OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 28 April 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

THE HONOURABLE TSANG TAK-SING, J.P.
SECRETARY FOR HOME AFFAIRS

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

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

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

THE HONOURABLE EVA CHENG, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	*L.N. No.*
Designation of Libraries (No. 2) Order 2010.....	42/2010

Other Papers

No. 89 — Audited statement of accounts of the Language Fund for the year ended 31 August 2009

No. 90 — Annual Report and Financial Report 2008/2009 of the Vocational Training Council

No. 91 — Securities and Futures Commission Approved Budget of Income and Expenditure for Financial Year 2010/2011

Report of the Bills Committee on Employment (Amendment) Bill 2009

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Financial Reporting Requirements of Hong Kong Exchanges and Clearing Limited for Listed Companies Incorporated in Overseas Jurisdictions

1. **MR PAUL CHAN** (in Cantonese): *Good morning, President and Honourable colleagues. It has been learnt that quite a number of Hong Kong listed companies incorporated in other jurisdictions are currently exempted by*

the Hong Kong Exchanges and Clearing Limited (HKEx) from having their financial statements audited annually by certified public accountants (practising) in Hong Kong. In this connection, will the Government inform this Council:

(a) whether it knows the current number of Hong Kong listed companies which have been granted the aforesaid exemption, in which countries are they mostly incorporated, when they started engaging accountants who do not hold a practising certificate in Hong Kong to audit their financial statements, and the places where such accounting firms are registered; what criteria HKEx has adopted in exercising the aforesaid power of exemption; whether approval from other authorities or government departments is required before HKEx exercises such power, and the application procedure for such an exemption;

(b) whether the Government, HKEx and the Securities and Futures Commission (SFC) have consulted the trade and market stakeholders before making the aforesaid exemption arrangements; if so, of the details, including when consultation was conducted, names of the organizations consulted, contents of the responses received, when and how the outcome of consultation was announced, as well as the justifications for deciding to make the exemption arrangements; if consultation has not been conducted, of the reasons for that; and

(c) whether it knows how HKEx ensures that the practising standards of the accountants who do not hold a practising certificate in Hong Kong and the professional standards they adopt meet the Hong Kong requirements; how the authorities ensure that timely and effective investigations and disciplinary proceedings can be carried out by the regulatory authorities when irregularities have been uncovered in the accounts of such listed companies, and the details of the mechanism for carrying out such investigations and disciplinary proceedings?

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

(a) and (b)

As at 31 March 2010, there were 1 332 companies listed on the Stock Exchange of Hong Kong (SEHK) of which 202 were incorporated in Hong Kong and the remaining 1 130 were incorporated outside Hong Kong. Seven of these non-Hong Kong incorporated companies employed non-Hong Kong auditors. These companies were incorporated in the United Kingdom, Canada, Cayman Islands and Singapore. Other details are set out at Annex.

The non-Hong Kong auditors were employed by these seven companies in accordance with relevant provisions of the Listing Rules. No granting of exemption is involved.

According to Main Board Listing Rule 19.20 and GEM Listing Rule 24.13, the annual accounts of overseas issuers must be audited by a practising accountant(1) of good standing and independent of the overseas issuer. The practising accountant must either be a member of the Hong Kong Institute of Certified Public Accountants holding a valid practising certificate, or be a firm of accountants acceptable to SEHK which has an international name and reputation and is a member of a recognized body of accountants.

The above requirements in the Listing Rules have been in operation for over 20 years. If a company incorporated outside Hong Kong wishes to employ non-Hong Kong auditors, the company concerned must show to SEHK that the non-Hong Kong auditor it wishes to employ has an international name and reputation, and that it is a member of a recognized body of accountants. The SEHK will consider the application having regard to the actual circumstances of each individual case.

(1) Include a person, firm or company.

The Securities and Futures Commission and the SEHK will, from time to time, review the existing listing arrangements in light of latest developments in the local and overseas markets, to ensure our market competitiveness and to protect investors.

(c) The SEHK continuously reviews, on a sample basis, the financial statements prepared by listed issuers. Where material and apparent irregularities are identified, the SEHK would refer the matter to the appropriate regulatory authorities.

In addition, under the Financial Reporting Council Ordinance (Cap. 588), the Financial Reporting Council (FRC) may investigate auditing irregularities in relation to listed companies, such as professional negligence or misconduct, and enquire into non-compliances with accounting requirements in the financial statements of listed companies. Such investigations and enquiries may include companies listed in Hong Kong but incorporated elsewhere and non-Hong Kong registered auditors providing auditing service for those companies. If the case involves falsifying documents or making false or untrue material statements, the FRC will refer it to the police.

If the FRC's enquiry findings show that there has been accounting non-compliance in the financial statements of the listed company concerned, the FRC will request the company to revise its financial statements. If the company refuses, the FRC may apply to the court to compel the company to make the necessary revisions.

In the event of FRC establishing that the auditor concerned has committed auditing irregularities, and that the auditor was registered outside Hong Kong, the FRC will notify the SEHK and the relevant overseas accounting regulatory bodies of the investigation outcome, so that they could decide on any follow-up action or sanctions to be taken against the auditor concerned.

Annex

	Name of Company	*Stock Code*	*Place of Incorporation*	*Financial year from which overseas auditors were used*	*Name of Auditor*	*Location of Auditor*
1	HSBC Holdings plc	5	United Kingdom	31 December 1993	KPMG Audit Plc	London
2	Manulife Financial Corporation	945	Canada	31 December 1999	Ernst & Young LLP	Toronto
3	City e-Solutions Ltd.	557	Cayman Islands	31 December 2000	KPMG LLP	Singapore
4	Standard Chartered Bank PLC	2 888	United Kingdom	31 December 2002	KPMG Audit Plc	London
5	Sino Dragon New Energy Holdings Ltd.	395	Cayman Islands	31 December 2008	KPMG LLP	Toronto
6	China XLX Fertiliser Ltd	1 866	Singapore	31 December 2009	Ernst & Young LLP	Singapore
7	SouthGobi Energy Resources Ltd.	1 878	Canada	31 December 2009	Deloitte & Touche LLP	Vancouver

MR PAUL CHAN (in Cantonese): *President, I would like to follow up part (c) of the main reply, which mentioned that the FRC may investigate and enquire into some non-Hong Kong registered auditors. As these are non-Hong Kong registered companies, what mechanisms and legal justifications will the FRC base on when it investigates and enquires into these non-Hong Kong registered accounting firms? In the event that they do not co-operate and refuse to provide the drafts of their auditing works, what actions will the authorities take to deal with that? Can this be considered a management loophole?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr Paul CHAN for his supplementary question. He has raised an issue that merits attention. As we can see, currently many international listing activities are subject to the limitations of statutory jurisdictions. How to follow up cases and investigation concerning accountants really merits our attention. I have to point out in the first place that cross-boundary investigations are full of challenges. Insofar as cross-boundary investigations are concerned, the current trend of most countries is to rely on collaboration between international regulators. The investigations and follow-up works are thus carried out on the basis of co-operation. As such, on the basis of the current system and a regular co-operation mechanism, the FRC will communicate with the relevant overseas regulators and seek their assistance when necessary.

MR CHAN KIN-POR (in Cantonese): *I would also like to follow up part (c) of the main reply. It mentioned that the SEHK continuously reviews, on a sample basis, the financial statements prepared by listed issuers. How many listed issuers have their financial statements reviewed by the SEHK on a sample basis in the past five years? What follow-up actions have been taken?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr CHAN for his supplementary question. However, I do not have detailed figures of the sample reviews conducted by the SEHK at hand.

MR CHAN KIN-POR (in Cantonese): *May I ask for a written reply?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I will follow up on that. (Appendix I)

DR SAMSON TAM (in Cantonese): *My supplementary question is also about the sample reviews. Though the Secretary said he did not have the information*

in this respect, I am particularly concerned about the seven companies set out in Annex, especially the overseas companies. As the reviews are simply conducted on a proportional basis, I wonder if the overseas companies have been randomly selected for review. May I ask the Secretary, have any of the seven companies set out in Annex been randomly selected for review? During the follow-up process, have any difficulties been encountered?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, thank you Dr TAM. As I mentioned just now, I do not have such figures at hand. Moreover, the sample reviews target all listed companies instead of overseas companies. As shown in my reply, the SEHK will adopt a prudent practice in permitting overseas companies to employ overseas accountants, and will take into consideration the international reputation and size of the firm of accountings. As for the specific figures required by the Members, I do not have them at hand.

MS STARRY LEE (in Cantonese): *President, being a financial centre, Hong Kong was, is and will be dedicated to attracting companies worldwide to list here. The robust private enterprises in the Mainland are certainly one of our targets. This is a major trend. Many Mainland enterprises may not choose to employ Hong Kong auditors and will apply to the SEHK accordingly. The fourth paragraph of part (a) and (b) of the main reply pointed out that the SEHK will consider the application having regard to the actual circumstances of each individual case. As a listed company, the SEHK certainly hopes that more companies will be successfully listed in Hong Kong, but on the other hand, it has to approve applications concerning the employment of non-Hong Kong auditors. Does the Secretary find any conflict of interest in this kind of arrangement? If this situation later develops to become a trend, will there be any need for a review?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): With regard to the positioning of the SEHK, it is undoubtedly a commercially-run institution, yet it also has to assume important responsibility for matters concerning public interests, as reflected in its general operation.

Besides, the SEHK's role as a front-line regulator is embodied in the Listing Rules. If there are changes in the Listing Rules as a whole, the SFC, being secondary in the structure, will play a co-ordinating or overseeing role.

I would like to point out, the situation of the Mainland is relatively special. In the past, many Mainland companies seeking to list in Hong Kong very often had to rely on Hong Kong accountants since the Mainland accounting system had not yet attained international standards back then. However, as international accounting standards have gradually been established in the Mainland, we can no longer require Mainland companies to be listed in Hong Kong to employ Hong Kong accountants, if we are to maintain Hong Kong's competitiveness. Nevertheless, how can we ensure that Mainland accountants can meet the relevant standards of Hong Kong? In this connection, the Government, the SFC, SEHK and the Ministry of Finance of the Mainland will constantly communicate with each other on relevant policy areas, in the hope that Mainland accountants can attain certified standards.

MR CHIM PUI-CHUNG (in Cantonese): *President, to enable the SEHK attain the status of an international exchange, will the Government consider that, apart from the accountants, other professionals such as lawyers, financial advisors …… As the SEHK does not have a list, when many listed companies make enquiries with the SEHK about the financial advisors, accountants, and so on, they found that there are no standard criterion, hence the professionals employed by many overseas companies seeking to list in Hong Kong are subject to different treatment.*

My question is, regarding the eligibility of the professionals, has the Government ever asked the SEHK to compile a list on the relevant categories of professionals, for reference by prospective listing companies, or when prospective listing companies enquire with the SEHK about the eligibility of certain professionals including the accountants, at least they can get an immediate answer?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr CHIM for his question. I believe the current practice is appropriate for the time being. As for compiling a checklist or a table

to set out some regions, companies and so on, I think that may not be a feasible practice. If, having regard to the circumstances of each individual case, the operational causes of each individual company …… For example, if a company operating overseas intends to employ an overseas accountant, the SEHK will then review the size and reputation of that firm of accountants, and consider whether it is appropriate for such firm of accountants to carry out the audit for reasons such as the location of the company, the business undertaken. I believe these factors should be considered for all cases. Hence, I consider the practice of compiling a checklist questionable.

In the past, the SEHK had turned down some applications on the ground that the companies concerned failed to provide sufficient justifications.

DR LEUNG KA-LAU (in Cantonese): *President, I would like to follow up part (a) and (b) of the Secretary's main reply, there is a line which states: "a firm of accountants …… which has an international name and reputation". My question for the Secretary is, do the authorities have any criteria and standards for "international name and reputation"? According to some information, I learn that some institutions set out in Annex have precedents of wrong doings. Therefore, I would like to ask the Secretary, what are the criteria for "international name and reputation"?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The Listing Committee or Listing Division of the SEHK will certainly take into account the reputation of the auditors in considering the applications relating to overseas auditors. The companies concerned must provide the SEHK with proofs that the auditor meets the conditions. The auditors or companies set out in Annex of the main reply are indeed big names worldwide.

DR LEUNG KA-LAU (in Cantonese): *President, he has not mentioned any concrete conditions. Now my question is about the criteria, such as the required level of capital, the number of auditors employed ……*

PRESIDENT (in Cantonese): Dr LEUNG, please repeat the part that has not been answered.

DR LEUNG KA-LAU (in Cantonese): *…… objective conditions such as these, what are the objective conditions?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Dr LEUNG, it is difficult for me to tell you the objective conditions. I believe members of the Listing Committee or Listing Division will examine each application on its own merits. According to my present understanding, they will certainly consider the track record of the auditor to see if he really has such a reputation.

DR RAYMOND HO (in Cantonese): *President, the Secretary said there are seven companies incorporated outside Hong Kong which do not hire Hong Kong auditors. Each and every place has its own professional requirements. Article 142 of the Basic Law clearly states that the professions and the professional organizations recognized prior to the reunification shall continue to be recognized, and new professions and professional organizations may be recognized as required by developments in society. As much, many countries may apply for recognition of their professions in Hong Kong. If the Government only requires professionals from other places to have international name and reputation, while Hong Kong is very stringent in terms of professional conduct and ethics …… Before the reunification, it took the nine major professions five years to successfully strive for the provisions under Article 142. In fact, what is the reason for allowing the SEHK to judge whether the overseas professionals have a reputation? How does the SEHK assess whether one has a reputation or not, what is the acceptable level? I believe this is a highly subjective judgment and is not clearly defined professionally. Can the Secretary tell us the relevant conditions? You must have some stipulations and basic requirements. What are the minimum requirements that non-Hong Kong auditors should meet for being eligible to take up the jobs?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Listing Rules of the SEHK have been in use for 20 years. It is not a new thing and have been applied all along. This practice is also consistent with the practices of international markets. As we can see, the European Union including Britain, Canada and Australia have all adopted the same practice. As Hong Kong is an international financial market, I think it should give due consideration to the trend of globalization of listed companies. Take the companies set out in Annex as examples, Manulife, a Canadian company hiring a Canadian auditor while HSBC employs a British auditor. I believe these are acceptable and appropriate practices in the market.

PRESIDENT (in Cantonese): This Council has spent more than 21 minutes on this question. Three Members who are waiting for their turn to ask questions are unable to do so. Second question.

Handling Conflicts Between School Management and Students

2. **DR SAMSON TAM** (in Cantonese): *President, it has been reported that recently a secondary school principal is very strict in shaking up school discipline, causing some students of the school to criticize him on social networking sites on the Internet which created a disturbance. In this connection, will the Government inform this Council:*

(a) what measures and policies the authorities have in place to follow up this kind of incidents, so as to ease the tense relationship between students and schools;

(b) whether it has looked into the roles of the Parent Teachers Association (PTA) and Management Committee of the aforesaid school in this incident; if it has, of the details; and

(c) given that in recent years, students voiced their discontent with school policies from time to time on the discussion platforms on the Internet, and also used strong words, whether the authorities have studied and assessed the impact of the situation on the relationship

between students and schools; if they have, of the outcome; if not, whether they will expeditiously do so?

SECRETARY FOR EDUCATION (in Cantonese): President, the Education Bureau provides appropriate guidelines to schools in the School Administration Guide (SAG) and the Guidelines on Student Discipline (GSD) to encourage them to develop their own school-based discipline policies and measures in accordance with the needs of the students as well as the context of the development of schools to handle students' unruly behaviour in a fair and reasonable manner.

Schools are also encouraged to collect and consider the views of teachers, parents and students, and, through discussions and other activities, explain to students and parents the rationale behind the school rules so as to deepen their understanding of the rules and to build consensus. Schools should also review their rules and discipline policies regularly.

Students can reflect their views on school policies through different channels, for example, the student union, class committee, school bulletin, letters and e-mail, and so on. Given the increasing popularity of the use of Internet among young people, it is also common for students to make use of the Internet to express their views. In this connection, the Education Bureau has all along encouraged schools to be open and receptive to students' views and to enhance communication with students so as to establish a harmonious and caring school culture.

Besides, we also encourage schools to advise students to make proper use of the Internet and to guard against Internet traps. Students should also be advised to be responsible for their views and behaviour on the Internet. In this regard, the Education Bureau will strengthen education on the use of the Internet and will in due course distribute a resource kit to all primary and secondary schools on the proper use of the Internet, setting out the proper online behaviour, including self-discipline, mutual respect, rational discussion and be responsible for views expressed online, and so on.

Replies to the three parts of the question are listed below:

(a) If the kind of incident mentioned in the question happens in a school, the Education Bureau will contact the school immediately to

understand the details and to provide relevant advice and support. We will also advise the school to keep an open mind in dealing with the views of students.

(b) We understand that the PTA and SMC of the school concerned have played an active role in helping the school handle the incident.

(c) We have no plans to launch any study on the impact of the Internet discussion platforms on the relationship between students and schools.

DR SAMSON TAM (in Cantonese): *President, I consider the Secretary's answer too brief as it only contains three lines. Has the Government really failed to face this problem squarely, does it consider that the situation is not that serious, or does the Secretary consider it acceptable to leave the school principal to solve the incident concerning the Internet by himself? I do not know whether the Secretary has read the press reports that these situations are getting more and more common. If he does not go online, he can read the press reports. There are more and more similar social groups on the Internet.*

The Secretary stated in the reply that the Education Bureau would keep an open mind and students were welcome to express their views, and the Education Bureau would immediately contact the school concerned in case similar incidents happened again. May I ask the Secretary, how many people in the Education Bureau is assigned to monitor these websites, and under what circumstances will they contact the school? Does he have the statistics of the number of schools that the EMB has contacted and the cases for which follow-up actions were taken in the past two or three years?

SECRETARY FOR EDUCATION (in Cantonese): I think everybody should understand, problems that happen in schools must be handled by the schools themselves, which is part of the school-based management. The role of the Education Bureau in this regard, as I said in the reply, is to give guidelines of principle. For example, the SAG and GSD have clearly stated what attitude should the schools adopt in these circumstances and what criteria should be adopted to handle the incident.

However, as each case is different, with unique circumstances and reasons, there is no way that the Education Bureau will be aware of each case. Therefore, schools must handle the issue according to their own situation under the school-based principle. If schools have any problems, they may make enquires with the EBD.

If, as Dr TAM said just now, the press has reported a particular incident, such as the aforementioned case, we will, after we have learnt of the incident, take the initiative to contact the school authorities to understand the situation. However, as there are more than 1 000 schools in Hong Kong and so many different things happened between schools and students every day, the Education Bureau has neither the means nor the manpower to find out the conflicts between schools and their students (moreover, this is not part of our duties).

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

DR SAMSON TAM (in Cantonese): *What the Secretary has not answered is that he says that the Education Bureau will contact the school immediately, does the Secretary have any statistics concerning the number of schools which have been contacted by the authorities for such problem in the past three years?*

SECRETARY FOR EDUCATION (in Cantonese): I do not have the information at hand, but I will go back and check. I will provide a written reply if the information is available. (Appendix II)

PROF PATRICK LAU (in Cantonese): *President, the Secretary said in his main reply that in case such incident happens, he will contact the school immediately to understand the details and to provide relevant advice and support to students. May I ask what kind of advice and support will be given? Has such information been released on the Internet?*

SECRETARY FOR EDUCATION (in Cantonese): If Members have read the relevant press article, they would know the incident reported on 10 April. A student from a particular school considered that the principal was acting in an

unfair manner. Upon reading the press article, we contacted the school on the same day to find out what happened. In addition, we received a number of written reports from various parties, including the school principal, the school managers, and even the student concerned had written to us. Therefore, we knew very well what had happened. Regarding the incident, we think the school has handled the case in accordance with the SAG and GSD issued by the authorities. The student concerned subsequently also considered that the school has handled the case in a fair and just way, and his parents are also aware of this incident.

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

PROF PATRICK LAU (in Cantonese): *He has not answered whether the information has been released on the Internet.*

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

SECRETARY FOR EDUCATION (in Cantonese): We have not released the information on the Internet, but the student discloses the incident in Facebook on the Internet.

MS STARRY LEE (in Cantonese): *President, after reading the Secretary's reply, I consider the Education Bureau too insensitive about teaching students to make proper use of the Internet. Nowadays, the use of the Internet becomes part of our children's lives, it is also a necessity. Some young people do not only go online at home and at school, they even use their mobile phone inside the Mass Transit Railway station to browse Facebook. It seems that they will feel uncomfortable if they are not in contact with friends for just a minute.*

I can see that the Secretary states in the fourth paragraph of his main reply that "we also encourage schools to advise students to make proper use of the

Internet", then in the fourth sentence: "will in due course distribute a resource kit to all primary and secondary schools on the proper use of the Internet". First, he simply "encourages" schools; second, the resource kit has not been distributed yet, it will only be distributed in due course.

My question is, after the resource kits have been distributed to schools, whether the schools will arrange on their own to incorporate the teaching material into the syllabus of moral education, that is, learning is optional; or incorporate the material into the primary and secondary curriculum, which requires students taking the computer course to learn the concept of the proper use of the Internet, including the correct ways to protect themselves, in additional to learning how to use Excel, Word and Window?

SECRETARY FOR EDUCATION (in Cantonese): Regarding the impact of the Internet on schools, we also have to conduct a study. Therefore, the resource kit will be distributed next month, that is, in May. We have been preparing this resource kit for a while. At present, we mainly teach primary and secondary school students how to make proper use of computers and related facilities, how to access to information, as well as how to express ideas and communicate with others on the Internet. The most important thing is to let them know that when they disseminate information on the Internet, they must be held responsible for their words and deeds. Thus, our syllabus will incorporate these elements so as to let children know that they have to be very careful when they use the Internet. They should take into account the interests of other people and they cannot go beyond the bottom line.

