubts expressed by some people against the department are indeed unfair. The Chief

Executive has already apologized for putting the civil servants as well as the accountability officials under pressure in relation to this incident.

I believe that members of the general public can review the work done and efforts made by the Chief Executive comprehensively and objectively. After he assumed office for 10 days or so, the Chief Executive has already worked with his team of accountability officials as well as the Civil Service and grasped the opportunity to fulfil his election pledges and introduce various measures to benefit the public. When attending the Question and Answer Session of the Legislative Council in July, he announced many policies to bring benefits to the people, which include introducing the Old Age Living Allowance (OALA), increasing the value of elderly healthcare vouchers, allowing a certain number of white-form applicants to purchase flats in the Home Ownership Scheme secondary market without having to pay the premium, fully financing the construction of youth hostels by non-governmental organizations, and setting up a Social Enterprise Development Fund.

The Chief Executive cares about issues of concern to the people. He concurs that there is a pressing need for Hong Kong to resolve the housing problem, and regards it a top priority of the current-term Government. Under the helm of the Chief Executive, the Government started off by announcing a series of short and medium-term measures in August to give priority to Hong Kong people in respect of land and housing supply. Subsequently, in October, the Government announced another round of demand side management measures, which included increasing the rate of the Special Stamp Duty and introducing a Buyer's Stamp Duty. The Chief Executive has set up the Long Term Housing Strategy Steering Committee, as well as several preparatory task forces in respect of economic development to study various issues of our economic and financial systems, the development of Chinese medicine and medicine products, and so on, in order to ensure that Hong Kong will continue to build on its existing advantages in the course of seeking the scope and future direction of Hong Kong's development.

Understanding people's concern about the limited resources in society, the Chief Executive has decisively put a halt to doubly non-permanent resident pregnant women coming to give birth in Hong Kong, as well as the expansion of the individual visit scheme. He is particularly concerned about the livelihood of the grassroots. After he assumed office, he has immediately introduced the

OALA to assist the elders in need, advanced the implementation of the concessionary scheme for the elders to travel on franchised buses for \$2 per trip, re-established the Commission on Poverty, and announced the setting of a poverty line. The Chief Executive also attaches great importance to the people's voice. Soon after he assumed office, he has visited various districts to solicit public views; he has also attended the Question and Answer Session of the Legislative Council thrice within five months.

All of the above represent the progress made by the Chief Executive together with his team of accountability officials as well as the Civil Service through their continuous hard work and conscientious efforts in less than six months after he assumed office. The Chief Executive's determination to serve Hong Kong is plain for all to see. He senses the urgency of the people, and expeditiously deals with problems such as housing, the environment, ageing population, poverty and economic development in society. To resolve these matters is Hong Kong people's aspiration, as well as the foundation of Hong Kong's continuous progress and prosperity.

President, the Chief Executive is the head of the SAR, as well as the leader of the SAR Government; he was returned by election in accordance with law and appointed by the Central People's Government in accordance with the Basic Law. If Members have any criticisms or views on the Chief Executive or the Government, the Chief Executive and the accountability officials will listen in a humble and open manner, so as to improve administration. However, if Members employ this motion of no confidence as a political gesture by attacking the Chief Executive for one single fault without considering his other aspects, and even use this as the basis to deny his passion, determination and drive for serving Hong Kong, it is indeed a hasty generalization, and this is not beneficial at all to the efforts made by the Government under the helm of the Chief Executive in improving people's livelihood and promoting economic development.

In retrospect, of course, we can see that his handling of this incident on UBWs was less than perfect. The Chief Executive has apologized to the public time and again, which shows that he deeply understands the importance of people's trust on himself as well as the Government. He has also pledged that he would be extra prudent and continue to uphold integrity when serving the people in future. As some Honourable Members have said, we should handle this matter in a befitting manner, and it is time to stop such entanglement so as to give

the Chief Executive as well as the SAR Government the time and room to do some real work for the people.

The Chief Executive will announce his first Policy Address of the current-term Government next month. During the consultation on the Policy Address, the Government has noted the expectation and hope of many citizens that the Government could lead Hong Kong in resolving the problems of housing, poverty, elderly care, environmental protection and conservation, economic development, and so on, so as to bring about better development opportunities for Hong Kong as well as our next generation. If Honourable Members veto this motion today, the Chief Executive together with his Government team and the community can once again stay focused by eliminating the bias, and work in concert for Hong Kong people by resolving their difficulties and bringing them benefits.