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

MS STARRY LEE (in Cantonese): *President, he has not answered my supplementary question. I would like the Secretary to give a direct answer, is the course on teaching students the proper use of the Internet and protecting themselves on the Internet part of the compulsory curriculum for primary and secondary schools, that is, is the course under the subject of computer studies, and not under the subjects of moral education or Liberal Studies?*

SECRETARY FOR EDUCATION (in Cantonese): It is part of the course on computer studies.

MR CHAN KIN-POR (in Cantonese): *I think one of the controversies of this case is that students in discussion group use foul and abusive languages when they leave messages. For this reason, the principal has to see them. I know that it is very common for people to leave messages on the Internet in foul and abusive languages, and the Secretary has conveyed a right message in his reply just now. That is, there is no difference between cursing others in foul and abusive languages expressed in written form or in spoken words. However, some people consider that cursing others in foul and abusive languages on the internet is acceptable. May I ask the Secretary, what guidelines or suggestions will be issued to schools in this regard? What is his opinion about the common phenomenon of leaving messages in foul and abusive language?*

SECRETARY FOR EDUCATION (in Cantonese): As I have just said, in the resource kit to be distributed, we will state clearly that the use of language reflects a person's conduct and his way of doing things. If someone always uses foul and abusive languages, it actually reflects his personality. Therefore, even if one leaves messages or use mail box, he should not use foul languages.

As regards how to express one's emotions, we will teach students in moral education courses how to control their emotions, and to communicate with others in a peaceful way and to convince people by reasoning.

MRS REGINA IP (in Cantonese): *President, just now I heard Secretary SUEN said that teaching on the use of social networking sites on the Internet would be part of computer studies course, right? However, I consider this not too appropriate. Just now, the supplementary questions put forward by my colleagues do not involve the skills of using the Internet. I know that under the New Senior Secondary (NSS) academic structure, a very important element of the liberal studies is personal growth and interpersonal relationship, should we, under the subject of Liberal Studies, teach students the use of the Internet, including the issues concerning courtesy and languages?*

SECRETARY FOR EDUCATION (in Cantonese): We all know that, with or without the Internet, we must teach students how to become more cultivated, how to improve their manner of speech and ways of getting along with people. It is not because of the emergence of the Internet that we need to make improvement in these areas.

However, the main question refers to a special incident, which is mainly related to the use of foul and abusive languages by a student on the Internet. Therefore, I made such a remark on that particular point in my main reply.

MR CHEUNG KWOK-CHE (in Cantonese): *I believe that nowadays, the community also recognises that it is very common for primary and secondary students to use the Internet, and it is an indisputable fact. People think that the Internet has good and bad impacts on the students. Just now the Secretary mentioned in part (c) of the main reply that "We have no plans to launch any study on the impact of the Internet discussion platforms on the relationship between students and schools". I consider it acceptable for not conducting a study on this topic of a small scope. However, we do not have a clear picture about the overall relationship between the Internet and students' learning, because no relevant data is now available. All we have is hearsay information, upon which we deduce that the situation is serious. May I ask the Education Bureau, will a study be conducted on how the students make use of the Internet to collect information, so that we can conduct a genuine study on the present relationship between students and the Internet?*

SECRETARY FOR EDUCATION (in Cantonese): What I say in the main reply is a response to part (c) of Dr Samson TAM's main question. This is a question put forward by him, and I thus respond. As regards the views of Mr CHEUNG Kwok-che that the issue should be viewed from a broader perspective, I have replied that we have already taken that into consideration, and consequently, a resource kit will be distributed next month to teach students the proper attitude in using the Internet. The resource kit is produced for that reason. Therefore, we are not indifferent to the incident. What I have just said is in response to Dr TAM's question concerning the relationship between students and schools. We do not intend to conduct any study on a topic with a narrow scope.

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

MR CHEUNG KWOK-CHE (in Cantonese): *I am not against a lot of ……*

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

MR CHEUNG KWOK-CHE (in Cantonese)*: …… My main question is whether he will conduct a macro study, but he has not answered ……*

PRESIDENT (in Cantonese): Secretary, the Member asks whether a macro-study will be conducted in future.

SECRETARY FOR EDUCATION (in Cantonese): I have already said that we have made some initial efforts, and the resource kit to be distributed next month is part of the efforts made.

DR LAM TAI-FAI (in Cantonese): *President, I believe the school mentioned by Dr Samson TAM in his question is Tuen Mun CMA Choi Cheung Kok Secondary School, which has a history of 25 years has trained many people to become elites in community. If so, I must first declare an interest because I represent the Manufacturers Association in the Legislative Council.*

As we all know, starting from the new school term this year, the Government has introduced the NSS "334" academic structure, and Liberal Studies is made one of the compulsory subjects. As teachers have to receive a lot of trainings, they have to work longer hours and under greater pressure, and have less time to get in touch with students and parents. With less contact, communication is of course unsatisfactory, giving rise to many conflicts. Many problems in schools are caused by these conflicts. Small class teaching can

certainly reduce the teacher-student ratio, leading to a closer relationship between teachers and students, principals and students, and even schools and parents and student. There will be less conflict and more opportunities for communication. For that reason, may I ask the Secretary when will the implementation of small class teaching in secondary schools be considered again?

SECRETARY FOR EDUCATION (in Cantonese): I have answered this question many times in this Chamber during the past few weeks. However, what I want to say now is that small class teaching is one thing, but as regards the contact between students and teachers, the most important indicator is the ratio between students and teachers. In Hong Kong, the current average student-teacher ratio is 15:1 for primary or secondary schools, and this ratio is better than many developed countries. This ratio will enhance the relationship between students and teachers. Each teacher has to take care of fewer students than before. In the past, there were more students and fewer teachers, and the class size was bigger. At present, due to a reduction in class size, the teacher-student ratio has increased accordingly. Therefore, it is not that we make no improvement in this area that implementation of small class teaching is necessary to make up for the inadequacy. In fact, the performance of Hong Kong in this respect is rather good.

PRESIDENT (in Cantonese): Dr LAM, which part of your question has not been answered?

DR LAM TAI-FAI (in Cantonese): *He has not answered directly, when will the implementation of small class teaching in secondary schools be considered?*

PRESIDENT (in Cantonese): Dr LAM, I think your question to the Secretary about when small class teaching will be implemented has already gone beyond the scope of the main question. Last supplementary question.

MR PAUL TSE (in Cantonese): *President, this is actually not a problem that involves an isolated incident or the students of this school. It is a problem that relates to the Internet culture. In fact, the phenomenon of uncultivated, disrespectful students who ignore the rule of laws at such a tender age warrant our genuine concern.*

The Secretary appears to be "playing with words" by explaining that the three parts of the main reply only dealt with the relationship between students and schools raised in the main question, therefore there was no plan to study the issue. May I ask the Secretary a supplementary question, whether the Education Bureau has plans to study the impact of the use of the Internet on the present culture of students? When we see students having inappropriate sexual behaviour, drug abuse behaviour or even conduct problems, we will be very concerned and will conduct study, what about violent behaviour on the Internet — of course, in some cases, our fellow legislators have set an example by committing a lot of violent behaviours, therefore we cannot blame students for following suit. In his capacity as the Secretary for Education, when he sees the current trend, should he take more precautionary measures, instead of giving others an impression or feeling that he has nothing to do with this issue or taking the issue in a leisurely way?

SECRETARY FOR EDUCATION (in Cantonese): The scope of education is very broad, and many things worth our attention. Whenever a problem affecting students arises, everybody hopes that the Education Bureau will make more efforts. In fact, we are concerned about the issues that Members have raised, but everything must be dealt with according to their severity and weight. For example, we attach great importance on the problem of drug abuse and promiscuity, and this reflects that our concerns are very broad, but we should prioritize each issue. Just now I said that we have examined the issue, and because of that we will introduce some new measures next month. As for a comprehensive study, we do not intend to conduct a study for the time being.

PRESIDENT (in Cantonese): Third oral question.

Review of Capital Investment Entrant Scheme

3. **DR PRISCILLA LEUNG** (in Cantonese): *President, it has been reported that recently, the average price of the residential units in a new development in Yuen Long was as high as HK$6,000 per sq ft, and the per-square-foot accommodation value of a site in Tseung Kwan O is already higher than the per-square-foot price of second-hand residential units in the same district, reflecting a huge increase in property prices and the property market being abnormally active. The supply of flats and the ability of members of the public to own homes have become the issues of the most concern to the community in Hong Kong. Moreover, the Capital Investment Entrant Scheme (CIES) has brought a total of over HK$42 billion in investment during the period between its introduction in October 2003 and the end of last year, with HK$12.3 billion (that is, nearly 30%) of such investment on real estate. In this connection, will the Government inform this Council:*

(a) whether it has assessed if CIES is the main cause of the property market being abnormally active recently; if an assessment has been made, of the outcome;

(b) whether it has considered revising the minimum value of investment required under CIES from HK$6.5 million at present gradually by phases to HK$10 million or above; and

(c) given that the minimum value of investment of HK$6.5 million required under CIES has not been revised since it was set in October 2003, whether it will formulate a mechanism for reviewing the minimum value of investment regularly; if it will, of the details, including the data to be included for reference during the review; if not, the reasons for that?

SECRETARY FOR SECURITY (in Cantonese): President, the situation of local real estate prices is also of concern to the Government. As in our response in the debate on Ms Audrey EU's motion to amend the Appropriation Bill 2010 at the Legislative Council sitting on 21 April 2010, the main factors affecting real estate prices include demand and supply, mortgage rates, investment environment, and so on. We believe that the CIES under the Immigration

Department (ImmD) should have no direct and substantive impact on local real estate prices.

Our response to the three parts of Dr Priscilla LEUNG's question is as follows:

(a) Hong Kong is an open and free economy. Even outside the CIES, overseas investors may buy and sell real estate or make other kinds of capital investments in Hong Kong freely. Under the CIES, investors must report to the ImmD the relevant information of all material transactions (including the acquisition, disposal, and charging of real estate). Statistics show that the investment in real estate under the CIES accounts for only 1% of the total transaction of the local real estate market. According to ImmD's observation, real estate investment under the CIES does not involve speculative trading.

(b) and (c)

The Government has started a comprehensive review on the arrangements under the CIES, which will cover whether or not to raise the current minimum value of investment of $6.5 million. The review will take into account views from Legislative Council Members and different sectors of the community. Depending on the outcome of the review, we would make amendments to the CIES to ensure that it serves the best overall interest to Hong Kong.

DR PRISCILLA LEUNG (in Cantonese): *President, first of all, I hope the Secretary would not misunderstand my question. I am not asking for a comprehensive review of the CIES because we affirm the positive impacts of CIES on other industries. My question focused on two points to which I do not think the Secretary has clearly responded.*

To begin with, the Mainland economy, apart from inflation rate, has also taken off rapidly since 2003. Thus, people who meet the $6.5 million minimum value of investment today may not be the echelon of people whom we wished to

attract then. Regarding the comprehensive review, I understand that it is open-ended, but may I know whether consideration will be given to increase the minimum value of $6.5 million by 20% in the near future? Because it has almost been seven years since the introduction of the CIES and the economic situation has changed. May we give it a try and increase the value to …… If the increase is truly effective, can the Administration give us a concrete timetable? Many medium and low-valued property owners in the market affected by the CIES also wish to see some progress in this regard. Would the Secretary please answer?

SECRETARY FOR SECURITY (in Cantonese): President, the CIES is in fact not open to Mainland investors. If you study the scheme more carefully, you may find that it is not open to Mainland investors. As we all know, at present, there is still control on foreign exchange in China. The present CIES is open to the world except the Mainland. Thus, in our review we will make reference to similar schemes in other countries such as Canada, the United Kingdom, Australia and Singapore. At the moment, we note that the minimum values of investment in these few countries range from $3 million to $11 million. Hence, we will definitely look into our minimum value of $6.5 million in the review. However, in addition to reviewing this value, we will also make reference to similar schemes in other countries so as to make our CIES attractive to the world.

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

DR PRISCILLA LEUNG (in Cantonese): *President, when it comes to the $6.5 million ……*

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, you can only repeat the part of the supplementary question which you think the Secretary has not answered.

DR PRISCILLA LEUNG (in Cantonese): *May I ask the Secretary to further explain whether he is of the view that, as he has replied just now, raising the value of $6.5 million will lower our competitiveness ……*

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, the question session is not a session for debate and you cannot follow up on your supplementary question. If you wish to do so, please wait for your turn again.

DR PRISCILLA LEUNG (in Cantonese): *Fine.*

PRESIDENT (in Cantonese): If you think that the Secretary has not answered your supplementary question, you only need to repeat the part concerned.

MR PAUL CHAN (in Cantonese): *President, I would like to follow up parts (b) and (c) of the main reply regarding the comprehensive review of the CIES that the Government will now conduct. My supplementary question is, will the Government consider expanding the CIES to include the so-called entrepreneur migrants or migrants who intend to set up a business here? In other words, some applicants may have a relatively small amount of investment capital; nevertheless, they may wish to invest in industries or businesses which we are in support of, and this can in turn create job opportunities. Will consideration be given in this regard?*

SECRETARY FOR SECURITY (in Cantonese): I thank Mr Paul CHAN for his supplementary question. The CIES is in fact only one component of our existing immigration policy. The scheme enables investors who have this amount of money, the minimum level is presently set at $6.5 million, but do not wish to set up a business or open a shop in Hong Kong to invest in designated investment asset classes in Hong Kong. As for other immigration policies, under the General Employment Policy, business starters can come to Hong Kong to set up their businesses. We have not set a minimum value of investment for these people and will consider their applications on a case-by-case basis, such as are their investment projects creative, can job opportunities be created in Hong

Kong and whether their starting businesses here are conducive to our overall economy. We already have such a policy in place to enable this category of people to set up their businesses in Hong Kong and in turn create job opportunities. According to the statistics I have at hand, for the year 2009, over 300 entrepreneurs have successfully come to Hong Kong through application under the General Employment Policy.

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

MR PAUL CHAN (in Cantonese): *Will it be included in the review?*

SECRETARY FOR SECURITY (in Cantonese): In relation to this question today, we have undertaken that we will review the CIES; as for the other immigration policies, we will …… Even though I do not say whether it will be reviewed, the ImmD and the Security Bureau will regularly conduct reviews on existing policies. But regarding Dr Priscilla LEUNG's question today, we have undertaken that we will conduct a review.

MR TOMMY CHEUNG (in Cantonese): *Actually, I wish to ask a question on the Secretary's remark just now that the authorities have another scheme in place to create job opportunities. In fact, the Liberal Party also put forth a proposal a few months ago. We asked whether the investment value of $6.5 million can be slightly lowered, for example lowering it to $3 million, for investors who wish to come here to set up their business and offer job opportunities, for example they can open a café and create 20 job opportunities. Will the Secretary for Security also take this into consideration?*

SECRETARY FOR SECURITY (in Cantonese): President, in my reply to Mr CHAN's supplementary question just now, I said there is another policy which enables investors to come to Hong Kong to do business, open shops and create job opportunities. In this regard, we have not set any minimum value, such as

$3 million or $2 million. Each application will be examined individually. Applications will be approved as long as their investment plans are conducive to the overall economy of Hong Kong.

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

MR TOMMY CHEUNG (in Cantonese): *No. I wish to follow up just now ……*

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, you can only repeat the part of your supplementary question which has not been answered.

MR TOMMY CHEUNG (in Cantonese): *No. I …… I will ask again the part which the Secretary has not answered.*

PRESIDENT (in Cantonese): I think the Secretary has already answered your supplementary question concerning whether there is a policy with no minimum value for foreign investors to come here to invest?

MR TOMMY CHEUNG (in Cantonese): *No. Secretary …… has not ……*

PRESIDENT (in Cantonese): The Secretary has already told you that there is such a policy.

MR TOMMY CHEUNG (in Cantonese): *No. President, the Secretary only said that there is another policy which allows people to come here to invest, but he has not said whether the policy allows investors to reside in Hong Kong*

because the policy is different from the policy which requires people to invest a minimum value of $6.5 million.

SECRETARY FOR SECURITY (in Cantonese): The General Employment Policy does offer the right of abode. If an applicant is permitted to open a shop or make business investment in Hong Kong, which in turn will create job opportunities, the applicant and his family members are allowed to reside in Hong Kong. This is similar to the CIES.

MRS REGINA IP (in Cantonese): *President, the Secretary explained just now that the main purpose of the CIES is not to create job opportunities because there is another immigration policy which can serve such purpose. And we also learnt that a total of $42 billion in investment has been brought here in the seven years since the introduction of the CIES, with 30% of such investment in real estate. Will the Secretary tell us what benefits the inflow of such capital has brought to the economy of Hong Kong? Apart from real estate, what other areas has such capital been invested in? What economic benefits has the capital actually brought to Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): President, to date, the CIES has brought $47 billion in investment, directly or indirectly benefiting different local industries. Although about 30% of the capital has been invested in real estate, it has also benefited the construction industry, decoration industry, property agencies and even the finance or commercial services industry because buying property needs the assistance of many different parties, such as lawyers. Thus, I can say that the economic benefits brought by the CIES or by the investment asset class of real estate avail not only property developers, but also each and every industry or social stratum, including the working class such as decoration workers.

MS AUDREY EU (in Cantonese): *President, the Government frequently gives us outdated statistics. I have a piece of information at hand about investment migrants, indicating that there is "a 75% surge in bricks (property) investment"*

and the value of such investment reached $5.6 billion in 2009, representing a sharp increase of 75% from the previous year. President, I wish to ask the Secretary a question. He repeatedly quotes outdated statistics and says that investment in real estate under the CIES only accounts for 1% of the total transaction. But will Members please look at the numerous examples in other countries. On the day of the debate I also quoted these examples, that is, other countries do not allow investors to invest in real estate alone. Even in Singapore where investors are allowed to invest in real estate, the amount involved can only be 50% of their total capital investment, and there is another condition requiring investors to have three years of experience in business operation.

Can the Secretary tell us why must real estate be included as one of the investment asset classes in the CIES? What is the purpose of the Bureau for doing so? Does the Bureau think that there is not enough people buying property in Hong Kong, and that the price of property is not high enough? Or does the Bureau think that Hong Kong is not populous enough, and that investors will not migrate to Hong Kong if they are not allowed to invest in real estate? Or is the Secretary worried that the air in Hong Kong is too polluted so that he must resort to the property market to attract investment migrants? What are the reasons behind? Why must real estate be included as one of the conditions for investment migrants?

SECRETARY FOR SECURITY (in Cantonese): President, if Members are not forgetful, they should remember that the CIES was deliberated in the Legislative Council in 2003. Please do not forget that the economy of Hong Kong and even the property market were stagnant at that time. Hence, we introduced the CIES. Moreover, the investment asset classes were set according to the demands of the market at that time and different sectors had been consulted. As compared with similar schemes overseas, the current investment asset classes of the CIES are more diverisfied. Some regions only allow investors to buy government bonds and not other products. Being a free and open economy, Hong Kong offers much more investment asset classes provided under the CIES than other regions. We did not worry that the property market had no buyers when we formulated the CIES. We only considered that there was a genuine economic need under the prevailing situation at that time.

It has almost been seven years since the introduction of the CIES. We will conduct a comprehensive review on, among others, the investment asset classes and the minimum value of investment. In the process, we will consider the need to expand the coverage of the investment asset classes, but we must exercise great caution in doing so. We have noted the views of Members and of different sectors of community. During the review, if we confirm that the minimum value of investment should be revised, we will consult the relevant panel of the Legislative Council about the extent of the increase.

MR LAU KONG-WAH (in Cantonese): *President, I think Hong Kong does welcome these investment migrants, but we must keep the policy and the amount of money concerned abreast of the times. The Secretary said that a review will be conducted, but whether the value of $6.5 million will be adjusted upwards or downwards, I do not know. Nevertheless, there must be some reasons behind setting the base value at $6.5 million. Why was it not set at $5.5 million or $4.5 million? Can the Secretary tell us the reasons for setting the value at $6.5 million at that time? After seven years, will these reasons be different today?*

SECRETARY FOR SECURITY (in Cantonese): President, when the minimum value of investment was set then, we had made reference to the minimum values of investment adopted in other countries or regions and took the median among them. As I have said just now, these values ranged from $3-odd million …… A similar scheme in Macao at that time set the minimum value of investment at only $1-odd million, while some countries set it at $11-odd million. Thus, you said that we were a little subjective in setting this value, but the fact is that we did make reference to the values adopted under similar schemes in other countries or regions at that time. After implementing the CIES for some six to seven years, factors such as inflation and income levels of other regions have changed. Is an appropriate adjustment to the value necessary? This is precisely what we will consider in the coming review.

MR RONNY TONG (in Cantonese): *President, I quite sympathize with the Secretary. I think the SAR Government has little concern about the property market, as evident in the fact that the Secretary has shown up here alone to answer the question and no officials taking charge of economic and housing*

polices have attended this Council meeting. President, my supplementary question is very simple. We can see from the past few years that the Mainland has rolled out measures one after another to curb property speculation, and the latest measure is to increase the taxes to curb speculation in the property market. Many buyers or a lot of hot money will naturally turn to Hong Kong, given the fact that Hong Kong is an open market adjacent to the Mainland. Has the Government actually examined this issue and what measures have been considered to resist this development trend? Is now the right time to scrap this so-called "buy property get free citizenship" policy?

SECRETARY FOR SECURITY (in Cantonese): President, the subject in discussion today is the CIES, and one of its designated investment asset classes is real estate. In my main reply I have pointed out that we will conduct a review to look into, among others, the minimum value of investment and the designated investment asset classes. As to Mr Ronny TONG's question of whether real estate will be deleted from the designated investment asset classes, it is hard to answer because the review has not yet conducted. But I wish to point out here that property speculators who simply wish to come to Hong Kong to reap profits do not need to do so through this scheme. Given the fact that capital can flow freely in and out of Hong Kong, these speculators can come here and buy a property today, and resell it, reap the profit and leave the next day. Hence, is the inclusion of real estate as an investment asset class under the CIES the cause of today's soaring property prices? As I have pointed out in my main reply, we do not have any evidence to prove this point.

MR RONNY TONG (in Cantonese): *President, my supplementary question just now is that I do not think that the ImmD alone ……*

PRESIDENT (in Cantonese): Please do not repeat your argument.

MR RONNY TONG (in Cantonese): *I hope the Secretary …… He has shown up here alone to face all the questions, but can he answer them all? Apparently, he said that he cannot answer ……*

PRESIDENT (in Cantonese): Mr TONG, you can only repeat the part which you think the Secretary has not answered.

MR RONNY TONG (in Cantonese): *He has not answered whether the Government has examined whether the measures taken by the Mainland to curb property speculation have an impact on the property market of Hong Kong.*

SECRETARY FOR SECURITY (in Cantonese): President, I think this follow-up question is a little different in direction from today's main question, I honestly cannot answer it.

PRESIDENT (in Cantonese): The main question today is about the CIES under the immigration policy, which allows investors to acquire the right of abode through investing in property; hence, Mr TONG's follow-up question has deviated from the scope of the main question. Fourth question.

Implementing Gender Mainstreaming and Promoting Gender Equality

4. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, regarding the efforts to implement gender mainstreaming and promote gender equality, will the executive authorities inform this Council:*

(a) given that the information provided by the Home Affairs Bureau has indicated that the overall women's participation rate in advisory and statutory bodies (ASBs) was 27.6% as at April 2009, of the current number of ASBs with less than 30% of their non-official members being women, together with a table setting out the numbers and percentages of such non-official members on each ASB; whether it has assessed the reasons for women's participation rate falling short of 30%; if it has, of the outcome;

(b) whether at present the authorities have any plan to raise the work target of at least 25% for each gender for the purpose of appointing

non-official members of ASBs; if they have such a plan, of the timeframe and details; if not, the reasons for that; and

(c) given that the Government has indicated that to encourage and promote women's participation in community affairs, the appointing authorities will continue to adopt various measures to identify and cultivate more women to participate in the work of ASBs, including conveying the message to professional bodies or institutions that the Government is making efforts in enhancing women's participation rate in ASBs, of the specific actions taken by the Government since June 2009, and whether it has assessed the effectiveness of such actions; if it has, of the assessment outcome?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I would like to thank the Honourable Member for his question. My reply to the main question is as follows:

(a) At present, the Government calculates the women's participation rate in ASBs on the basis of the number of non-officials appointed by the Government. Members appointed in other capacities or by other means such as being the representatives of the industries or members elected amongst professional organizations or institutions are excluded. According to information provided by bureaux and departments, as at 31 March, 2010, among some 400 ASBs, 384 have Government appointed non-official members. Amongst them, 171 ASBs record a women's participation rate of more than 30% and women take up half of the seats in 51 ASBs out of these 171 ASBs. 213 ASBs have a women's participation rate of less than 30%. The numbers and percentages of such non-official members on each concerned ASB are attached at Annex.

There are different reasons why most ASBs have not yet reached a women's participation rate of 30%, which are in general as follows:

(i) the majority of practitioners in the sectors relevant to the ASBs are male;

(ii) some candidates for appointments to ASBs as non-official members are mainly recommended by the relevant professional bodies or institutions. While taking note of the 25% gender benchmark target set by the Government, these bodies have difficulties in identifying a sufficient number of suitable female candidates for the consideration by the appointing authorities due to the small number of female practitioners in the respective trade; and

(iii) few female candidates in the relevant sector can meet the appointment requirements (that is, candidate's expertise, experience, and so on).

Overall speaking, there are reasons arising from the culture and practices of society that are formed over a long period of time to account for the relatively low women's participation rate. Through efforts in recent years, the women's participation rate in Government-appointed positions in ASBs has gradually increased from 25.2% in December 2005 to 28.1% in March 2010.

(b) We have already issued internal guidelines to bureaux and departments, promulgating that the gender benchmark target for participation in ASBs will be raised from 25% to 30% with effect from June 2010.

(c) The Home Affairs Bureau often reminds the appointing authorities of the importance of further enhancing women's participation in ASBs. The Home Affairs Bureau has also taken the initiative to alert respective appointing authorities around six months before the expiry of ASB membership and encourage them to take into account gender balance when making appointments for the new term. To review how to enhance women's participation rate in ASBs, the Home Affairs Bureau has held exchange sessions with relevant bureaux in early April. Bureaux concerned have all indicated that they would make efforts to enhance the women's participation rate in ASBs under their purview. The Home Affairs Bureau has encouraged departments to draw the attention of all relevant professional organizations and institutions which are involved in

candidate nominations to the Government's efforts in enhancing women's participation. The Home Affairs Bureau has also proactively encouraged female to contribute their curriculum vitaes (CVs) for inclusion in the Central Personality Index (CPI). In the nine months between July 2009 and March 2010, the number of female non-official members of ASBs has risen by 80, representing a net increase of 5%. During the same period, the number of CVs of female in CPI has increased by 256 to 6 728.

The main principle of making appointments by the Government to ASBs is appointment by merit, that is, each ASB appointment takes into account the candidate's ability, expertise, experience, integrity and commitment to public service, with due regard to the functions and nature of business of the ASB concerned and statutory requirements (for statutory bodies). The appointing authorities need to secure the services of the most suitable persons and to ensure that their composition can reflect the views of stakeholders in the community.

Appointing more women to ASBs is our goal. The Government would continue to monitor the situation and make every effort to enhance women's participation in ASBs.

Annex

Public Sector Advisory and Statutory Bodies (ASBs) with women's participation rate for Government appointed non-official members of less than 30% (Position as at March 2010)

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Accreditation Advisory Board	4	12	16	25.0%
Advisory Committee on Admission of Quality Migrants and Professionals	4	13	17	23.5%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Advisory Committee on Agriculture and Fisheries	5	13	18	27.8%
Advisory Committee on Code of Practice for Recognized Certification Authorities	2	9	11	18.2%
Advisory Committee on Enhancing Self-Reliance Through District Partnership Programme	3	8	11	27.3%
Advisory Committee on Human Resources Development in the Financial Services Sector	1	5	6	16.7%
Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials	1	4	5	20.0%
Advisory Committee on Post-service Employment of Civil Servants	1	4	5	20.0%
Advisory Committee on Social Work Training and Manpower Planning	2	5	7	28.6%
Advisory Committee on the Quality of Water Supplies	4	12	16	25.0%
Advisory Committee on Travel Agents	3	12	15	20.0%
Advisory Council on Food and Environmental Hygiene	4	12	16	25.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Advisory Council on the Environment	3	17	20	15.0%
Advisory Panel on Vetting of Amusement Games / Machines	2	6	8	25.0%
Airport Authority	0	12	12	0.0%
Antiquities Advisory Board	6	17	23	26.1%
Appeal Board on Public Meetings and Processions	3	13	16	18.8%
Appeal Board Panel (Builders' Lifts and Tower Working Platforms (Safety))	0	5	5	0.0%
Appeal Board Panel (Electricity)	4	36	40	10.0%
Appeal Board Panel (Entertainment Special Effects)	1	13	14	7.1%
Appeal Board Panel (Gas Safety)	2	19	21	9.5%
Appeal Board Panel (under Construction Workers Registration Ordinance)	1	51	52	1.9%
Appeal Board under the Accreditation of Academic and Vocational Qualification Ordinance	4	12	16	25.0%
Appeal Boards Panel (Education)	3	8	11	27.3%
Appeal Tribunal Panel (Buildings)	63	430	493	12.8%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Aviation Development Advisory Committee	1	10	11	9.1%
Award Council of the Hong Kong Award for Young People	6	15	21	28.6%
Banking Advisory Committee	1	3	4	25.0%
Basic Law Promotion Steering Committee	4	10	14	28.6%
Betting and Lotteries Commission	2	9	11	18.2%
Board of Directors of the Hong Kong Science and Technology Parks Corporation	4	11	15	26.7%
Board of Directors of the Widows and Orphans Pension Scheme	0	3	3	0.0%
Board of Governors of the Hong Kong Arts Centre	1	3	4	25.0%
Board of Management of the Chinese Permanent Cemeteries	3	13	16	18.8%
Board of Scientific Advisers	0	8	8	0.0%
Board of the Urban Renewal Authority	3	15	18	16.7%
Board of Trustees of The Hong Kong Jockey Club Music and Dance Fund	2	7	9	22.2%
Board of Trustees of the Lord Wilson Heritage Trust	2	10	12	16.7%
Brewin Trust Fund Committee	1	4	5	20.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Business Facilitation Advisory Committee	4	18	22	18.2%
Cantonese Opera Development Fund Advisory Committee	2	5	7	28.6%
Capital Adequacy Review Tribunal	1	4	5	20.0%
Certifying Body of Hong Kong-Canada Film and TV Co-production	1	3	4	25.0%
Chinese Language Interface Advisory Committee	2	10	12	16.7%
Chinese Medicine Council of Hong Kong	3	13	16	18.8%
Chinese Temples Committee	1	5	6	16.7%
Citizens Advisory Committee on Community Relations of the ICAC	3	13	16	18.8%
Clearing and Settlement System Appeals Tribunal	1	6	7	14.3%
Commission on Strategic Development	10	59	69	14.5%
Committee on Performing Arts	4	15	19	21.1%
Committee on Slot Complaints	0	2	2	0.0%
Committee on the Promotion of Civic Education	7	19	26	26.9%
Construction Industry Council	1	21	22	4.5%
Construction Workers Registration Authority	1	17	18	5.6%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Consumer Council	4	17	21	19.0%
Correctional Services Children's Education Trust Committee	1	3	4	25.0%
Correctional Services Children's Education Trust Investment Advisory Board	1	4	5	20.0%
Council for Sustainable Development	3	13	16	18.8%
Council for the AIDS Trust Fund	1	3	4	25.0%
Council of City University of Hong Kong	0	8	8	0.0%
Council of Lingnan University	4	14	18	22.2%
Council of the Chinese University of Hong Kong	1	5	6	16.7%
Council of the Hong Kong Baptist University	4	11	15	26.7%
Council of the Hong Kong Institute of Education	4	10	14	28.6%
Council of the Hong Kong Polytechnic University	5	13	18	27.8%
Council of the Hong Kong University of Science and Technology	1	8	9	11.1%
Council of the Lord Wilson Heritage Trust	2	5	7	28.6%
Council of the University of Hong Kong	2	5	7	28.6%
Country and Marine Parks Board	4	11	15	26.7%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
CreateSmart Initiative Vetting Committee	8	29	37	21.6%
Customs and Excise Service Children's Education Trust Fund Committee	1	3	4	25.0%
Customs and Excise Service Children's Education Trust Fund Investment Advisory Board	1	4	5	20.0%
Deposit Protection Appeals Tribunal	2	5	7	28.6%
Deposit-taking Companies Advisory Committee	1	5	6	16.7%
DesignSmart Initiative Assessment Panel	12	46	58	20.7%
Disaster Relief Fund Advisory Committee	1	4	5	20.0%
Disciplinary Tribunal Panel (Builders' Lifts and Tower Working Platforms (Safety))	0	5	5	0.0%
Disciplinary Tribunal Panel (Electricity)	2	23	25	8.0%
District Council, Central & Western	0	4	4	0.0%
District Council, Islands	0	4	4	0.0%
District Council, Kowloon City	1	4	5	20.0%
District Council, Kwun Tong	0	8	8	0.0%
District Council, Sha Tin	2	7	9	22.2%
District Council, Sham Shui Po	0	5	5	0.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
District Council, Southern	0	4	4	0.0%
District Council, Tai Po	0	5	5	0.0%
District Council, Tsuen Wan	1	4	5	20.0%
District Council, Tuen Mun	1	6	7	14.3%
District Council, Wan Chai	0	3	3	0.0%
District Council, Wong Tai Sin	0	6	6	0.0%
District Council, Yau Tsim Mong	1	3	4	25.0%
District Council, Yuen Long	1	6	7	14.3%
Electoral Affairs Commission	0	3	3	0.0%
Electrical Safety Advisory Committee	1	15	16	6.3%
Employees' Compensation Insurance Levies Management Board	1	5	6	16.7%
Employees Retraining Board	3	10	13	23.1%
Endangered Species Advisory Committee	3	8	11	27.3%
Energy Advisory Committee	5	14	19	26.3%
Environment and Conservation Fund Committee	1	7	8	12.5%
Environmental Campaign Committee	5	14	19	26.3%
Exchange Fund Advisory Committee	1	17	18	5.6%
Expert Committee on Food Safety	4	16	20	20.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Federation of Hong Kong Industries General Committee	0	2	2	0.0%
Fight Crime Committee	2	6	8	25.0%
Film Development Council	4	15	19	21.1%
Financial Reporting Council	2	6	8	25.0%
Financial Reporting Review Panel	10	24	34	29.4%
Fire Safety Vetting Committee	0	2	2	0.0%
Fisheries Development Loan Fund Advisory Committee	2	7	9	22.2%
Funding Committee for the Performing Arts	0	5	5	0.0%
Governing Committee of the Beat Drugs Fund Association	0	3	3	0.0%
Greater Pearl River Delta Business Council	3	33	36	8.3%
Hong Kong Advisory Council on AIDS	5	12	17	29.4%
Hong Kong Committee for Pacific Economic Cooperation	3	8	11	27.3%
Hong Kong Council for Accreditation of Academic and Vocational Qualifications	4	14	18	22.2%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Hong Kong Council for Testing and Certification	3	10	13	23.1%
Hong Kong Deposit Protection Board	1	5	6	16.7%
Hong Kong Examinations and Assessment Authority	3	8	11	27.3%
Hong Kong Housing Authority	5	21	26	19.2%
Hong Kong Logistics Development Council	1	19	20	5.0%
Hong Kong Maritime Industry Council	1	13	14	7.1%
Hong Kong Port Development Council	2	8	10	20.0%
Hong Kong Productivity Council	3	15	18	16.7%
Hong Kong Rotary Club Students' Loan Fund & Sing Tao Foundation Students' Loan Fund Joint Selection Committee	0	1	1	0.0%
Hong Kong Tourism Board	5	14	19	26.3%
Hong Kong Trade Development Council	1	6	7	14.3%
Hong Kong War Memorial Pensions Advisory Committee	1	5	6	16.7%
Honours Committee	1	7	8	12.5%
Hospital Authority	5	14	19	26.3%
Housing Managers Registration Board	0	2	2	0.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Human Organ Transplant Board	1	8	9	11.1%
Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the HKSAR	1	5	6	16.7%
Independent Police Complaints Council	5	12	17	29.4%
Innovation and Technology Fund (SERAP Project Assessment Panel)	11	33	44	25.0%
Insurance Advisory Committee	3	8	11	27.3%
Investment Committee of the HKSAR Government Scholarship Fund	0	2	2	0.0%
Judicial Officers Recommendation Commission	1	6	7	14.3%
Kadoorie Agricultural Aid Loan Fund Committee	1	3	4	25.0%
Labour Advisory Board	0	2	2	0.0%
Land and Development Advisory Committee	2	18	20	10.0%
Leveraged Foreign Exchange Trading Arbitration Panel	0	5	5	0.0%
Liquor Licensing Board	1	10	11	9.1%
Local Vessel Advisory Committee	1	11	12	8.3%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Lump Sum Grant Steering Committee	5	12	17	29.4%
Mandatory Provident Fund Industry Schemes Committee	0	11	11	0.0%
Mandatory Provident Fund Schemes Advisory Committee	1	9	10	10.0%
Manpower Development Committee	3	10	13	23.1%
Marketing Advisory Board	2	6	8	25.0%
Municipal Services Appeals Board	19	59	78	24.4%
Non-official Justices of the Peace Selection Committee	1	4	5	20.0%
Occupational Retirement Schemes Appeal Board	2	5	7	28.6%
Occupational Safety and Health Council	2	13	15	13.3%
Panel of Assessors for the Innovation and Technology Support Programme under the Innovation and Technology Fund	8	50	58	13.8%
Personal Data (Privacy) Advisory Committee	2	5	7	28.6%
Pharmacy and Poisons Appeal Tribunal	0	4	4	0.0%
Pilotage Advisory Committee	0	3	3	0.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Police Children's Education Trust Investment Advisory Board	1	3	4	25.0%
Police Children's Education Trust Management Committee	1	7	8	12.5%
Police Education and Welfare Trust Investment Advisory Board	1	3	4	25.0%
Police Education and Welfare Trust Management Committee	1	7	8	12.5%
Process Review Committee	1	5	6	16.7%
Process Review Panel for Financial Reporting Council	1	3	4	25.0%
Process Review Panel for the Securities and Futures Commission	1	7	8	12.5%
Protection of Wages on Insolvency Fund Board	1	6	7	14.3%
Public Service Commission	2	5	7	28.6%
Quality Assurance Council	1	7	8	12.5%
Quality Education Fund Investment Committee	0	2	2	0.0%
Quality Education Fund Steering Committee	3	9	12	25.0%
Radio Spectrum Advisory Committee	0	2	2	0.0%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Regulatory Affairs Advisory Committee	0	2	2	0.0%
Rehabilitation Advisory Committee	6	17	23	26.1%
Research Council	2	6	8	25.0%
Research Grants Council	5	19	24	20.8%
Review Body on Bid Challenges (under the World Trade Organization Agreement on Government Procurement)	3	9	12	25.0%
Review Panel (Land (Miscellaneous Provision) Ordinance)	0	20	20	0.0%
Risk Management Committee of the Hong Kong Exchanges and Clearing Limited	0	5	5	0.0%
Road Safety Council	0	1	1	0.0%
Securities and Futures Appeals Tribunal	5	18	23	21.7%
Securities and Futures Commission	1	7	8	12.5%
Security and Guarding Services Industry Authority	1	5	6	16.7%
Shipping Consultative Committee	0	13	13	0.0%
Sir David Trench Fund for Recreation Investment Advisory Committee	0	4	4	0.0%
Small and Medium Enterprises Committee	4	18	22	18.2%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
SME Development Fund Vetting Committee	3	11	14	21.4%
Social Workers Registration Board	1	5	6	16.7%
Standing Commission on Civil Service Salaries and Conditions of Service	2	7	9	22.2%
Standing Committee on Company Law Reform	4	12	16	25.0%
Standing Committee on Judicial Salaries and Conditions of Service	1	6	7	14.3%
Statistics Advisory Board	2	9	11	18.2%
Steering Committee for Research Themes under the Research Endowment Fund	1	6	7	14.3%
Steering Committee on Child Development Fund	3	8	11	27.3%
Steering Committee on Innovation and Technology	0	7	7	0.0%
Steering Committee on Review of the Urban Renewal Strategy	2	8	10	20.0%
Steering Committee on Strategic Development of Information Technology in Education	1	9	10	10.0%
Steering Committee on the Promotion of Electric Vehicles	1	10	11	9.1%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Steering Group on the Promotion of Innovation and Design	1	12	13	7.7%
Tang Shiu Kin & Ho Tim Charitable Fund Management Committee	0	2	2	0.0%
Technical Standards Advisory Committee	0	3	3	0.0%
Telecommunications (Competition Provisions) Appeal Board	2	10	12	16.7%
Telecommunications Numbering Advisory Committee	0	2	2	0.0%
Textiles Advisory Board	3	8	11	27.3%
Tourism Strategy Group	4	20	24	16.7%
Town Planning Board	5	25	30	16.7%
Trade and Industry Advisory Board	1	10	11	9.1%
Transport Advisory Committee	4	11	15	26.7%
Travel Industry Compensation Fund Management Board	1	8	9	11.1%
Tung Wah Group of Hospitals Advisory Board	0	8	8	0.0%
University Grants Committee	5	18	23	21.7%
Unsolicited Electronic Messages (Enforcement Notice) Appeal Board	3	8	11	27.3%
Vetting Committee of the Professional Services Development Assistance Scheme	3	8	11	27.3%

Name of Body	*Female (Government Appointed)*	*Male (Government Appointed)*	*Total (Government Appointed)*	*% of Women Appointed*
Vocational Training Council	1	17	18	5.6%
West Kowloon Cultural District Authority	3	12	15	20.0%
Youth Square Management Advisory Committee	3	11	14	21.4%

MR CHEUNG MAN-KWONG (in Cantonese): *President, is the Government implying that women lack merit, given its remark of "appointment by merit"? In the World Conference on Women held in Beijing in 1995, it was requested, and it was also agreed by the Government just now, that at least 30% of the people holding positions at decision-making levels should be women appointed by government bodies. Now, 15 years have passed. Of the 384 government bodies, 213 government bodies, accounting for more than half (55%) of government bodies, record a ratio of appointed women of less than 30%. It is most embarrassing that no female member can be found in 26 government bodies. In other words, all their members are male, and there is no female at all. There are several ridiculous examples in the Annex. The fact that there is zero female Government appointed member in the Airport Authority seems to suggest that the airport is used by men only; the fact that there is zero female Government appointed member in the Council of City University of Hong Kong seems to suggest that all students in the City University of Hong Kong are male; the number of female appointed members in eight District Councils is zero; and even the Board of Directors of the Widows and Orphans Pension Scheme consists of zero female. In other words, an all-male Board of Directors is responsible for the Widows and Orphans Pension. Does the Government agree that the number of appointed female members is too small, and even reaches the zero level, and hence, it amounts to an unacceptable way of discrimination from the perspective of gender mainstreaming or gender equality? Will this lead to women or their views being neglected? Has the Government set a specific deadline to meet the world standard stipulated 15 years ago, requiring the minimum objective of having at least 30% of members of these decision-making bodies being women to be met?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): As stated by me in the main reply, President, we have already issued guidelines in the hope of achieving a women's participation rate of 30% in ASBs. We will strive to pursue this goal.

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

MR CHEUNG MAN-KWONG (in Cantonese): *President, the part of my supplementary question which has not yet been answered is: Does the Government admit that, from the perspective of gender equality, such a low women's participation rate is an unacceptable way of discrimination, and will the Secretary set a deadline to achieve this objective? Has such a deadline been set?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have not set a deadline. However, various appointing authorities will strive to achieve the objective of 30%. Looking back the developments since 2005, the women's participation rate has actually continued to rise.

PRESIDENT (in Cantonese): As there are still 11 Members waiting for their turn to raise questions, so please keep your questions as concise as possible to allow more Members to raise their supplementaries.