President, I so submit and implore Honourable Members to oppose Mr WU Chi-wai's motion.

PRESIDENT (in Cantonese): Mr WU Chi-wai, you may now reply and you have four minutes 49 seconds.

MR WU CHI-WAI (in Cantonese): President, I am so glad that so many Honourable colleagues have spoken on this motion today. The presence of unauthorized building works (UBWs) is a minor issue; in fact, UBWs can be found in the homes of many Hong Kong citizens. Nonetheless, LEUNG Chun-ying has turned a minor issue into a matter of integrity. Just now, Dr CHIANG Lai-wan has asked a very good question. In her view, if we accuse LEUNG Chun-ying of any wrongdoing, we should consider whether he has the motive to do so. Let us look at his statement. He states that he has bricked up the illegal space in November last year — did he have any motive to do so? The answer is "Yes", and his motive was to prepare for the Chief Executive Election.

Secondly, some Members said that he has been co-operative. After he was elected, he co-operated whenever queries were raised by reporters. However, why had he not responded to the four letters issued by the Buildings Department (BD) immediately, but waited until the court case involving Mr

Albert HO had concluded? That is why he has the motive. Following his lawyer's advice, he did not handle the issue in view of the pending legal proceedings. That is his motive. When facing a small problem of UBWs, LEUNG Chun-ying had a motive to cover it up by dishonest remarks, double-talk and lies. How can we possibly consider that it is a minor issue for having someone with no integrity to act as the head of the Government and govern Hong Kong?

Just now, I have heard the appalling remark made by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). They claimed that what we are doing now is actually a political struggle. However, I want to tell them, if safeguarding the governance credibility of the SAR Government and demanding equality before the law are just minor issues for them, I cannot think of any issues that they would consider as important for Hong Kong.

While we often talk about safeguarding our core values, have we taken any practical actions? Let us look at the Central Government. Today, how much effort it takes to rectify the problems of graft and corruption arising from slack monitoring in the course of reform and opening up in the Mainland over the past three decades? As the Chinese saying goes, "If the upper beam is not straight, the lower ones will go aslant". As there is such a tendency in the SAR Government, and if we choose to remain silent now, when shall we speak up? What these Members are doing is tantamount to aiding and abetting the evil-doer, as well as fostering evil propensities by being over-lenient. As the royalist camp only protects the privileged, can they face Hong Kong people with no qualms? Do they deserve to be citizens of Hong Kong?

We often talk about "one country, two systems", "Hong Kong people ruling Hong Kong", and "a high degree of autonomy", and our objective is to safeguard the most precious core values of Hong Kong, *viz.* rule of law, as well as honesty and probity which have long been upheld by the SAR Government — that is the fundamental reason why we propose this motion of no confidence. If the SAR Government's governance is allowed to worsen continuously, who will suffer ultimately? It will be the people of Hong Kong.

Today, these Members have said repeatedly that many "serious business" cannot be attended to. That is because the Chief Executive himself has not made good use of his opportunities. When he first assumed office, he could have given a clear account of the UBWs at his residence formally, and asked the

public to forgive his minor misdeed. As mentioned by many Honourable colleagues, he has made mistakes in this matter, but most importantly, he should be willing to face up to his mistakes in order to seek people's understanding. But this is not what he has done; instead, he covered his lies with lies time after time, thinking that he can deceive Hong Kong people with his double-talk, this is really an insult to Hong Kong people's intelligence.

The royalist camp and the DAB, you are actually "making a mountain out of a molehill" because you even consider graft and corruption insignificant, and you consider losing the core values of Hong Kong insignificant. How can you face your electors with no qualms? Unless you are telling me that your supporters (*The buzzer sounded*) all agree that graft and corruption is insignificant.

PRESIDENT (in Cantonese): Mr WU, your speaking time is up, please stop.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WU Chi-wai be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Dr Joseph LEE, Dr LAM Tai-fai, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted for the motion.

Dr LAU Wong-fat, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr Tony TSE voted against the motion.

Mr Tommy CHEUNG, Mr Vincent FANG, Mr Frankie YICK and Mr CHUNG Kwok-pan abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Michael TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK,

Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the motion.

Mr James TIEN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 33 were present, nine were in favour of the motion, 20 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 34 were present, 18 were in favour of the motion, 14 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 19 December 2012.

Adjourned accordingly at nineteen minutes to Eleven o'clock.