MR FRED LI (in Cantonese): *President, although the Secretary indicated just now that guidelines had been issued, there was no commitment or deadline. I want the Secretary to tell us clearly — CHEUNG Man-kwong also pointed out just now that more than 20 organizations had zero female members. I do not understand why the number of female members in these organizations can be zero. This is irrelevant to the explanation given by the Secretary in the main reply concerning professional sectors. He has failed to give an explanation.*

Apart from issuing guidelines, can the Secretary accord priority to these 20-odd organizations with zero female member and organizations with a very low women's participation rate, and set deadlines, requiring relevant Bureau Directors to do some work in appointing female members to these organizations?

President, we see that nothing can be achieved by purely issuing guidelines. Will the Government give priority to these 20-odd organizations with zero female member?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, various Bureaux and appointing authorities will work hard to strike an appropriate gender balance in the membership of advisory bodies. Of course, as mentioned by me in the main reply just now, they will strive to identify appointed candidates having regard to the needs of various committees. The present situation of "zero women's participation rate" is definitely not in line with our standard of gender balance. Therefore, I believe various appointing authorities will make further efforts.

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

MR FRED LI (in Cantonese): *President, the Secretary has not answered my supplementary question. I asked him whether he would make special arrangements in order to accord priority to these 20-odd organizations. I have specifically requested him to do this.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, our guidelines are issued to all ASBs.

MS LI FUNG-YING (in Cantonese): *President, in part (c) of the main reply, the Secretary indicated that he would remind Bureaux to encourage organizations and professional bodies which are involved in candidate nomination to enhance women's participation. As the Government has frequently emphasized personal capacity in appointing candidates, I do not know which organizations and institutions can nominate candidates. Furthermore, the Secretary also indicated that he would encourage female to contribute their CVs for inclusion in the CPI. Will the Secretary inform this Council of what measures he will take and through what channels he will encourage female to have their names included in the CPI?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): At present, President, some ASBs have their candidates nominated by organizations for appointment by the Government. The most prominent example is the Hong Kong Arts Development Council. It will identify some candidates from different performing arts sectors in accordance with a specific procedure for appointment by the Government. Some other organizations also adopt such practice. Hence, any female or members of the public wishing to contribute their CVs for inclusion in the CPI kept by the Home Affairs Department can download the relevant forms from our website and return them to the address shown on the form after completion. Their CVs will then be included in the CPI.

MR ALBERT HO (in Cantonese): *While the failure to meet the target of having a women's participation rate of 30% is absolutely unsatisfactory, it is unbearable that the women's participation rate in many organizations is zero. The message I got from the Secretary's earlier remarks is that the Home Affairs Bureau can only issue guidelines, and it can hardly instruct or direct other Bureaux to do anything. However, many of the organizations are under the purview of the Home Affairs Bureau, which is led by the Secretary. For instance, the participation rate of female appointed members in eight District Councils (DCs) is zero — I do not support appointed DC members, as we are against all appointment systems; however, given the existence of this system, women should not be subject to discrimination. Secretary, you are responsible for this. And there are other organizations too — I have not finished reading the whole Annex — for instance, the number of female members in the Tung Wah Group of Hospitals Advisory Board, which is also under the purview of the Secretary, is also zero. My question is very simple. Can the Secretary clearly tell us on behalf of the Government that, as a first step, it will definitely break through the zero women's participation rate in making new appointments to any committees in the future, and it will no longer tolerate such a discriminatory policy of "zero participation"? Will the Secretary fail to meet even such a simple request?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, each ASB will definitely appoint its members having regard to its actual situation. Regarding the DC appointments mentioned by Mr HO just now, there is indeed no female DC member in some districts. However, the rate of female appointed DC members in some districts is higher than 30%. For instance, the women's

participation rates in North DC and Sai Kung DC is 40%. Hence, appointments to each district have to be made having regard to their actual situation, including such factors as social situation, regional circumstances, the history of women participating in social affairs in the respective districts, and so on. Our target cannot be achieved purely by taking a broad-brush approach subjectively.

MS CYD HO (in Cantonese): *President, my question also concerns making appointments to DC. It is revealed in the Annex that the ratio of female appointed DC members is a mere 9.21%. This is not only lower than the percentage in other statutory organizations, which stands at 25%, but also lower than what public opinion wants, because the ratio of female representatives returned by the public in the elections in 2007 was 20%. This ratio is also lower than the appointments made by the former Secretary for Home Affairs — the ratio of female appointed members stood at 18% in 2003 and fell to 9.21% when it came to Secretary TSANG Tak-sing. Why did the ratio drop so sharply and result in such an enormous gap? Why should the Government use such an undemocratic means of appointment to offset the result achieved by public opinion through the enhancement of women's power?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, 17% of the existing 102 appointed DC members are female.

MS CYD HO (in Cantonese): *President, only 14 DCs are listed in the information provided by the Secretary, and only seven out of the 76 appointed DC members are female. Is there any discrepancy with the information provided by the Secretary?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will check the relevant information again.

MR PAUL CHAN (in Cantonese): *President, coincidentally, I would also like to follow up on the appointments made to DCs. Secretary, can you explain why there is no female appointed member in eight DCs, namely the Central and Western DC, the Islands DC, the Kwun Tong DC, the Sham Shui Po DC, the Southern DC, the Tai Po DC, the Wan Chai DC and the Wong Tai Sin DC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): DC members are appointed having regard to the circumstances of the districts, the principle of appointment by merit, the actual needs and participation of the districts, and so on. Therefore, we cannot generalize all situations.

MR PAUL CHAN (in Cantonese): *The authorities concerned should really conduct a serious review because there are women in all these districts.*

MR IP KWOK-HIM (in Cantonese): *President, according to the information provided in the Annex, I find that the rate of women appointed to 40 organizations, or 10.4% of the 384 organizations, is zero. This is extremely unsatisfactory. However, I have also noticed that the relevant benchmark will be raised to 30% in June 2010. At the same time, in part (c) of the main reply, the Secretary mentioned that the number of CVs of female kept in the CPI at present is 6 728. May I ask the Secretary how many of these 6 728 CVs belong to young women aged below 30? If the Bureau cannot provide this figure or the figure is very low, will the Bureau consider raising the figure, so that their views can be better heard in ASBs which allows the participation of young people?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): I have figures concerning the number of women aged below 30, which the Member wants to find out. The total number of people in the CPI aged below 30 is 330, or 1.43% of the total number of people in the CPI, with 147 of them being female and 183 being male.

MS STARRY LEE (in Cantonese): *President, as the saying goes, human effort is the decisive factor, particularly as the Government is able to control the number of appointed bodies. As pointed out by Mr IP Kwok-him just now, we can actually see that the women's participation rate in 40 organizations listed in the Annex is zero. In part (c) of the main reply, the Secretary indicated that he would take into account gender balance. Though I agree with him, the result is indeed unsatisfactory. Actually, in considering gender balance, will the Bureau consider age balance concurrently? It is now held by many people that the "post-80 generation" has no opportunities to participate in the administration process of the Government and can hardly engage in direct dialogues with senior government officials. As the Bureau has now set a guideline of achieving 30% women's participation rate, can it also take a step forward in allowing young people to participate in ASBs, such as by allowing each body ……*

PRESIDENT (in Cantonese): Ms Starry LEE, the main question is about gender mainstreaming. I am afraid you have to seek another opportunity should you wish to raise problems about age.

This Council has spent more than 21 minutes on this question. There are four Members who have not yet been able to raise their supplementaries. Fifth question.

Management of Exchange Fund

5. **MRS REGINA IP** (in Cantonese): *President, according to the latest information of the Hong Kong Monetary Authority (HKMA), the official foreign currency reserve assets amounted to US$258.8 billion as at the end of March 2010, which ranked seventh in the world. Yet, there have been comments that the HKMA has always adopted a relatively conservative investment strategy and, as a result, the compounded annual return rate of the Exchange Fund from 1994 to 2008 was 6.1% only, which was in general lower than the investment return rate of sovereign wealth funds (SWFs). In this connection, will the Government inform this Council:*

(a) given that it is clearly stated in the Articles of Association of the China Investment Corporation (CIC), the SWF of the Motherland, that the company's business objective is to carry out an active and

steady operation and endeavour to "maximize" the interests of the shareholders (namely, the country and the people) within an acceptable scope of risks, of the measures adopted by the Government of the Hong Kong Special Administrative Region (SAR) to maximize the interests of Hong Kong people in respect of their assets (namely, foreign exchange reserves);

(b) given that there have been comments that the Government does not need to use all the foreign exchange reserves to maintain the Linked Exchange Rate System, plus the fact that Hong Kong may obtain short-term liquidity support through its participation in the "Chiang Mai Initiative Multilateralization", whether or not the Government will reconsider allocating a small portion of the Exchange Fund (such as one tenths or US$25 billion) to set up a SWF and establish a new company to manage the fund independently, so as to seek a higher return and make strategic investments which dovetail with the Hong Kong industries enjoying competitive edge; and

(c) given that when the CIC was established in September 2007, the Ministry of Finance raised RMB¥1.55 trillion through the issuance of treasury bonds and acquired foreign exchange reserves equivalent to US$200 billion to form the CIC's registered capital, whether or not the Government will consider raising funds in a similar manner?

FINANCIAL SECRETARY (in Cantonese): President, my reply to the question raised by the Member is as follows:

(a) The statutory purpose of the Exchange Fund is to maintain monetary and financial stability, and its primary investment objectives are capital preservation, ensuring that the entire Monetary Base is fully backed by highly liquid US-dollar-denominated assets at all times and that there is sufficient liquidity. The HKMA has all along managed the Exchange Fund prudently. As long as the investment strategies are met, the HKMA will explore opportunities for investment diversification for the purposes of better risk management and yield enhancement, in order to preserve the long-term purchasing power of the Exchange Fund.

(b) The SAR Government has no intention to establish a SWF. However, as long as the investment objectives and strategies of the Exchange Fund are met, the HKMA will review the asset and currency mix of the Exchange Fund regularly to seek diversification in pursuit of a higher investment return.

(c) We have no intention and plan to raise funds.

MRS REGINA IP (in Cantonese): *President, the reply given by the Secretary is too brief and he has flatly refused to consider the setting up of a SWF.*

President, there are actually a number of studies in this regard. The National University of Singapore has conducted many researches and even in the 50s in the last century, some Middle East countries had already established their respective SWFs. In Singapore, the Temasek Holdings Pte Limited and the Government of Singapore Investment Corporation Pte Limited were set up in the 1970s and 1980s. Moreover, in our great Motherland, the CIC was established in 2007. Why is our SAR Government not willing to consider doing so at all? Is it because the HKMA is self-dignified for getting hold of all the money, and is not willing to spare money for other more attractive investments and face more competitions? Or, is our current-term SAR Government at the end of its tether, so it has no desire whatsoever to carry out financial reform?

FINANCIAL SECRETARY (in Cantonese): President, generally speaking, the Exchange Fund and a SWF are different in nature. Our main purpose is — as I have said in the main reply — to maintain the stability and integrity of our monetary and financial systems. For this reason, our objective is mainly to preserve capital, maintain high liquidity and ensure that our Monetary Base is fully backed by US-dollar-denominated assets. Therefore, the two funds are incomparable.

MR JEFFREY LAM (in Cantonese): *President, the Secretary mentioned in part (a) of the main reply that "the HKMA will explore opportunities for investment diversification for the purposes of better risk management and yield enhancement". May I ask the Secretary, insofar as investment diversification is*

concerned, what specific strategies will be adopted and how the related risks can be properly managed?

FINANCIAL SECRETARY (in Cantonese): President, as I have mentioned in the main reply, we have all along examined from time to time the feasibility of making investments in more diversified asset classes. In this regard, private equity investment funds, emerging-market bonds and shares and even investing in the Mainland are included in the scope of our studies. If such investments tie in with our investment strategies, we will also explore opportunities for more investment diversification. In fact, we have started investing a small portion of the Exchange Fund in assets yielding a higher return in a prudent and progressive manner.

PRESIDENT (in Cantonese): Mr WONG Ting-kwong.

(Mr Jeffrey LAM raised his hand in indication)

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, please hold on. Mr Jeffrey LAM, which part of your supplementary question has not been answered?

MR JEFFREY LAM (in Cantonese): *Yes. Just now, I asked the Secretary how the related risks could be properly managed. Regarding this part, the Secretary seems ……*

FINANCIAL SECRETARY (in Cantonese): President, in our investment strategies, there are stringent measures for risk management and certain management policies and practices have been laid down. Our investment staff is required to comply with these practices and policies.

MR WONG TING-KWONG (in Cantonese): *President, as mentioned by the Secretary in the main reply, the HKMA has all along managed the Exchange Fund prudently. May I ask the Secretary, in making investments of the Exchange Fund, whether an aggressive or a conservative investment strategy is*

adopted? Is the current rate of return on a par with the rate anticipated at the time of making the investment? Do the authorities have any plan to change the current investment strategies and adopt more aggressive approaches?

FINANCIAL SECRETARY (in Cantonese): President, as I said in response just now, the main objective of our entire strategy is to preserve capital and maintain high liquidity because we have to ensure a full backing for the Monetary Base. In this regard, our compounded annual return rate between 1994 and 2009 was 6.1% and during this period, the overall inflation rate was 1.5%. We consider this rate of return acceptable and meet with our investment objectives, that is to preserve capital and maintain the long-term purchasing power of the Exchange Fund.

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

MR WONG TING-KWONG (in Cantonese): *The Secretary has not answered whether or not any changes will be made to the investment strategies concerned in future.*

PRESIDENT (in Cantonese): I think the Secretary has already given an answer. Secretary, do you have anything to add?

FINANCIAL SECRETARY (in Cantonese): I have nothing to add.

MR CHIM PUI-CHUNG (in Cantonese): *President, the former Chief Executive of the HKMA has remarked that the second and third waves of the financial tsunami are looming. However, in view of the present situation, how do you, as the immediate boss of the HKMA, comments on this view? Since this view will have serious impact on the financial policy of Hong Kong, how will you ensure the investment performance of the Exchange Fund of Hong Kong?*

FINANCIAL SECRETARY (in Cantonese): President, we are actually seeing an upturn in the current economic situation and the economic situation in the first half of the year is quite good. That said, at present, we have also taken note of the possible fluctuations in the economic situations of other countries (namely, our major exporting countries), including the whole European Union and even the United States. The possibility of the second and third waves of the financial tsunami cannot be ruled out. For these reasons, we have to follow a relatively prudent approach on an ongoing basis to ensure that we can maintain the investment objectives of the Exchange Fund.

MR PAUL CHAN (in Cantonese): *President, my question is related to part (b) of Mrs Regina IP's main question. Recently, it was reported by the press that the HKMA invested part of the Exchange Fund in private equity investment funds and hedge funds. May I ask the Secretary whether or not this is true? From what he said just now, it seems that investments have been made in private equity investment funds, which involve relatively high risks.*

President, my question is: As the Government can allow the HKMA to invest in hedge funds and private equity investment funds, why can it not allocate some money — as stated in part (b) of the main question — for investments that dovetail with the industries which Hong Kong enjoys competitive edge, thereby complementing our strategic development?

FINANCIAL SECRETARY (in Cantonese): President, it has been our strategy to explore diversified investment opportunities as long as our investment strategies are complied with. As I said just now, we will make such investments in a relatively prudent and progressive manner. For those investments considered to be in accordance with our risk management policies and practices, we will not rule out the possibility of making some investments in those areas.

MS STARRY LEE (in Cantonese): *President, in part (b) of the main reply, the Secretary gave a prompt reply to Mrs Regina IP's question, saying that there is no intention to establish a SWF. In fact, a decision that has not undergone any debate may not necessarily be the most desirable one.*

Recently, Hong Kong has formally signed the Framework Agreement on Hong Kong/Guangdong Co-operation. Earlier, the Chief Secretary for Administration visited Hengqin and encouraged Hong Kong businessmen to participate more in the development there. To my understanding, Singapore enables its citizens to participate in its local construction through the Temasek Holdings Pte Limited. Can the Secretary undertake to examine the mode of operation of the SWF in Singapore within this year, the pros and cons of participating in investing in the Mainland and then submit the findings to this Council for Members' discussions before making a decision as to whether a SWF will certainly not be set up?

FINANCIAL SECRETARY (in Cantonese): President, we will, from time to time, examine in depth our investment strategies and in what areas we should make investments. We will continue to do this.

MR CHAN KAM-LAM (in Cantonese): *President, the Secretary's reply seems to be focused on making investments of the Exchange Fund in financial products. May I ask the Secretary whether or not he will consider allowing the HKMA to make investments in other aspects of economic construction or projects involving other products?*

FINANCIAL SECRETARY (in Cantonese): President, as long as our investment objectives are met, namely, preserving our capital, maintaining high liquidity and ensuring that our Monetary Base is fully backed by US-dollar-denominated assets, we will not rule out any investment activities of any nature.

MRS REGINA IP (in Cantonese): *President, if the Financial Secretary had really studied the background and objectives of a SWF, he would have known that pursuing a higher return is only one of the objectives. Many countries and regions will still set up their respective SWFs despite having a huge surplus, in the hope of achieving certain social and economic objectives, such as strengthening the middle class and supporting industries with competitive edge.*

In the case of Hong Kong, wealth and asset management should be our strong points in the financial services industry. I know that the investment management sector of the industry in fact hopes very much that the Government can set up an independent SWF, so that its members can have the opportunity to do business, rather than giving all opportunities to the HKMA. As Mr Paul CHAN has said, if the authorities invest in hedge funds and private equity investment funds, the risks involved are actually very high. May I ask the Financial Secretary, can a more in-depth study be conducted from wider perspectives, that is, strengthening the middle class, supporting the industries with competitive edge and enhancing the comparative advantages of Hong Kong, instead of just giving a point-blank refusal?

FINANCIAL SECRETARY (in Cantonese): President, I gave an answer to this question just now. As long as our investment objectives are met, we will not rule out any investment activities.

MR CHAN KAM-LAM (in Cantonese): *President, the Secretary has mentioned repeatedly in his earlier replies that the Exchange Fund has to guarantee the full backing of US-dollar-denominated assets and cope with liquidity. Our fiscal reserves amount to some $500 billion and relatively speaking, this bears no connection with the backing of US-dollar-denominated assets for the Exchange Fund. May I ask the Secretary, will he consider adopting other approaches in investing the fiscal reserves, so as to ensure our current financial resources are well utilized?*

FINANCIAL SECRETARY (in Cantonese): President, my answer is the same. As long as our investment objectives are met, we will not rule out any investments of any nature.

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

Legislative Council Functional Constituencies

6. **MR ALBERT HO** (in Cantonese): *President, in 1999, the Hong Kong Special Administrative Region Government submitted a report to the United Nations in the light of the International Covenant on Civil and Political Rights. Paragraph 461(b) of the report stated that "(the functional constituencies (FCs)) are transitional. The ultimate aim, as provided for in Article 68 of the Basic Law, is the election of all members of the Legislative Council by universal suffrage". Moreover, on 29 December 2007, the Standing Committee of the National People's Congress (NPCSC) adopted the Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage (the Decision). The Decision stated that "after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage". In this connection, will the Government inform this Council whether:*

(a) it still maintains the stance that the functional constituency system is transitional only; if so, whether it has assessed if social conflicts relating to the retention or otherwise of FCs will deepen as the issue continues to be left to the next-term Government to deal with; and

(b) it has assessed if the continued keeping of the functional constituency system in or after 2020 is a violation of Article 68 of the Basic Law and the Decision adopted by NPCSC in 2007?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President,

(a) The consistent position of the HKSAR Government is that the existing electoral model for the FCs of the Legislative Council does not comply with the principles of universality and equality. The existing electoral arrangements cannot be maintained when universal suffrage for the Legislative Council is implemented.

Although the current-term HKSAR Government has only been authorized by the NPCSC to deal with the two electoral methods for 2012, we have consolidated and concluded the views relating to universal suffrage received during the public consultation on the electoral methods for selecting the Chief Executive and for forming the Legislative Council in 2012. We have also recommended the next-term Government to follow up actively and consider the relevant proposals seriously.

On the other hand, the HKSAR Government has put forth a package of proposals for the two electoral methods for 2012 (the proposed package), which can enhance the democratic elements of the two elections in 2012 through the participation of elected District Council members who have a broad electorate base. This can also pave the way for implementing universal suffrage. In particular, for the Legislative Council election, we propose that the number of seats be increased from 60 to 70. We have also abided by the principle of not creating new "traditional" FCs. Aside from increasing five geographical constituency seats, all five new FC seats will be returned through election from among elected District Council members by the proportional representation.

If the Legislative Council endorses the proposed package, close to 60% of all seats in the 2012 Legislative Council will be returned through geographical direct or indirect elections, leaving only about 40% for the "traditional" FC seats. This ratio will make it easier for the Legislative Council to build consensus on resolving the issue of FCs.

(b) Regarding the issue of how the FCs should be dealt with when universal suffrage for the Legislative Council is implemented, different sectors of the community, as well as various political parties/groups of the Legislative Council, still have extremely diverse views on this issue. There are views that the FCs should be abolished. There are also views that the electorate base of the FCs should be broadened, for example, by adopting the "one-person-two-votes" model, that is, registered voters can cast one vote in the GC election, and the other in the FC election.

During the public consultation on the two electoral methods for 2012, the opinion poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University indicates that about half of the respondents consider that the FCs should be abolished when universal suffrage for the Legislative Council is implemented, while about 37% consider that the FCs should be retained. However, the poll conducted by the Public Opinion Programme at the University of Hong Kong indicates that about 40% consider that the FCs of the Legislative Council should not be abolished, while about 36% consider that the FCs should be abolished.

In the light of the above, how the FCs should be dealt with is indeed an issue which requires the Hong Kong community to seek consensus on. More time is needed for the community to discuss the issue thoroughly with a view to forging consensus. At this stage, we cannot draw any final conclusion on the issue as to whether the FCs should be abolished or retained when universal suffrage for the Legislative Council is implemented. However, we have made it clear that the future universal suffrage model should comply with the Basic Law and the principles of universality and equality.

We hope that, over the next few years, the Hong Kong community can adopt a rational, pragmatic and accommodating attitude, so that we can work together to consider and forge consensus on this issue. We are pleased to see that recent discussions on this issue within the community have become more rational.

MR ALBERT HO (in Cantonese): *President, was the report submitted in 1999 to the United Nations Commission on Human Rights in the light of the Covenant only from the SAR Government? It was a part of the report submitted by the People's Republic of China, and its contents including the point that the FC system was a transitional arrangement before the implementation of universal suffrage should evidently not only reflect the stance of the SAR. I have reasons to believe that the Central Government has read it and endorsed the stance before a single report was produced — the whole report produced by China and the SAR — and submitted to the United Nations.*

President, I would like to ask: since 1999, two reports have been submitted in 2004 and 2005 but it seems that whether the FC system is a transitional arrangement before the implementation of universal suffrage has no longer been mentioned. In its reply today, the Government has only stated the difference between new FCs and "traditional" FCs, and it has said that it cannot draw any final conclusion on the issue as to whether the FCs should be abolished.

As regards the point made in the 1999 report that the FC system was a transitional arrangement, can the Secretary restate whether this remains the SAR Government's stance? If so, does it mean that when all Legislative Council Members are elected by universal suffrage in 2020 — according to the Government's timetable — we no longer have any form of FCs? If the Secretary gives a negative answer, indicating that the stance has changed or we have misunderstood the transitional arrangement, he should let us know whether the statement made in the report to the United Nations back then is no longer the Government's stance, or whether what the statement made at that time was wrong and misleading.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have actually answered Mr Albert HO's question in my main reply. As he still wants me to elaborate it further, I will respond again focusing on a few areas.

First, a very explicit point is that a transition towards full universal suffrage should be the ultimate objective of the present electoral systems including the electoral systems for forming the Legislative Council and selecting the Chief Executive. Second, to achieve the ultimate objective of universal suffrage, different parties/groups have respective stance and belief; and there are interactive exchanges in the Legislative Council. The SAR Government under the leadership of the Chief Executive with a term of office of five years has to submit proposals to the Legislative Council at an appropriate time for discussion and voting.

Issues such as how universal suffrage will be implemented in 2020 and whether FCs should be retained or abolished at that time should continue to be discussed and views should continue to the expressed. But, today, nobody can draw a conclusion about whether the FCs should be abolished or retained in 2020.

Nevertheless, our unequivocal stance is that the present electoral arrangement for FCs fails to comply with the principles of universality and equality.

We have discussed these issues many times since 1999 and I think that the most critical moment was in 2007 when a public consultation was conducted on the Green Paper on universal suffrage. In December that year, some time after we completed the public consultation, the Chief Executive submitted a report to the Central Authorities. As stated in the fifth paragraph of the report, "We set out in the Green Paper in detail the constitutional basis for the HKSAR's constitutional development and the principles of design of its political structure. We also pointed out to the Hong Kong community that, in the process of attaining the ultimate aim of universal suffrage and in designing a model for implementing universal suffrage, we must consider, in accordance with the relevant provisions and principles of the Basic Law, whether the relevant options can comply with: (i) the basic policies of the State regarding Hong Kong; (ii) the four principles on constitutional development, namely, meeting the interests of different sectors of society, facilitating the development of the capitalist economy, gradual and orderly progress, and being appropriate to the actual situation in Hong Kong; and (iii) the principles of universal and equal suffrage."

Therefore, President, my most straightforward answer to Mr Albert HO's question is that we should make efforts together to arrive at a consensus, and pass the 2012 constitutional development package to enable Hong Kong to take a step forward in constitutional development. In doing so, we will have better conditions for the implementation of universal suffrage in 2017 and 2020.

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

MR ALBERT HO (in Cantonese): *President, he has not answered my supplementary question at all. My supplementary question is actually very simple, that is, is it still correct to say that the FC system is a transitional arrangement before the implementation of full universal suffrage as stated in the 1999 report? Is this still the Government's stance? I would like to emphasize the point "transitional arrangement".*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have already given an answer. I have said that a transition towards full universal suffrage should be the ultimate objective of the present electoral systems including the electoral systems for forming the Legislative Council and selecting the Chief Executive, and implementing universal suffrage for selecting the Chief Executive in 2017, and for forming the Legislative Council in 2020. But, there are procedures and provisions in the Basic Law about how this mode of universal suffrage can be implemented. The SAR Government should submit a proposal to be voted upon by the Legislative Council, and there will only be a final answer after the completion of this process. No parties/groups can ask the Central Government or the SAR Government to preset an answer before going through this process, holding discussions in the community and the Legislative Council and voting.

MR LEE WING-TAT (in Cantonese): *President, the Secretary has spoken eloquently and fluently but I do not understand what he has said after he has spoken for a few minutes. The matter is very simple. When Mr Albert HO asked him if there was any changes in the Government's stance after a report had been submitted, he just told him that there were five procedures. Even if there were five procedures, the question put to the Secretary was about the Government's stance. If he thinks that there should not be FCs in any form, he should just say so. If he does not think so and there will still be FCs in certain forms in 2020, he should directly tell us; why should he beat around the bush? He has not given an answer after he has spoken for almost 20 minutes. Can he tell us if there will be FCs in certain forms in 2020? Or, will there not be FCs in any form? President, it is so very simple.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr LEE Wing-tat has participated in politics for many years, and he should know that the decisions on political issues and the constitutional system are not made by one person alone. Even though I would like to give him a final answer today, I cannot do so because the SAR Government should respect the Legislative Council and the Basic Law. It is not yet time to submit a proposal on how universal suffrage for the Legislative Council would be implemented, but, we have very seriously conducted public

consultations and discussions for many years. At each stage, we have faithfully accounted for the views expressed.

At present, there are different opinions in the community about how universal suffrage for the Legislative Council would be implemented. Some have suggested "one-person-one-vote" and the abolition of all FC seats while some others have suggested "one-person-two-votes" or "one-person-multiple-votes". In the case of "one-person-two-votes", each voter can cast one vote in the GC election, and the other in the FC election and the right to vote will be more equal. Nevertheless, the pan-democratic camp thinks that it is not equal enough because the right to nominate is not sufficiently equal. Evidently, it is really controversial and discussions are necessary. We can only get an answer when the issue is eventually voted upon in the Legislative Council. Yet, now that discussions have not been concluded and the issue has not been voted upon, the pan-democratic camp would like the Central Government or the SAR Government to give a model answer in advance. We cannot do so because the SAR Government and the Central Government must respect the Basic Law and the fact that Hong Kong has a constitutional role to discuss and vote upon this issue.

MR LEE WING-TAT (in Cantonese): *President, he has again taken up seven minutes. My question is very simple: I am not asking a question about anything new and I just have one question. The Government can have its stance before having the five procedures. Does he not have a stance? Is the Government's stance ……*

PRESIDENT (in Cantonese): Please repeat your question.

MR LEE WING-TAT (in Cantonese): *Will FCs still exist in certain forms, or will FCs no longer exist in any forms? President, that is my question.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, our unequivocal stance is that when we attain universal

suffrage for the Legislative Council in 2020, the electoral model should comply with the principles of universality and equality. As regards how to implement the principles of universality and equality, we must go through the five procedures as specified in the Basic Law, we have to discuss, debate, propose and vote.

MR CHEUNG MAN-KWONG (in Cantonese): *President, there is only one key point in this question raised by Mr Albert HO, that is, the FC system is just a transitional arrangement. Has this pledge made in the report submitted by the SAR Government to the United Nations been changed? Has the Government steered in another direction? The meaning of transition is that certain things we now have will vanish sooner or later; there will be universal suffrage and FCs no longer exist. If the Government says that the stance as stated in the report still stands, I will ask the Government, that is, the Secretary, to make two choices and do two things: first, I would like him to read this out with me — the FC system is just a transitional arrangement.(Laughter) As specified in Article 68 of the Basic Law, "The ultimate aim is the election of all the members of the Legislative Council by universal suffrage". If he is not going to read that out, it means that he intends to steer in another direction at any time. In that case, I would like to punish him by asking him to copy this sentence 100 times, which can serve as a souvenir for Honourable colleagues.*

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

MR CHEUNG MAN-KWONG (in Cantonese): *Which one will he choose?(Laughter)*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I know that Mr CHEUNG Man-kwong is a teacher and he has taught many good students throughout the years. I was actually a fairly good student. I would also like to ask Mr CHEUNG Man-kwong to read aloud with me the fifth paragraph of the report submitted by the Chief Executive to the NPCSC in 2007 — The Green Paper also pointed out that, "in the process of implementing universal suffrage, we must consider, whether the relevant options

can comply with the basic policies of the State regarding Hong Kong, the four principles on constitutional development, and the principles of universal and equal suffrage."

MR CHEUNG MAN-KWONG (in Cantonese): *President, he has not answered my supplementary question because my supplementary question is to ask him read that aloud. Should he be punished to copy it 100 times as he is not reading it aloud? However, I just want to ask if he is willing to read aloud the paragraph I just mentioned after I have read aloud the paragraph he just referred to, and to acknowledge it?*

PRESIDENT (in Cantonese): Mr CHEUNG, I believe the Secretary has already given an answer. You have asked him to choose between two options but he has chosen neither.*(Laughter)*

MR CHEUNG MAN-KWONG (in Cantonese): *President, in that case, can he stand up and answer that he has chosen neither options?*

PRESIDENT (in Cantonese): Mr CHEUNG, the Secretary has already given an answer.

MS EMILY LAU (in Cantonese): *President, this is a very serious question about the definition of universal suffrage, and there must be a preset answer. According to international standards, when the Administration submitted a report to the United Nations in 1999, the Mainland had not submitted a report because it had not ratified the Covenant then. President, a report will be submitted again this year; though the Secretary has just read aloud the definition made by the NPCSC, it has been stated that the principles of universal and equal suffrage should be complied with. Even though "the consistent stance" is mentioned at the very beginning of the main reply, the stance has already changed. In the 1999 report, the Government resolutely and decisively stated that the FC system was a transitional arrangement and universal suffrage would be implemented in the future. Yet, President, the Government has already steered in another direction.*

I would like to ask the authorities, in the report to be submitted to the United Nations this year, with the authorities say that the statement made in 1999 was misleading? According to the Administration, though the current practice does not comply with the principles of universality and equality, it seems that public opinion holds that the one-person-two-vote model will be feasible in future. Also, President, I have recently heard that the Mainland authorities have sent many people here to discuss with lawyers and professors the issue of interpretation of the law. In case the law is interpreted, FCs will comply fully with the principles of universality and equality. Will the Administration also tell the United Nations that?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe Ms Emily LAU is somewhat exaggerating just to scare people. A decision has been made by the NPCSC, which is forward-looking and more avant-garde than the 1999 decision. In 1999, it was less than two years after the reunification and that was the first term of the Legislative Council, but now it is the fourth term of the Legislative Council. Before the fourth term of the Legislative Council, we already had the decision made by the NPCSC in December 2007 and a timetable for universal suffrage. If Ms Emily LAU put forward the issue of universal suffrage in 1999, no matter who the Secretary in charge of constitutional affairs was could not tell her when universal suffrage would be implemented. Nonetheless, we have an answer today and the situation has become clearer as compared with 1999. Even though there is an exemption provision under Article 25(b) of the Covenant, the SAR Government still confirms that the principles of universality and equality should be complied with when universal suffrage for selecting the Chief Executive and for forming the Legislative Council is implemented. Since the principles of universality and equality have to be complied with, we in this Council should eventually vote before 2017 and 2020 in light of our ideals, beliefs and public support, instead of presetting an answer today.

MS EMILY LAU (in Cantonese): *He has not given an answer at all. I asked him if it would be stated in the report to be submitted to the United Nations this year that the stance as stated in 1997 was wrong; and that the course will be steered in another direction? Will he tell the United Nations that preparation for interpretation of the law is now underway, with a view of saying that Members returned from FCs be regarded as returning by universal suffrage?*

PRESIDENT (in Cantonese): Ms Emily LAU, we should not turn this question into another debate about the constitutional system, including the retention or otherwise of FCs.

MS EMILY LAU (in Cantonese): *But, President, he has not answered the question I raised.*

PRESIDENT (in Cantonese): Ms Emily LAU has asked a simple question related to the next report to be submitted by the Government to the United Nations about human rights development in Hong Kong. Will the Secretary please reply?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, my response will focus on two areas. The first area is that all reports submitted by us to the United Nations must comply with the Basic Law and will reflect the decision made by the NPCSC on the timetable for universal suffrage insofar as constitutional development is concerned, and will also reflect the latest situation in Hong Kong. Another area is that, I would like to ask Ms Emily LAU not to frequently exaggerate things without any factual basis just to scare people. Where does she get the information that the NPCSC will further interpret the law insofar as universal suffrage is concerned? I have never heard of that.

PRESIDENT (in Cantonese): This Council has spent more than 24 minutes on this question ……

(Mr Albert HO stood up)

PRESIDENT (in Cantonese): Mr HO, what is your question?

MR ALBERT HO (in Cantonese): *President, can you give me one minute to clarify what I just said? I would like to make something right.*

PRESIDENT (in Cantonese): What do you want to clarify?

MR ALBERT HO (in Cantonese): *In my question, I said that the 1999 report would be submitted together with the report produced by the People's Republic of China, but I was wrong and Ms Emily LAU was right. The Chinese Government has not submitted reports because it has not ratified the Covenant. That is different from the practice of submitting reports together under the International Covenant on Economic, Social and Cultural Rights. Yet, I still hold that the Central Government should have read and endorsed the relevant part of our report on the constitutional system.*

PRESIDENT (in Cantonese): Mr Albert HO has made corrections, and this question should end here. Regarding constitutional development, especially the retention or otherwise of FCs, I believe Members can have debates on many other occasions.

Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Building Management Cases Handled by Lands Tribunal

7. PROF PATRICK LAU: *President, will the Government inform this Council of the number of building management cases handled by the Lands Tribunal in each of the past four years, and among them, the respective numbers of those related to disputes between property owners and occupants within the same building on building management issues (such as water seepage and nuisance, and so on), and those which had been resolved by mediation before the formal proceedings conducted by the Lands Tribunal?*

CHIEF SECRETARY FOR ADMINISTRATION: President, the Administration has consulted the Judiciary on the question and has received the following information and response:

(a) The number of building management cases handled by the Lands Tribunal in the past four years are as follows:

2006	*2007*	*2008*	*2009*
343	494	329	394

The Judiciary does not have the breakdown of the disputes concerned in respect of the above cases.

(b) Since 1 January 2008, mediation has been introduced in the Lands Tribunal to cover building management cases filed. Among the cases referred to in part (a) above, the respective numbers of cases where mediation was completed and cases where agreement was reached in 2008 and 2009 respectively are as follows:

	2008	*2009*
Completed mediated cases	48	117
(i) Full agreement cases	15	37
(ii) Partial agreement cases	6	15

Enforcement of Hotel and Guesthouse Accommodation Ordinance

8. **MR ABRAHAM SHEK** (in Chinese): *President, in January this year, officers of the Office of the Licensing Authority (OLA) under the Home Affairs Department inspected a suspected unlicensed guesthouse at Castle Peak Road in Yuen Long. A man and a woman involved in the case were subsequently convicted of contravening the Hotel and Guesthouse Accommodation Ordinance (the Ordinance) (Cap. 349) and were fined $3,000 and $1,500 respectively. It has been learnt that similar prosecutions are instituted by the authorities almost every month. In this connection, will the Government inform this Council:*

(a) of the number of inspections conducted by OLA officers on suspected unlicensed guesthouses in the past three years, as well as the respective numbers of reports made by members of the public, prosecutions instituted and convicted cases together with the penalties imposed;

(b) whether it has assessed the deterrent effect of the existing prosecution policy and the penalties imposed by the Court on the operation of unlicensed guesthouses; if so, of the details; if not, the reasons for that; and

(c) given that the operation of unlicensed guesthouses may endanger the structural safety of buildings in which they are located as well as the personal safety of lodgers in such guesthouses, cause nuisances to other residents and give rise to many other problems, yet the situation has not improved over the years, whether the authorities will consider amending the legislation and increasing the penalties so as to enhance deterrent effect; if they will, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, with reference to the question raised by the Mr Abraham SHEK, my reply is as follows:

(a) the numbers of reports received and inspections conducted by the OLA under the Home Affairs Department on suspected contravention of the Ordinance (Cap. 349) and the numbers of prosecutions instituted and convicted cases in the past three years are as follows:

	Report	*Inspection*	*Prosecution*	*Conviction*
2008	216	1 664	28	30
2009	460	2 589	40	37
2010 (as at 31 March)	100	695	7	12

According to the records of the OLA, a fine of $800 to $30,000 was imposed by the Court as a penalty for contravention of the Ordinance during the period from 2008 to 2010 (as at 31 March). Two accused were each sentenced to two months' imprisonment.

(b) and (c)

The OLA has spared no efforts in combating the operation of unlicensed guesthouses. Upon the receipt of a complaint against a

suspected unlicensed guesthouse, it will inspect the premises within eight working days. If investigation shows that there is *prima facie* evidence indicating unlicensed operation of a guesthouse, it will seek legal advice on appropriate actions for prosecution. It will explain the safety problems posed by the unlicensed guesthouse to its lodgers and residents of the building concerned to the Court to facilitate the latter to reflect the seriousness of the crime in its sentence. Under the Ordinance, the operator of an unlicensed guesthouse is liable on conviction to a fine of $200,000 and to imprisonment for two years, and to a fine of $20,000 for each day during which the offence continues. In accordance with the Ordinance, the OLA will consider cancelling the licence or refusing its renewal if the guesthouse operator is convicted of operating an unlicensed guesthouse.

The OLA also adopts a two-pronged approach by strengthening law-enforcement actions on the one hand and stepping up publicity and providing information to encourage and facilitate visitors to choose licensed guesthouses in order to combat illegal guesthouses effectively on the other. As far as law enforcement is concerned, it includes proactive inspections during and outside office hours (for example, at nights, during and before holidays) and collecting evidence by posing as clients (commonly known as "snaking") when necessary. The OLA will also continue to expand its intelligence network and play an active role in inter-departmental operations jointly organized by the police and relevant departments. On publicity, the OLA has launched a Licensed Guesthouse Logo Scheme which requires all licensed guesthouses to display the newly designed logo at the main entrance and on the doors of all guestrooms to help visitors identify if the premises have been licensed under the Ordinance to provide further safeguards to visitors. A new round of publicity activities has also been launched for the scheme. Announcements of public interests are broadcasted on television and radio while posters/banners are displayed at suspected unlicensed guesthouse black spots and immigration control points to call on visitors to patronize licensed guesthouses. Visitors may also obtain a list of licensed guesthouses from OLA's website <www.hadla.gov.hk>. The OLA has also set up a hotline (Tel. 2881 7498) and uploaded a report form to its website to

facilitate reporting of suspected illegal operation of guesthouses by members of the public.

Handling of Accrued Benefits by MPF Scheme Members upon Change of Their Employment

9. **MR IP WAI-MING** (in Chinese): *President, will the Government inform this Council of:*

(a) the number of preserved accounts in the Mandatory Provident Fund (MPF) schemes and the amount of MPF accrued benefits in such accounts in each of the past five years, with a breakdown by age, gender and occupation of the MPF scheme members;

(b) the number of MPF scheme members who took the initiative to make arrangements for the accrued benefits in their MPF accounts due to change of employment in each of the past five years, and the amount of such benefits involved, with a breakdown by the arrangement made (that is, transferring the accrued benefits to a contribution account in the MPF scheme of the new employer or to a new preserved account opened by the member, or retaining them in a preserved account in the original MPF scheme); and

(c) the number of MPF scheme members who did not make any arrangement for the accrued benefits upon change of employment in each of the past five years, and among such cases, the number of those involving accrued benefits being automatically transferred to preserved accounts in the original MPF schemes?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the Mandatory Provident Fund Schemes Authority (MPFA) regularly collects information from approved trustees about preserved accounts falling under their respective MPF schemes, including the number of preserved accounts and the amount of MPF accrued benefits in those accounts. The information collected does not include breakdown of preserved accounts by age, gender and occupation of MPF scheme members and arrangements made by

individual scheme members for the accrued benefits held in their MPF accounts due to change of employment.

The number of preserved accounts in the MPF schemes and the amount of MPF accrued benefits held in those accounts in the past five years are as follows:

As at	*Number of preserved accounts*	*Accrued benefits in preserved accounts (HK$ million)*
31.12.2005	1 931 000	26,614[Note]
31.12.2006	2 271 000	51,580
31.12.2007	2 578 000	74,862
31.12.2008	2 950 000	64,514
31.12.2009	3 296 000	Data being processed

Note:

This is the amount of accrued benefits as at 31 August 2005. MPFA does not have figures as at end 2005.

Termination of Business of Centralized LPG Supply by Suppliers

10. **MR CHAN HAK-KAN** (in Chinese): *President, it has been reported that Chevron Hong Kong Limited (Chevron) has decided to gradually terminate the business of domestic liquefied petroleum gas (LPG) supply in Hong Kong, including the supply of domestic central LPG, which is operated by its subsidiary, the Caltex, and it is estimated that quite a number of users in both public and private housing estates will be affected. In this connection, will the Government inform this Council:*

(a) whether it knows the information on the housing estates affected by the aforesaid incident (set out in the table below);

Name of housing estate (public housing/Home Ownership Scheme/private housing)	*District*	*Number of households*	*Date on which the supply of domestic central LPG will be terminated*

(b) when the authorities received the notification from Chevron about the aforesaid termination of business; why they have not announced this immediately and taken the initiative to contact the affected housing estates;

(c) whether it knows if any of the other LPG suppliers has expressed willingness to take over the supply of domestic central LPG to the affected housing estates; if so, of the details; if not, whether the authorities will request Chevron to continue to supply domestic LPG to its existing users until a new supplier has been identified; if they will not make such an arrangement, of the reasons for that, and how they assist the affected households;

(d) whether it will consider entering into any agreement with the new supplier to ensure that the supplier will supply LPG at reasonable prices; and

(e) of the authorities' contingency plan to ensure that when ultimately no other supplier is willing to take over the supply of LPG, there will be continuous supply of gas to the affected households; whether the authorities will consider inviting the Hong Kong and China Gas Company Limited to take over the supply of domestic gas; if they will, of the details (including details about the necessary conversion works, and which party will bear the costs of the works)?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) The affected housing estates are set out below:

Name of housing estate	*District*	*Number of affected households*	*Date on which the supply of domestic central LPG will be terminated*
Gold Ning Mansion and Gold King Mansion	Tai Hang	166	In general, there will be a notification period of six to 12 months for
Carado Garden	Sha Tin	1 988	

Name of housing estate	*District*	*Number of affected households*	*Date on which the supply of domestic central LPG will be terminated*
Kwong Fuk Estate and Wang Fuk Court	Tai Po	8 257	termination of piped LPG supply. The exact termination schedule varies among different estates.
Cheung Wah Estate	Fan Ling	5 078	
Avon Park	Fan Ling	1 304	
Park Island	Ma Wan	5 500	
Shan King Estate	Tuen Mun	2 596	
Palatial Coast	Tuen Mun	850	
Fairview Park	Yuen Long	5 000	
Shui Pin Wai Estate	Yuen Long	2 135	

(b) Upon receiving notification from Chevron on the termination of Caltex's cylinder LPG business and most of its central LPG business in Hong Kong, the Administration has immediately requested Chevron to put in place proper handover arrangement to ensure stable gas supply to the households. The company has also been requested to notify stakeholders and affected households in a timely manner. Chevron agreed to follow up accordingly to minimize any inconvenience to the households.

(c) We understand that individual gas supply companies have expressed interests in taking over the domestic central LPG supply in these affected public and private housing estates. The Housing Department (HD) will invite gas supply companies to submit tender bid for the central LPG supply contract for the affected public housing estates shortly. Chevron is assisting the management companies and Incorporated Owners of the affected private housing estates, as regards the transitional arrangements for new gas supply companies to take over the business. In case a longer handover period is required, Chevron agreed to handle the issue in a flexible manner where possible to ensure an uninterrupted LPG supply.

(d) The current pricing mechanism of domestic LPG has been voluntarily adopted by Shell Hong Kong Limited since 1999 so as to enhance the transparency in pricing. Under this mechanism, the

company will forecast the import prices of the coming three months in light of the latest international LPG price information, and make positive or negative adjustment for any variation between the actual import prices and the import prices as forecasted in the previous review, with a view to setting LPG price for the coming three months. We shall continue monitoring whether the adjustment in domestic LPG price is reasonable in light of the movements in international LPG prices and local import prices.

As regards domestic central LPG supply for the HD's public housing estates, the supply contracts specify that the LPG price should not exceed the prevailing private market price, that is, the price paid by other central LPG users including those living or operating business in private properties. Under the contract, the HD can issue warning letters or even terminate the LPG supply contract should the LPG suppliers breach this term. In awarding new LPG supply contracts, the HD will take into account the track record of the LPG suppliers, including whether they have charged over the prevailing private market price. The LPG supply contracts also stipulate that residents have the right to use fuels other than central LPG, such as electricity or cylinder LPG.

(e) The Administration will continue to closely monitor the handover of LPG supply to new gas suppliers at the affected public and private housing estates to ensure a smooth transition. Assistance will be provided where needed.

As regards switching from central LPG to town gas, a number of technical issues have to be addressed. For instance, all LPG appliances have to be modified for using town gas, some of them may have to be replaced in the absence of the required parts for modification. There may be interruptions of gas supply for conducting the conversion works of the gas supply system. For housing estates not covered by town gas supply network, connecting pipes to the town gas network have to be laid. Gas main, service pipes and installation pipes may need to be replaced. The affected housing estates should take care of relevant technical issues in considering the switching to town gas.

Parking Facilities for Vehicles Carrying Cylinder LPG

11. **MR CHEUNG HOK-MING** (in Chinese): *President, it has been reported that at present there are insufficient parking spaces for vehicles carrying cylinder liquefied petroleum gas (LPG). Moreover, some cylinder LPG distributors are unaware of the requirement that such vehicles must be parked at designated locations. In this connection, will the Government inform this Council:*

(a) of the total number of vehicles carrying cylinder LPG in Hong Kong at present, as well as the current total number of parking spaces for such vehicles and their distribution in various districts;

(b) whether it has assessed and reviewed if the current parking facilities for vehicles carrying cylinder LPG are sufficient; if it has, of the outcome; if not, the reasons for that; and

(c) what measures and promotional activities are in place to enhance the trade's awareness of the requirement for vehicles carrying cylinder LPG to be parked at designated locations?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) and (b)

The LPG cylinder wagon (cylinder wagon) owners are required to apply for a permit from the Electrical and Mechanical Services Department (EMSD). As set out on the overleaf of the permit, in districts where designated parking sites are available, all cylinder wagons laden with cylinders should only be parked in such sites.

According to the latest record of the EMSD, the number of cylinder wagon is 453. In districts where designated parking sites are not available, cylinder wagons can be parked at outdoor roadside non-designated parking spaces which can meet the 15-metre safety distance requirement. Currently, seven car parks are available under short term tenancy for parking cylinder wagons. They are at Tat Yeung Road in Kwai Chung, Tin Hau Road in Area 17 of Tuen Mun, Old Kai Tak Airport at Concorde Road, Pofulam Road, the

junction of Sheung On Street and Sheung Ping Street in Chai Wan, Fung Mat Road and Eastern Street North in Sai Ying Pun. These seven car parks provide a total of 313 parking spaces. In total, parking spaces in outdoor car parks for cylinder wagons together with outdoor roadside non-designated parking spaces should fully meet the parking needs of cylinder wagons in every district.

The EMSD has been keeping a close eye on the parking issues of cylinder wagons. The inspection conducted by the EMSD earlier this year indicates that there should be sufficient parking spaces in Hong Kong Island and Kowloon. For New Territories West, there should be spare capacity in the designated parking site at Tat Yeung Road, Kwai Chung to accommodate additional demand. On the supply of parking spaces in New Territories East, the trade has earlier raised with the EMSD the suggestion to identify a car park for parking cylinder wagons, on top of the outdoor roadside non-designated parking spaces currently available in Sha Tin. The EMSD is following up the matter with various departments concerned. The EMSD will also liaise with relevant departments to identify parking spaces when needed, for instance, a car park in Chai Wan has been made available for parking cylinder wagons from 1 April 2010.

(c) The EMSD will issue letters from time to time to cylinder wagon owners and permit holders to remind them relevant permit conditions including the parking requirement. The latest batch of letters was issued to cylinder wagon owners and permit holders in February this year. The EMSD also have regular meetings with the trade including the distributor associations of LPG cylinders, to discuss issues relating to the operation of the trade including the demand for cylinder wagon parking spaces.

Demand and Supply of Manpower in Hong Kong's Hotel Industry

12. **MR PAUL TSE** (in Chinese): *President, some members of the hotel industry have recently relayed to me that they find it difficult to recruit hotel services workers who meet the required standards of qualifications, work experience and service attitudes, and that the locally trained staff often cannot provide services which are as hospitable and attentive as those provided by*

overseas staff from countries such as Thailand, the Philippines and Nepal, and so on. In this connection, will the Government inform this Council:

(a) of the number of applications for importing workers received from employers in the hotel industry in each of the past three years and, among such applications, the number of those which were approved;

(b) whether it can streamline the application procedure for importing workers, so as to shorten the application processing time and facilitate employers in the hotel industry who need to employ overseas workers to complete the application procedure more easily; and

(c) of the total number of hotel services workers who were trained under the government training programmes and government-subsidized training programmes in each of the past three years, and the resources involved; whether it has consulted the hotel industry on its level of satisfaction with the performance of the locally trained hotel services workers at present, so as to review such training programmes?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Government and the tourism and hotel industries share the common objective of constantly providing quality service, thereby reinforcing Hong Kong's tourism brand and competitiveness. My reply to the various parts of the question is as follows:

(a) The Government adopts an open and liberal policy on admission of talents to meet the local manpower needs from all sectors and enhance Hong Kong's competitiveness in the international market.

High-skilled workers or professionals who wish to enter Hong Kong for employment in the hotel industry can apply to the Immigration Department (ImmD) for employment visas or permits under the General Employment Policy (GEP) or the Admission Scheme for Mainland Talents and Professionals (ASMTP). The numbers of applications for the hotel industry in the past three years are as follows:

	2007		*2008*		*2009*	
	Received	*Approved*	*Received*	*Approved*	*Received*	*Approved*
GEP	143	130	162	146	114	108
ASMTP	12	9	13	8	24	20
Total	155	139	175	154	138	128

On the other hand, employers who are genuinely unable to recruit suitable local workers can be allowed to apply for importing workers at the technician level or below under the Supplementary Labour Scheme (SLS). In the past three years, the Labour Department (LD) did not receive any application from the hotel industry for importation of workers under the SLS.

(b) The application procedures of the GEP and the ASMTP are simple and convenient. Generally speaking, the ImmD will complete the processing of an application within four weeks upon receipt of necessary documents submitted by the applicant. In May 2008, the ImmD further simplified the procedures. If the employer had a non-local staff approved of an employment or training visa/entry permit in the past 18 months before submission of the application, there is no further need to submit documents of company background, for example, the Business Registration Certificate. In addition, the employees concerned can also apply to bring their dependants (that is, spouse and unmarried dependant children under the age of 18) to Hong Kong on the same application form.

To ensure priority of local workers in employment, the SLS is monitored by the Labour Advisory Board (LAB) and operates on two cardinal principles: (i) employers must accord priority to local workers when seeking to fill job vacancies available in the job market; and (ii) employers who are genuinely unable to recruit suitable local workers can be allowed to apply for importing workers at the technician level or below. Each SLS application has to undergo a four-week open recruitment exercise in Hong Kong. The LD will thereafter submit recruitment results and all relevant information to the LAB for consideration before approving or rejecting an application.

(c) At present, a number of local educational and training institutions such as The Hong Kong Polytechnic University (PolyU), The Chinese University of Hong Kong (CUHK), the Vocational Training Council (VTC) and the Employees Retraining Board (ERB), as well as various training and employment programmes including the Skills Upgrading Scheme (SUS), the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme (YPTP • YWETS), and the Employment Programme for the Middle-aged (EPM) offer publicly-funded hotel training courses, or subsidize eligible employers in the hotel industry to provide on-the-job training. Participants of certain courses even have the opportunities to undertake internship in local and overseas hotels.

The numbers of hotel workers trained by the Manpower Development Scheme of the ERB, the SUS, the YPTP • YWETS and the EPM over the past three years as well as the resources involved are set out below:

	2007-2008	*2008-2009*	*2009-2010*
Number of hotel workers trained	3 947	4 417	3 715
Resources involved	$19.23 million	$22.84 million	$24.02 million

The approved intakes of University Grants Committee (UGC)-funded programmes on hotel and tourism management in the past three years are listed as follows:

Level of study	*2007-2008 academic year*	*2008-2009 academic year*	*2009-2010 academic year*
Sub-degree	155	155	155
Undergraduate (including first-year and senior year intakes)	217	217	217

Note:

Recurrent subventions through the UGC are provided mainly in the form of block grants. Institutions enjoy autonomy in the allocation of funds available and are free to determine the amount of resources to be used for different levels of studies and disciplines. As such, the amount of resources involved in the programmes on hotel and tourism management is not available.

The numbers of new intakes of VTC's hotel/tourism-related courses as well as the government subvention involved in the past three years are set out below:

	2007-2008 academic year	*2008-2009 academic year*	*2009-2010 academic year*
Number of new intakes	2 225	2 128	2 242
Government subvention involved	$91 million	$96 million	$105 million

The Government and the training institutions concerned have been maintaining close liaison with the hotel industry. Their representatives have participated in the advisory committees on hotel training courses of the CUHK, the PolyU and the VTC, and so on, to offer advices on curriculum development and training effectiveness. Representatives of the hotel industry also took part in the student admission interviews of the two aforementioned universities.

The courses provided by the ERB are market-driven. The ERB consults the industry in developing its courses and conducts reviews from time to time. To facilitate future course development, the ERB will carry out in 2010-2011 a survey on the graduates of its courses for the hotel industry, covering employers' level of satisfaction with their performance and their needs in skills upgrading.

The Industry Working Group of the Hotel Industry under the SUS evaluates the effectiveness of the relevant SUS courses from time to time to ensure that the training needs of the industry are met.

Furthermore, the LD conducts surveys regularly on the YPTP・YWETS and the EPM amongst participating employers to collect their feedback on the training content and the employment programmes and follows up on the areas of improvement.

The Government will continue to promote exchanges and co-operation between the hotel industry and the training institutions to ensure that the training can meet the needs and facilitate the overall development of the hotel industry.

Locations of Petrol Filling Stations

13. **MR KAM NAI-WAI** (in Chinese): *President, the Lands Department invited tenders by publication in the Gazette on 26 March this year for the sale of "Aberdeen Inland Lot No. 457", which is a Government land designated for use as a petrol filling station (Aberdeen petrol filling station) with a lease term of 21 years. In this connection, will the Government inform this Council:*

(a) of the current number of Government land which have been designated for use as petrol filling stations (PFS) and, among such land, the respective numbers of those which are less than 10 m, 50 m and 100 m away from residential housing, as well as their respective locations; whether the authorities have any plan to relocate such PFS which are close to residential housing; if they have such plans, of the specific timetable of the relocation; if not, the reasons for that;

(b) given that the Aberdeen petrol filling station situated in a town centre has been set up for many years and is less than 10 m away from the residential housing, whether the Planning Department needs to examine if the Aberdeen petrol filling station has met the current planning standards before re-inviting tenders; if an examination is not needed, of the reasons for that;

(c) what ways various government departments will use to consult the local community's views on PFS and other facilities which are close to residential housing and controversial; given that I have learnt that the Southern District Council has neither been consulted nor learnt about the latest information before the re-invitation of tenders for the Aberdeen petrol filling station, whether the authorities will investigate if the incident involved errors in the consultation process; if such errors are involved, whether the authorities will consider terminating the current tendering process and consulting local organizations and residents afresh; how the authorities will handle the strong objection from the local community to this facility, and how they will balance local interests and ensure that the safety of the nearby residents will not be threatened by this facility; and

(d) what new measures the authorities have in place to improve the current consultation system?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) According to the record of the Planning Department, currently there are 108 pieces of land designated for "Other Specific Uses" annotated "Petrol Filling Station". There is no guideline on the separation distance between petrol filling facilities (except those with liquefied petroleum gas filling facilities) and land uses nearby under the Hong Kong Planning Standards and Guidelines. If measured from the boundary of the 108 sites, the distance between 36 sites and residential site is less than 10 m; the distance between 39 sites and residential site is between 10 m and 50 m; the distance between 11 sites and residential site is between 50 m and 100 m; and the distance between the remaining 22 sites and residential site is more than 100 m. Considerations on energy supply, transport, planning, environment and safety, and so on, have been taken into account in the land use of PFS.

(b) The PFS site at the Aberdeen Main Road has been designated "Other Specific Uses" annotated "Petrol Filling Station" on the Aberdeen and Ap Lei Chau Outline Zoning Plan since 1973. A PFS has been set up at the site for many years. Before re-tendering the concerned site, the District Lands Office (Hong Kong West and South) (District Lands Office) has consulted relevant departments, including the Environment Bureau, Planning Department, Fire Service Department, Transport Department, Environmental Protection Department, and so on. Relevant departments have not raised any objection to the re-tendering from the perspectives of fire safety, traffic and environment, and so on. As the site has been used for PFS for a long time and is not required for alternative use, without any objection from relevant bureaux and departments, the Planning Department has not raised any objections to the continued use of the site as a PFS.

(c) and (d)

There is an established statutory mechanism on public consultation in respect of planning applications in general. According to the Town Planning Ordinance (Cap. 131), if the use under application is a Column 2 use under the relevant Outline Zoning Plan (that is, use requiring application for planning approval from the Town Planning Board (TPB)), the Planning Department will publish the relevant application for public comments. The application, together with comments from the public and relevant government departments, will then be submitted to the TPB for consideration. If the use under application is not a Column 1 or 2 use under the "Note" of the relevant Outline Zoning Plan, amendments to the relevant Plan will be necessary. After consideration of views from the public and relevant government departments by the TPB, the amendments to the Plan will be gazetted for public representations. After considering relevant representations, the TPB will submit the amended Plan, together with the representations, to the Chief Executive in Council for approval. As the PFS site at Aberdeen Main Road has been designated for "Other Specific Uses" annotated "Petrol Filling Station" since 1973, it is not necessary to submit planning application for the re-tendering.

Before proceeding with the re-tendering of the PFS, the Lands Department will first obtain the agreement from the Environment Bureau and consult relevant government departments. Since the lease of the PFS at Aberbeen Main Road will expire in May 2010, the District Lands Office consulted relevant government bureau and departments as well as the Southern District Office (District Office) in 2009 in accordance with the established procedures and arrangements, with a view to making preparations for the re-tendering of the said PFS. Having considered the responses from various bureau and departments as well as views of the local personalities and groups conveyed by the District Office, the District Lands Office invited tenders by publication in the Gazette on 26 March 2010 with a lease term of 21 years.

The Southern District Council, the relevant Area Committee and other persons were concerned about the congestion problem at the pavement at Lok Yeung Street in Aberbeen, as well as the possible

impact of the PFS over the implementation of traffic improvement measures. To this end, the Director of Lands, in conjunction with representatives from the Transport Department and the District Officer (Southern) met with the Chairman, Vice Chairman and five members of the Southern District Council on 16 April 2010. Apart from briefing members about the tender, they also explained that the said PFS was not the cause of traffic congestion there. The Transport Department agreed to follow up on members' suggested traffic improvement measures. Subsequently, the District Development and Environment Committee under the Southern District Council (the Committee) discussed the subject matter again on 26 April 2010, and noted that the tender of the said PFS would continue to proceed. Since the traffic congestion problem in the vicinity of the said PFS was the major concern of residents, the Committee agreed that the Traffic and Transport Committee under the Southern District Council would follow up the relevant traffic matters. The Lands Department is proceeding with the tender.

Relevant government departments will continue to maintain close liaison and communications with the District Council and local community over planning and land use matters.

Community Mental Rehabilitation Programmes

14. **MR CHEUNG KWOK-CHE** (in Chinese): *President, will the Government inform this Council of the respective numbers of service units under the Community Mental Health Intervention Project (CoMHIP), Community Mental Health Care Services (CMHC), Community Mental Health Link (CMHL) as well as Training and Activity Centre for Ex-mentally Ill Persons (TAC), together with the total amounts of funds allocated to such units in the 2009-2010 financial year (set out in the table below)?*

Name of programme	*Number of service units*	*Total amount of funds allocated to the service units*
CoMHIP		
CMHC		
CMHL		
TAC		

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr CHEUNG Kwok-che's question is as follows:

In 2009-2010, about $59 million was allocated to the Social Welfare Department (SWD) to provide the following four community mental health support services (CMHSS) for ex-mentally ill persons and persons with suspected mental health problems as well as their families/carers:

(i) CoMHIP;
(ii) CMHC;
(iii) CMHL; and
(iv) TAC.

While the service targets of CoMHIP are persons with suspected mental health problems, the remaining three services cater for ex-mentally ill persons and their families/carers.

As regards the number of service teams/units, there are 11 service teams under the CoMHIP and CMHC respectively, providing services to all districts in the territory. The CMHL has 25 link units located all over the territory. The service of the five TAC also covers the whole territory.

In 2009, the SWD revamped the above four and other relevant CMHSS in Tin Shui Wai and set up the first Integrated Community Centre for Mental Wellness (ICCMW) to provide one-stop community support services for ex-mentally ill persons and persons with suspected mental health problems in the district. In 2010-2011, the Government will pool together the existing resources of the CMHSS and allocate an additional annual provision of about $70 million for revamping the CMHSS and extending the service model of ICCMW to all the 18 districts.

Regulation of Proprietary Chinese Medicines

15. **DR LAM TAI-FAI** (in Chinese): *President, since the Government implemented the registration system for proprietary Chinese medicines (pCm) (the registration system) in 2003, manufacturers and importers of pCm are required to submit applications to the Chinese Medicines Board of the Chinese Medicine Council (the Medicines Board) for pCm registration. Moreover,*

under section 119 of the Chinese Medicine Ordinance (CMO) (Cap. 549), except under exemptions given in the CMO, no person shall sell, import or possess any unregistered pCm. The provision has yet to come into operation at present. In this connection, will the Government inform this Council:

(a) of the total number of Hong Kong-invested licensed pCm manufacturers and the number of registered pCm in Hong Kong at present, and whether it knows their respective market share;

(b) of the annual number of licensed pCm manufacturers that have voluntarily reported on the problems of their registered pCm since the implementation of the registration system, together with the date and content of the reports submitted, as well as the authorities' follow-up actions, set out in table form;

(c) given that at present, licensed pCm manufacturers are required to submit to the Medicines Board reports on the tests on safety, efficacy and quality, and so on, of the medicine when making applications for pCm registration, whether the authorities know the average cost of each report on such tests and the time needed to complete each report;

(d) whether there is any measure in place to assist Hong Kong-invested licensed pCm manufacturers in conducting safety tests on medicines and researches; if so, of the details; if not, the reasons for that;

(e) given that western medicines are required to comply with the standards of the "Good Manufacturing Practices" at present, whether the authorities have planned to require pCm to comply with such standards as well; if they have, of the details; if not, the reasons for that;

(f) whether the Department of Health (DH) has taken the initiative to conduct tests on the raw materials of pCm in the market, and inspect pCm manufacturing plants regularly; if it has, of the details; if not, the reasons for that; and

(g) when section 119 of the CMO will come into operation; before the provision comes into operation, what actions the authorities will take to ensure the safety of the pCm taken by members of the public?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, we implemented the regulatory measures for licensing of Chinese medicines traders and registration of pCm in April and December 2003 respectively under the CMO, aiming at better safeguarding public health and enhancing public confidence in using Chinese medicines. Details of these two sets of regulatory measures are as follows:

Chinese medicines traders licensing system

Any persons engaged in any of the four types of Chinese medicines trade, that is, retail and wholesale of Chinese herbal medicines, and manufacture and wholesale of pCm are required to apply for a licence with the Chinese Medicines Board (CMB) under the Chinese Medicine Council of Hong Kong (CMCHK). Applicants for Chinese medicines traders licences must meet the relevant licensing requirements before the relevant licence is issued. The licensing requirements for pCm manufacturers include sanitary premises, adequate space, adequate and suitable facilities for storing the ingredients used for manufacturing pCm, packing materials, intermediate products and pCm, suitable fittings and equipment for manufacturing pCm, as well as business premises being suitable in all other respects for carrying on a business in the manufacture of pCm. Besides, persons responsible for supervision of the manufacture of pCm should possess the appropriate level of knowledge and experience as prescribed in the Chinese Medicines Regulation.

To enable Chinese medicines traders to continue operating their existing business in Chinese medicines, the CMO provides for a transitional licensing arrangement, allowing Chinese medicines traders who were already in business on 3 January 2000 to apply for a licence through such transitional arrangement within the period from 5 May 2003 to 15 July 2003. The transitional licences will remain valid until the traders concerned are granted a formal licence or when their applications for a formal licence are rejected or until such date to be promulgated by the Secretary for Food and Health in the Gazette, whichever date is the earliest.

Under the licensing system, traders engaged in the retail or wholesale of Chinese herbal medicines, and manufacturers or wholesalers in pCm must obtain a licence from the CMB. The maximum penalty for non-compliance is a $100,000 fine and imprisonment for two years.

Registration of pCm

For products that fall within the definition of pCm[(1)], application for registration of pCm must be made to the CMB in accordance with section 121 of the CMO. All pCm must meet the registration requirements prescribed by the CMB as regards their safety, quality and efficacy in order to get registration. For those pCm manufactured in Hong Kong, application for the registration must be made by the relevant local manufacturer. As for those manufactured overseas, application must be made by the local representative/agent of the overseas manufacturer or the importer concerned.

By virtue of section 128 of the CMO, any pCm which is, on 1 March 1999, manufactured, sold or supplied for sale in Hong Kong is eligible for transitional registration. This is due to the considerations that no regulatory mechanism for pCm was ever put in place before the enactment of the CMO, and that prior to 1999, quite a lot of pCm were already in frequent use and on sale for quite a long period of time. Manufacturers or agents of these pCm may apply to the CMB for transitional registration of their pCm within the application period specified by CMB (that is, from 19 December 2003 to 30 June 2004). Subject to the CMB's vetting and approval, a "Notice of confirmation of transitional registration of pCm" will be issued for applications which meet the eligibility criteria for transitional registration. Such a Notice will remain valid until the pCm is formally registered, or until the application for its registration is refused, or until such date to be promulgated by the Secretary for Food and Health in the Gazette, whichever date is the earliest.

(1) "Proprietary Chinese medicine" means any proprietary product:
- (a) composed solely of the following as active ingredients:
  - (i) any Chinese herbal medicines; or
  - (ii) any materials of herbal, animal or mineral origin customarily used by the Chinese; or
  - (iii) any medicines and materials referred to in subparagraphs (i) and (ii) respectively;
- (b) formulated in a finished dose form; and
- (c) known or claimed to be used for the diagnosis, treatment, prevention or alleviation of any disease or any symptom of a disease in human beings, or for the regulation of the functional states of the human body.

Our replies to various parts of the question are as follows:

(a) Application for registration of pCm manufactured in Hong Kong should be submitted by the relevant local manufacturers. At present, there are about 500 local manufacturers of pCm holding a valid manufacturer licence in pCm/Chinese medicine traders transitional certificate (manufacturer licence in pCm). As to whether these pCm manufacturers are Hong Kong-invested pCm manufacturers, since it is not related to safety, quality and efficacy of the pCm, the DH does not have the relevant information.

The registration system for pCm commenced on 19 December 2003. As at the end of March 2010, the CMB received a total of about 16 540 applications for pCm registration, of which 14 100 also made concurrent application for transitional registration. The CMB has assessed all these applications for transitional registration. As at the end of March 2010, the CMB already issued a Notice of confirmation of transitional registration of pCm to some 9 120 applications and a Notice of confirmation of (non-transitional) registration application of pCm for some 2 090 applications for non-transitional registration in respect of which three acceptable basic test reports (that is, acceptable test reports on heavy metals and toxic element, pesticide residues and microbial limit) had been submitted. Some 4 610 applications for registration of pCm were rejected by the CMB for failing to furnish basic information for safeguarding public health, information required by the CMB, or particulars for registration or for failing to fulfil the definition of a pCm.

The regulation of Chinese medicines by the DH aims to safeguard public health. The DH does not collect information on the pCm market share of Hong Kong-invested pCm manufacturers.

(b) and (f)

All along, the DH has been conducting market surveillance on Chinese medicine products (irrespective of whether such products have been registered or not) on a regular basis. If any problem is detected, the DH will conduct investigation and take appropriate

actions in accordance with the relevant requirements. These include ordering the importers or manufacturers to recall the products in question. Where registered pCm are involved, the cases may be referred to the CMB for consideration as to whether the registration of the products should be cancelled, so as to safeguard public health.

In addition, the DH has since 2009 carried out post-registration monitoring on pCm. On the basis of risk assessment, samples of pCm which have met the eligibility criteria for transitional registration are collected from the licensed pCm manufacturers and pCm wholesalers for testing. In 2009, it was found that the heavy metal content in three of the 157 pCm samples tested exceeded the set limit. The DH conducted investigations immediately and ordered the manufacturers concerned to recall the products from the market and issued press statements. In 2009, a pCm manufacturer found that a batch of its product was contaminated by a western medicine and reported the incident to the DH. The DH immediately ordered the manufacturer to recall the product from the market and issued a press statement.

Besides, before issuing a manufacturer licence in pCm, the DH will conduct inspection to ensure that the relevant premises and facilities meet the requirements of the CMB in all aspects. After the issuance of the licence, the DH will conduct routine inspection. Investigation or surprise inspection will also be conducted if complaints or referrals are received. During inspection at pCm manufacturers, the DH will check whether they have complied with the practising requirements stipulated in the CMO and the Chinese Medicines Regulation and the requirements set out in the practicing guidelines issued by the CMB. Once any violation of the CMO or the practising guidelines is detected, the DH will take enforcement actions and may prosecute the pCm manufacturer concerned. The case will also be referred to CMB for disciplinary actions.

(c) The fee and time needed for testing of the product specification of pCm vary with the prescription ingredients and product specification of each pCm. The product specification of pCm includes description, identification, inspection and assay, involving different testing, testing methods and reference substances, and so on.

Hence the fee and time needed for product specification testing vary from product to product. The fee of product specification testing will have to be borne by the manufacturers.

(d) In manufacturing pCm, testing has to be conducted by manufacturers on their pCm as to whether they meet the safety and quality standards. Manufactures without the relevant testing facilities or testing capability may commission a testing body to conduct the work on quality control. In addition, establishments performing various testing are required to meet the requirements set by the International Organisation for Standardisation (ISO) or Good Laboratories Practice (GLP), or the testing bodies have to be accepted by the CMB. Currently, there are nine local ISO 17025 accredited laboratories and 17 municipal Institutes for Drug Control in Mainland that are recognized by both the CMB and the State Food and Drug Administration which provide pCm testing services for the trade.

On the other hand, sharing and briefing sessions with the trade and local laboratories were held by the DH and CMB in 2008 and 2009 to enhance their understanding of the specific requirements on the product specification of pCm, testing methods, testing reports and stability testing. The relevant information has been uploaded onto the website of CMCHK for reference by the trade. DH's representatives attend meetings of the Chinese medicines traders from time to time to help the trade understand the requirements for registration of pCm.

The SAR Government and the Hong Kong Jockey Club set up the Hong Kong Jockey Club Institute of Chinese Medicine (ICM) in 2001 to promote, co-ordinate and strengthen scientific research in Chinese medicines in Hong Kong and facilitate the commercialization of research results in Chinese medicines. The ICM provides assistance to Hong Kong pCm manufacturers on the safety and quality assessment of Chinese medicine products as follows:

(i) Rendering technical support in various areas such as sourcing and authentication of Chinese medicine raw materials;

extraction, isolation and verification of chemical and active ingredients of products; development, establishment and optimization of the standards and methods for quality control and assessment;

(ii) Providing Hong Kong manufacturers with quality assessment services based on the Chinese Pharmacopeia and the Hong Kong Chinese Materia Medica Standards for their Chinese medicine products; and

(iii) Launching an R&D project specifically focused on the development and production of Chinese medicine chemical markers. At present, about 230 Chinese medicine chemical markers have been made available for the trade.

On the other hand, to cater for the safety test requirements for pCm registration, the Hong Kong Accreditation Service under the Innovative and Technology Commission provides accreditation service for local laboratories under the Hong Kong Laboratory Accreditation Scheme for testing of toxic elements, pesticide residues and microbiological content in pCm. Accreditation has so far been granted to 11 laboratories for testing of pCm.

The Hong Kong Council for Testing and Certification, established by the SAR Government in September 2009, submitted to the Chief Executive a report on the three-year development plan for the testing and certification of the industry in the coming three years in late March this year. The report proposes rendering assistance to open up more business opportunities for the testing and certification industry for Chinese medicines. The Council will collaborate with the Government in the development and regulation of Chinese medicines by, for example, assisting the testing and certification industry to enhance their scale and capability so as to meet the increasing demand for testing services arising from the registration of pCm.

Through the Innovation and Technology Fund (ITF), the SAR Government provides funding support for projects related to Chinese medicine applied research and developing modern technology

platforms which have helped equipped local universities and research institutions with advanced equipment to enhance their capabilities in pharmaceutical R&D, pre-clinical study, manufacturing process development, Chinese medicine characterization and quality assessment, and so on. The ITF has also assisted the establishment of:

(i) the Process Development and Manufacturing Facility for Chinese Medicine in the Hong Kong Institute of Biotechnology;

(ii) the Traditional Chinese Medicine Center of the Biotechnology Research Institute at The Hong Kong University of Science and Technology; and

(iii) the Quality Research Laboratory of the Hong Kong Baptist University for analysis and authentication of the ingredients in Chinese herbal medicines.

These facilities can provide the Hong Kong pCm manufacturers with modern equipment of international standard and technical support for the research and development of Chinese medicine products up to international standard.

Since 2005, the Guangdong-Hong Kong Technology Cooperation Funding Scheme has been established under the ITF to encourage closer collaboration between the scientific research institutions and enterprises in Hong Kong and Guangdong Province in Chinese medicine applied research. The Government has all along encouraged enterprises to leverage the knowledge and resources of the universities and scientific research institutions and work together to enhance the innovation, standard of modernized technology and international competitiveness of the Chinese medicine industry.

In addition, the ICM provides support to the R&D of Hong Kong pCm manufacturers in the following ways:

(i) Through its expert network and co-operation with its technology partners, supporting more than 10 different

projects including those on R&D of innovative Chinese medicine products, as well as providing pCm manufacturers with the necessary technical support for R&D and contract research services so as to help pCm manufacturers to use modernized methods and scientific technologies to develop high-quality products;

(ii) Through its webpage, publications, market surveys, database, and so on, disseminating the R&D results and the R&D activities in Hong Kong, the Mainland and overseas and providing information on the regulatory requirements on Chinese medicine products in the major markets and the latest business situation to the industry for reference; and

(iii) Reporting the latest research findings and sharing experience with the industry through organizing and participating in seminars and forums related to Chinese medicine.

(e) Pursuant to section 133 of the CMO, manufacturers holding a pCm manufacturer licence may apply to the CMB for a Certificate for Manufacturer (Good Manufacturing Practice in respect of Proprietary Chinese Medicines) (GMP Certificate), certifying that they follow the requirements of good practices in manufacture and quality control of pCm. To facilitate the implementation of quality management, the CMB has issued the "Guidelines on Good Manufacturing Practice in respect of Proprietary Chinese Medicines" to provide guidance to pCm manufacturers. The guidelines cover such areas as personnel, factory premises, facilities, documentary records, validation, manufacturing management, quality control, and product recall. However, the GMP system is not a statutory requirement and therefore licensed pCm manufacturers can decide on their own whether it is necessary to apply to the CMB for a GMP Certificate. The CMB has to date issued seven GMP Certificates. The Government will actively enter into discussion with CMB and the trade to introduce mandatory GMP requirements for manufacturing of pCm as soon as possible.

(g) Chinese medicine has a long history. In the transition from no regulation in the past to implementation of comprehensive

regulation, Hong Kong has to draw experience from the Mainland and other places and take into account the local circumstances and the public's demand for traditional pCm. The registration system for pCm is a newly introduced one. While the number of applications received by the DH has far exceeded its estimation, there is also a certain degree of complexity in processing individual applications. In addition, in some cases, applicants need to make amendments to or provide supplementary information for their applications in the process. For these reasons, it takes time to process the vetting and grant of approval for the applications.

In light of the progress of processing the applications for pCm registration, the Government has planned to put into full implementation the remaining provisions under the CMO related to mandatory registration of pCm by the end of this year.

Apart from registration of pCm, the Government will ensure the safety of pCm through the following ways:

- Import control will be enforced in accordance with the Import and Export Ordinance. An import licence issued by the Director of Health must be obtained for each consignment of pCm imported into Hong Kong. The DH will consider whether the pCm to be imported meet the basic safety requirements before a licence is issued.

- Licensed pCm traders have to observe the law and the requirements of practising guidelines, which include the need to make sure that the pCm manufactured and distributed meet the requirements as to their quality and do not contain any ingredients which are not in the prescription. Besides, there should also be a proper recall system in place to ensure prompt recall of any defective pCm from the market.

- The DH will also conduct market surveillance including collection of samples of pCm at retail outlets on a regular basis for testing as well as monitoring cases of adverse drug reactions.

Where any violation of the law of Hong Kong or the practising guidelines for Chinese medicines traders is found, the DH will take enforcement actions and may refer the cases concerned to the Department of Justice for consideration of prosecution or to the CMB for action.

Opening Hours of Public Museums

16. **MS EMILY LAU** (in Chinese): *President, the Leisure and Cultural Services Department (LCSD) manages 14 museums in total, and the opening hours on weekdays of most of them are from 10 am to 6 pm, which overlap with the working hours of the general public. In this connection, will the executive authorities inform this Council:*

(a) why the opening hours of the aforesaid museums differ from one another; what criteria the LCSD has adopted for determining the opening hours of the museums; of the number of museums which are still open after 6 pm from Monday to Friday, together with a list of the name and opening hours of each of such museums, as well as their respective average hourly attendances before and after 6 pm from Mondays to Fridays last year;

(b) whether in the past three years, reference had been made to the experience of overseas museums to facilitate a review of the opening hours of local museums; if so, of a list of the names of individual museums studied and the conclusions so obtained, as well as the proposals put forth by the Government in response to such conclusions; if not, the reasons for that; and

(c) whether they will consider aligning and extending the opening hours of the museums under the LCSD for the convenience of the public and to increase attendances; if they will, of the proposed opening hours and the timetable for implementing the new opening hours; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

(a) The LCSD conducts surveys on a regular basis to analyse the public's demand and needs for museum services. The opening hours of the museums are determined or reviewed based on such factors as market demand, people's living mode, availability of manpower and other resources, and so on. Most of the museums under the LCSD open from 9 am or 10 am to 5 pm or 6 pm on weekdays, and major museums open till 7 pm or 8 pm on Saturdays or Sundays and public holidays. Experience shows that working people usually visit the museums on Saturdays, Sundays or public holidays.

Two museums, namely the Hong Kong Science Museum and Hong Kong Space Museum, remain open after 6 pm from Mondays to Fridays. They are open to the public from 1 pm to 9 pm. Due to the large number of interactive exhibits on display in the two museums, the morning session from 10 am to noon time is reserved for students visiting in groups as these group visits need to take a longer time. The average hourly attendances before and after 6 pm from Mondays to Fridays of the Hong Kong Science Museum last year were 345 visitors and 64 visitors respectively, while that of the Stanley Ho Space Theatre[(1)] of the Hong Kong Space Museum between July 2009 and March 2010 were 127 visitors and 95 visitors respectively. Generally speaking, there were more people visiting the museums before 6 pm.

(b) In setting or reviewing the opening hours of its museums, the LCSD makes reference to the experience of overseas museums, opinions of local visitors and the allocation of resources. As regards overseas experience, the Department has studied the experience of a number of museums outside Hong Kong. The studies showed that the opening hours of the museums concerned, including China Science and Technology Museum, British Museum, National Museum of Australia, Tate Modern and J. Paul Getty Museum, and so on, were in general from 9 am or 10 am to 5 pm or 6 pm on weekdays. On public holidays and school holidays as well as during periods when

(1) The Stanley Ho Space Theatre of the Hong Kong Space Museum was temporarily closed for improvement works between November 2008 and June 2009.

special exhibitions were held, the opening hours of some museums would be extended. The LCSD also regularly reviews the opening hours of its museums to cater for the needs of visitors and to tie in with the programme arrangements. In particular, during some major and special exhibitions, the opening hours of the museums concerned would be extended to meet the needs of the public. For instance, during the exhibitions "Artists and Their Models — Masterpieces from the Centre Pompidou, Paris" (from 30 September 2006 to 3 December 2006) and "The Pride of China: Masterpieces of Chinese Painting and Calligraphy of the Jin, Tang, Song and Yuan Dynasties from the Palace Museum" (from 29 June 2007 to 11 August 2007), the Hong Kong Museum of Art extended its opening hours to 8 pm or 10 pm to meet the public demand. The Hong Kong Science Museum also extended its opening hours by opening earlier at 9 am and/or closing later at 10 pm between 6 December 2008 and 15 December 2008 when the "Exhibition on China's First Spacewalk Mission" was staged.

(c) As the public's needs may vary from one museum to another, it would not be advisable to align the opening hours of the museums under the LCSD. For instance, since a larger number of interactive exhibits are on display in the Hong Kong Science Museum and Hong Kong Space Museum, their morning sessions are reserved for schools to allow more time for the visiting students to operate these exhibits. The museums are then open to public visitors starting from 1 pm till 9 pm. The LCSD gauges public opinions on current museum services, including the opening hours, through regular opinion surveys on museums. According to the opinion survey on its eight major museums(2) conducted by the LCSD in 2008, 91% of the visitors interviewed considered the opening hours of the eight major museums appropriate. The LCSD will continue to review the opening hours of the museums from time to time, and make due adjustments to meet the needs of the public.

(2) The eight major museums are the Hong Kong Heritage Museum, Hong Kong Museum of Art, Hong Kong Museum of Coastal Defence, Hong Kong Museum of History, Flagstaff House Museum of Tea Ware, Hong Kong Science Museum, Hong Kong Space Museum and Dr Sun Yat-sen Museum.

Import and Retail Prices for Fresh and Chilled Pork from the Mainland

17. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that the wholesale price for live pigs on the Mainland has been dropping continuously and has recently reached its lowest since May of last year. The said price and the price for pork on the Mainland have dropped continuously for 12 and 11 weeks, which are respectively 12.6% and 9.8% lower when compared with the prices of the same period last year. The National Development and Reform Commission further anticipates that the price for pork on the Mainland will drop continuously until after the Mid-Autumn Festival in September this year. In this connection, will the Government inform this Council:*

(a) of the average monthly wholesale, import and retail prices for fresh and chilled pork imported from the Mainland since January 2009, and the changes in these prices; of the difference in the retail prices for fresh and chilled pork; and

(b) whether there has been a corresponding drop in the wholesale, import and retail prices for fresh and chilled pork imported from the Mainland as a result of the continuous drop in price for pigs on the Mainland since January 2009; if not, whether the authorities have looked into the reasons involved, and proactively investigated why the drop in the price for pigs on the Mainland has not been reflected in the local wholesale, import and retail prices for pork; whether they have uncovered situations of market practitioners boosting up prices; and what measures the authorities have taken to urge retailers, and so on, to lower the price for pork expeditiously, and to prevent market practitioners from profiteering through price-boosting, so as to enable the public to buy pork at a reasonable price that reflects the cost?

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

(a) The wholesale price of live pigs (that is, the price of live pigs paid by live pig buyers to live pig import agents) and the retail price of fresh

pork from January 2009 to the present are shown in the table below. However, it has to be noted that wholesale price of live pigs is not equal to wholesale price of fresh lean pork. The weight of a live pig includes not only the weight of the pork, but also the weight of the head, bones, skin and offal.

Year	*Month*	*Average wholesale price of live pigs# ($/catty)*	*Average retail price of fresh lean pork# ($/catty)*	*Average wholesale price of live pigs as compared with that of January 2009 (%)*	*Average retail price of fresh lean pork as compared with that of January 2009 (%)*
2009	1	11.1	36.1	-	-
	2	10.0	36.1	-9.9%	0.0%
	3	10.3	35.5	-7.2%	-1.7%
	4	9.2	35.5	-17.1%	-1.7%
	5	9.1	34.5	-18.0%	-4.4%
	6	9.2	33.5	-17.1%	-7.2%
	7	9.5	33.1	-14.4%	-8.3%
	8	9.7	32.7	-12.6%	-9.4%
	9	9.7	32.9	-12.6%	-8.9%
	10	9.3	32.7	-16.2%	-9.4%
	11	9.6	32.9	-13.5%	-8.9%
	12	9.9	32.9	-10.8%	-8.9%
2010	1	10.5	33.0	-5.4%	-8.6%
	2	9.6	33.9	-13.5%	-6.1%
	3	10.1	33.1	-9.0%	-8.3%
	4*	10.2	33.4	-8.1%	-7.5%

Notes:

Price information for January 2009 to January 2010 is provided in the Hong Kong Monthly Digest of Statistics published by the Census and Statistics Department (C&SD), while the prices for February to April 2010 are preliminary figures provided by the C&SD.

* Preliminary figures for the first two weeks.

The Government does not compile statistics on the wholesale price of chilled pork. We can hence only work out the import price of chilled pork based on the information on the import quantities and value of chilled pork declared for customs purpose.

The import and retail prices of chilled pork from January 2009 to the present are shown in the table below:

Year	*Month*	*Average import price of chilled pork# ($/catty)*	*Average retail price of chilled lean pork# ($/catty)*	*Average import price of chilled pork as compared with that of January 2009 (%)*	*Average retail price of chilled lean pork as compared with that of January 2009 (%)*
2009	1	12.2	26.0	-	-
	2	12.6	25.9	3.3%	-0.4%
	3	12.8	25.3	4.9%	-2.7%
	4	13.1	25.5	7.4%	-1.9%
	5	13.4	25.4	9.8%	-2.3%
	6	12.7	23.5	4.1%	-9.6%
	7	11.7	22.9	-4.1%	-11.9%
	8	12.5	22.5	2.5%	-13.5%
	9	12.4	21.8	1.6%	-16.2%
	10	12.4	22.7	1.6%	-12.7%
	11	12.2	22.3	0.0%	-14.2%
	12	12.6	22.3	3.3%	-14.2%
2010	1	12.8	22.0	4.9%	-15.4%
	2	13.8	21.9	13.1%	-15.8%
	3	-	22.1	-	-15.0%
	4*	-	22.2	-	-14.6%

Notes:

Price information is provided by the C&SD. As it takes time to process trading data, the average import price of March and April 2010 is not yet available for the time being.

* Preliminary figures for the first two weeks.

Difference in the retail prices of fresh and chilled pork is shown in the table below:

Year	*Month*	*Average retail price of fresh lean pork ($/catty)*	*Average retail price of chilled lean pork ($/catty)*	*Difference ($/catty)*
2009	1	36.1	26.0	10.1
	2	36.1	25.9	10.2
	3	35.5	25.3	10.2
	4	35.5	25.5	10
	5	34.5	25.4	9.1
	6	33.5	23.5	10
	7	33.1	22.9	10.2
	8	32.7	22.5	10.2
	9	32.9	21.8	11.1
	10	32.7	22.7	10
	11	32.9	22.3	10.6
	12	32.9	22.3	10.6
2010	1	33.0	22.0	11
	2	33.9	21.9	12
	3	33.1	22.1	11
	4*	33.4	22.2	11.2

Note:

* Preliminary figures for the first two weeks.

(b) As shown by the price information, the price of pork has been adjusted downward to a certain extent since January 2009. The average wholesale prices of live pigs and retail prices of fresh lean pork have gone down considerably when compared with that in January 2009. Both prices also registered similar extent of adjustment in recent months. According to the figures in March this year, the average wholesale price of live pigs was $10.1/catty, a drop of some 9% when compared with the wholesale price of $11.1/catty in January 2009; whereas the retail price was $33.1/catty, a drop of some 8% when compared with the retail price of $36.1/catty in January 2009.

The retail price of chilled pork showed a higher degree of adjustment. The retail price was $22.1/catty in March this year, a drop of some 15% when compared with the retail price of $26/catty in January 2009.

The difference in the retail prices of fresh and chilled pork has remained stable since January 2009.

We have approached the trade (including live pig import agents, buyers and pork retailers) to find out more about the composition of the pork price. The trade explained that in addition to the purchase price, other operational costs such as transport cost, workers wages and rental have to be considered in fixing the price of pork.

Supply of live pigs for public consumption mainly comes from the Mainland (the rest is supplied by local farms). To maintain a stable supply, the Food and Health Bureau has all along liaised closely with the relevant Mainland authorities and live pig import agents. In July 2007, the Food and Health Bureau and the State Ministry of Commerce agreed after discussion that market for supplying live pig to Hong Kong should be opened up for healthy competition. Subsequently, the number of agents for supplying Mainland live pigs to Hong Kong increased from one to three in October 2007.

To maintain a stable supply of food and provide consumers more choices, the Government also encourages the trade to explore different sources of food supply. In August 2006, the trade started importing chilled pork from the Mainland to give the public an additional choice. The consumption of chilled pork increased from around 4 600 tonnes in 2006 to around 16 700 tonnes in 2009.

The policy objective of the Government is to maintain a stable supply of various foodstuffs and ensure food safety. Food price has always been determined by the free market. It is the Government's responsibility to improve market transparency and enhance market efficiency so as to help consumers make a wise choice.

We have introduced measures to improve the flow of market information. Starting from mid-January 2008, we have made public on a daily basis the quantity and auction price of live pigs arriving at the slaughterhouse on the day and the estimated number of live pigs to arrive at the slaughterhouse on the following day. This enables the live pig buyers, retailers and the public to have a clear picture about the supply of live pigs.

As for retail prices, the Consumer Council now releases information on prices of various fresh food items at wet markets (amongst which include the retail prices of fresh pork) on a daily basis for public reference with a view to enhancing transparency in food prices.

In Memory of Mr WONG Fuk-wing

18. **MRS REGINA IP** (in Chinese): *President, WONG Fuk-wing (WONG), a Hong Kong resident, sacrificed his life when trying to save others during the earthquake in Yushu County in Qinghai. He was participating in voluntary work in an orphanage in Yushu County when the quake struck. WONG had already escaped and could have survived the calamity, but after learning that some teachers and students did not escape in time and were trapped under the fallen rubble, he braved the danger and returned immediately to the orphanage to rescue them. Unfortunately, aftershocks followed and some of the shaky houses eventually collapsed. The teachers and students rescued from the orphanage by WONG suffered only minor injuries, but he was buried alive and lost his life. In this connection, will the Government inform this Council:*

(a) whether it will make special arrangements for WONG's funeral apart from the plan to posthumously award him the Medal for Bravery (Gold);

(b) how it will advocate to the public WONG's spirit of selflessness, universal love, patriotism and self-sacrifice, for example, whether consideration will be given to naming a building after WONG in his memory; and

(c) whether it will consider setting up a volunteers' fund to encourage and support the services and work carried out on the Mainland by Hong Kong volunteers such as WONG?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, our reply to the three parts of the question is set out below:

(a) Hong Kong volunteer Mr WONG's sacrifice of his life when trying to save others during the earthquake in Yushu County in Qinghai has reflected the greatness of love and the spirit of selflessness. The Government of the Hong Kong Special Administrative Region (SAR) has offered its condolences over his death and provided full assistance to his family. On 18 April, the Government received Mr WONG's hearse at a solemn ceremony at Shenzhen Bay control point and the coffin was draped with a SAR flag. Mr WONG's

family has arranged his funeral to be held on 6 May. Some sessions of the funeral will be opened to the public for paying tribute to Mr WONG. The Government will provide assistance (such as crowd control) according to the wishes of Mr WONG's family. In addition, as Mr WONG's family wish to have his body buried in Cape Collinson Chinese Permanent Cemetery, the Home Affairs Bureau and the Board of Management of the Chinese Permanent Cemeteries are helping the family to finalize the relevant arrangements.

(b) The Government has been working with the Committee on the Promotion of Civic Education (CPCE) on the promotion of positive core civic values to the public. The act of Mr WONG has fully demonstrated his spirit of selflessness, universal love, patriotism and self-sacrifice. The Home Affairs Bureau will, in collaboration with the CPCE, advocate Mr WONG's spirit of caring for others through different channels, for example, production of documentaries, publications and sponsorship of volunteers' programmes. Moreover, the Education Bureau has made use of current affairs and the virtuous acts of people proactively as the materials for moral education. Topics which include SARS heroes, Wenchuan earthquake and the tsunami in South Asia have been used for developing teaching and learning materials to help students build up values like caring for others, commitment and making contribution to the country. The story of Mr WONG can provide excellent materials for such work.

(c) The Government has promoted volunteerism through various Policy Bureaux and government departments. The Agency for Volunteer Service encourages and supports volunteer work through providing volunteer work opportunities and relevant training courses to volunteers. The Social Welfare Department also focuses on student and youth, corporations, community organizations and promotes volunteerism in Hong Kong. In addition, the Mainland Offices of the SAR Government will, having regard to specific circumstances and requests, provide assistance and support to Hong Kong residents engaging in volunteer work in the Mainland as far as possible (such as assisting them in liaising with local government authorities). As the Government has encouraged and supported volunteer work

through various means as stated above, it has no plan to set up a volunteers' fund at the moment. The Government will continue to devote resources and work closely with non-governmental organizations, the business sector and community organizations to promote and support various types of volunteer work.

Survey Conducted by The Chinese University of Hong Kong

19. **DR PRISCILLA LEUNG** (in Chinese): *President, according to the findings of a survey published earlier by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong (CUHK), 25.9% of the respondents agreed to the use of radical means in requesting the Government to respond to their demands, and based on the adult population in 2009, it was estimated that about 1.5 million people were in support of fierce confrontation, and the proportion of respondents finding Hong Kong a harmonious society dropped sharply from 37.5% in 2008 to 26.5% in 2010. The Head of the Central Policy Unit (CPU) subsequently published an article in the newspapers, pointing out that Hong Kong is faced with mounting social conflicts, but there is a lack of consensus among the various sectors on the method to tackle the social conflicts, thus making people feel trapped in a helpless and frustrated city. In this connection, will the Government inform this Council:*

(a) whether the view expressed by the Head of CPU represents the Government's stance and viewpoint;

(b) whether the authorities have assessed the impact of the aforesaid situation of about 1.5 million people agreeing to the use of radical means in requesting the Government to respond to their demands on the Government's promotion of harmonious society; whether they will commission other academic institutions to conduct further researches on this subject and whether they will adopt any immediate measures to relieve public discontent;

(c) whether the Government will regard maintaining social harmony and reducing public discontent as the overriding principles in formulating new policies, so as to prevent the occurrence of fierce social confrontation similar to that triggered by the project to

construct the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link; and

(d) given that the Central Government has been continuously promoting the concept of social harmony on the Mainland in recent years, but the aforesaid survey has shown a rapid decrease in the proportion of members of the public who find Hong Kong a harmonious society, whether the SAR Government will implement measures in various aspects which are more effective and step up its efforts in promoting harmony in Hong Kong; if it will, of the details; if not, whether it will conduct a review in response to the aforesaid survey findings?

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President,

(a) The CPU is responsible for, *inter alia*, assessing and analysing community concerns and public opinions for Government's reference in the policy making process. In his article entitled "Some Thoughts After Reading the Report of CUHK's Public Survey on Social Harmony" published on 9 April 2010, the Head of CPU highlights for the reference of the general public some important observations on social equality, social conflicts and social stability which have been confirmed by many studies. Viewed from a social science perspective, the article points out that the interpretation of the outcome of CUHK's survey by some newspapers as a sign of Hong Kong being on the verge of a riot or outbreak of social unrest does not accord with the prevalent public opinion reflected by the same and other surveys, that is, acts of violence are neither accepted nor tolerated by Hong Kong people. The article presents an academic and objective analysis based on facts.

(b) The figure of 1.53 million is an estimate based on the proportion of interviewees (that is, 25.9%) answering "agree" or "strongly agree" in the survey. This has been taken by some newspapers as a sign of Hong Kong being on the verge of a riot or an outbreak of social unrest. However, the same survey also finds that a majority of the public agrees with the approach of "giving way to seek common ground while reserving differences" in dealing with personal and social problems. Moreover, in the minds of the public, radical

actions actually include many non-violent words and deeds. According to many surveys, acts of violence are neither accepted nor tolerated by members of the public; even verbal abuses are kept well in check in the community. More importantly, the vast majority of the public still treasure social stability. Any "riotous" acts will surely be censured by the public. Social harmony has been and will continue to be a main focus of the Government. The Government will continue its efforts to strengthen communication with all sectors of the community with a view to seeking common ground while reserving differences and to building a harmonious society. We also welcome studies by the academics and other sectors on this issue.

(c) and (d)

As the Chief Executive said in last year's policy address, "effective governance requires critical assessment of the situation, prompt response to issues, and taking the public pulse". The Government always maintains close contact with various sectors and reviews public policies in a timely manner. Government policies should be stable and predictable, yet sufficiently flexible to cope with rapidly changing circumstances. After setting policy objectives and principles, we would reach out to the community to listen to the views of the public and refine implementation details. Following this principle, the Government has been consulting stakeholders through different channels and has endeavoured to expand the scope of public participation when formulating policies, especially those affecting the public at large. Apart from inviting written submissions from the public, we also listen to the views of the public, Legislative Council and District Council members through public forums and seminars, as well as meetings of the Legislative Council and District Councils. In addition, we pay close attention to public opinion surveys conducted by academics, non-government organizations and the media, and consider them an important means of reflecting public opinion. Meanwhile, we are identifying more effective ways of public engagement in order to enable us to listen to the views of more people of the community.

Promoting social harmony has been a prime objective of the Government as well as the wish of the majority of people in our community. We need concerted efforts of all sectors in the community in finding ways to resolve social conflicts and building a harmonious society.

Monitoring Complaint Handling Mechanism of Travel Industry Council of Hong Kong

20. **MR PAUL TSE** (in Chinese): *President, it has been learnt that at present, when outbound travellers are dissatisfied with travel agencies' decisions on embarkation or itineraries of package tours, they can lodge complaints with the Travel Industry Council of Hong Kong (TIC) only. Yet, it has been reported recently that the management of TIC is alleged to be controlled by some TIC Board directors who have conflicts of interest, and favours the interests of the trade and ignores the safety and interests of travellers when handling travellers' complaints. In this connection, will the Government inform this Council:*

(a) what effective and credible mechanism and measures are in place at present to monitor the TIC's procedure for handling travellers' complaints and review its decisions made thereof;

(b) whether it has set up a mechanism for handling travellers' dissatisfaction about the TIC's handling of their complaints or its decisions; if not, of the reasons for that; if it has, the specific operation of the mechanism, and the names of the responsible bureau(x) and government department(s); whether it has announced and publicized the mechanism to the public; if it has, of the specific details; if not, the reasons for that; and

(c) whether it has taken the initiative to conduct random checks on the travellers' complaints handled by the TIC; if not, of the reasons for that; if it has, the number of such cases being randomly checked in each of the past three years and, among them, the number of cases in which the Government was required to take the initiative to contact the complainants and offer them assistance due to misconduct of the TIC?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, travellers who are dissatisfied with the services of travel agents in Hong Kong may lodge complaints with the TIC or the Consumer Council (CC).

The TIC has an established mechanism to handle travellers' complaints. On receiving a complaint, the TIC Executive Office will contact the complainant to get the details of the case and initiate mediation, with a view to finding a solution acceptable to both the complainant and the party being complained about. If mediation fails, the complainant may request that the case be referred to the Consumer Relations Committee of the TIC (the Committee) for handling.

Travellers' complaints are handled by panels set up under the Committee. The Committee secretariat invites seven Committee members to form a panel each time. The quorum for the panel meeting is five, among which non-trade members must constitute the majority, so as to ensure that both the trade and the consumers' interests are looked after. Members attending the panel meeting are required to declare their interest in accordance with the procedures. To ensure impartiality and objectivity of the panel in handling complaints, the identities of the complainant and party being complained about will be kept confidential in the Committee papers.

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

(a) and (b)

To enhance the transparency of the TIC's handling of complaints from travellers, the TIC has uploaded onto its website for public information a note on complaint-handling procedures, complaint forms and guidelines for handling complaints by the Committee, so that travellers can have easy access to the relevant procedures. Travellers may also submit their complaint forms online or call the TIC hotline for information on how to lodge a complaint or seek assistance.

Besides lodging complaints with the TIC, travellers may also approach the CC for assistance. They may also take legal action, such as filing a claim with the Small Claims Tribunal.

(c) The TIC's Board of Directors (the Board) oversees the TIC's complaint-handling mechanism and procedures. The Government will not intervene under normal circumstances. Besides trade representatives, the Board comprises non-trade independent persons from various sectors and different professional backgrounds appointed by the Government.

The Tourism Commission also closely monitors the operation of the TIC, and will offer advice and assistance.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

CLERK (in Cantonese): Motor Vehicle Idling (Fixed Penalty) Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, Honourable Members, I move the Second Reading of the Motor Vehicle Idling (Fixed Penalty) Bill (the Bill).

The Government's objective in proposing the enactment of the Bill is to specify by legislation that drivers must switch off their vehicle engines after stopping, so as to reduce emission, heat and noise nuisance to the surrounding environment when their vehicle engines are idling. Besides, if drivers do not switch off their vehicle engines after stopping, the greenhouse gas emissions from the vehicles will be increased, pushing up the city temperature, and causing the heat island effect to become more serious, thereby aggravating climate changes in the long run. Therefore, to legislate on drivers switching off their vehicle engines after stopping can tie in with the SAR Government's work in tackling climate changes.

As Honourable Members are aware, the proposal on prohibiting idling vehicles has been discussed in the community for many years. Our exchanges with the public and various opinion polls conducted by different organizations have shown that there is extensive support in society for legislation on requiring drivers to switch off their vehicle engines after stopping. After the introduction of the Bill, the community generally has responded and assessed positively the fact that the Bill prescribes the right remedy to pinpointing roadside air pollution. However, the individual groups affected including the taxi trade have responded more strongly to the Bill. In this regard, we must listen carefully and discuss the matter seriously. President, first of all, I would like to elaborate on a few aspects of the Bill.

Firstly, I wish to take this opportunity to restate that this proposal made by the Government looks after the appeals and interests of various parties. As expressly stated, the objective of the Bill is to improve roadside air quality, and reduce nuisance caused by the idling motor vehicles to pedestrians and roadside business operators. We suggest that the requirement of switching off the engines of idling vehicles should apply to all vehicles with internal combustion engines (ICEs); thus, it will include vehicles using such fuels as petrol, diesel or Liquefied Petroleum Gas (LPG), as well as hybrid vehicles. Nevertheless, the requirement will not apply to hybrid vehicles when these vehicles are driven by electric power. Since electric vehicles do not carry ICEs, they will not have emissions; hence, electric vehicles will not be included in the scope of regulation.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

Deputy President, on the premise of improving roadside air pollution, we have all along been willing to conduct in-depth discussions with various affected sectors, and make suitable exemption arrangements in the light of their operational needs. For more than two years in the past, the Environmental Protection Department has exchanged views with various sectors for this purpose. It is proposed in the Bill that exemptions from the prohibition should be granted to different types of vehicles as necessary and cater for some unique circumstances, and the details have been set out in paragraphs 8 and 9 of the Legislative Council Brief. I particularly wish to discuss some major items of concern:

(i) basing on the views of various sectors of the community, especially the transport trades, and making reference to foreign experience, we propose that the idling prohibition should only apply if the motor vehicle has been idled for more than three minutes in any 60-minute period;

(ii) exemption should be provided to a driver of a motor vehicle that is stationary because of traffic conditions, such as traffic congestion, traffic accident and stopping as directed by a traffic light, traffic sign, road marking or police officer;

(iii) the scope of exemption should be expanded to include a driver of any of the first five taxis at a taxi stand (rather than the first two taxis), and a driver of a taxi which is in a queue of taxis, including any taxi which is moving into a taxi stand;

(iv) the scope of exemption should be expanded to include a driver of any of the first two green minibuses on a particular scheduled service at a green minibus stand (rather than the first two green minibuses);

(v) the scope of exemption should be expanded from a driver of any of the first two red minibuses at a red minibus stand to a driver of any of the first two red minibuses, a driver of a red minibus with at least one passenger on board, and a driver of a red minibus which is immediately behind another red minibus; and

(vi) exemption should be provided to a driver of a non-franchised bus with any passenger on board.

The Bill also includes explicit and enforceable proposals. We suggest that the proposal on prohibiting idling vehicles should apply to all roads in the territory, including private roads and car parks, and the violation of the requirement by a driver does not constitute an offence, but the payment of a fixed penalty of $320 is required, which is the same as the fixed penalty for illegal parking. Insofar as enforcement is concerned, Traffic Wadens will be the principal enforcement officers, and Environmental Protection Inspectors will also be authorized to enforce the law. We have noticed that after the announcement of the exemption arrangement of a three-minute grace period, there have been discussions in the community about whether or not there will be difficulties in enforcing the said arrangement. Although the requirement of switching off the engines of idling vehicles in our neighbouring cities like Singapore and Tokyo does not include the exemption arrangement of a three-minute grace period as proposed in Hong Kong, we can see from the experience of cities that have made similar arrangements, for example, Toronto in which we have conducted a field study, that the arrangement of a three-minute grace period can be enforced. Yet, I must stress that the objective of specifying the requirement of switching off the engines of idling vehicles is to prohibit the idling of motor vehicles so as to more effectively alleviate roadside air pollution. The effectiveness of this requirement should not be determined by the number of fixed penalty tickets to be issued in the future.

Deputy President, finally, I would like to say that, in the course of drafting the Bill, we have extensively taken on board the views of various sectors of the community. We believe the present proposal can strike a reasonable balance between protecting the public from the nuisances caused by idling motor vehicles, and catering for the needs of drivers and the transport trades. I know that even though the Bill can improve roadside air pollution for the sake of pedestrians and the general public, it will inevitably have impacts on some drivers or passengers, thus the latter need to co-operatively make some changes in their conduct. In weighing various exemption arrangements, we have made the best efforts to strike the said balance with a view to reaching a consensus in the light of various needs. I would like to emphasize that on the premise of upholding the

legislative intent of the Bill, insofar as the appeals of individual sectors are concerned, the Government is prepared to continue to deal with and discuss the matter in a practical and realistic manner. I also hope that we can continue to listen to the views of various sectors in the course of scrutiny of the Bill. I trust Honourable Members will do so, too.

Deputy President, Honourable Members, the discussions on prohibiting idling vehicles have been ongoing in society for a very long time. I believe Honourable Members will also agree that merely relying on publicity and education measures may not be able to change the current driving habits of drivers. Therefore, we propose legislating to prohibit idling motor vehicles to more effectively improve air pollution. It can be seen from the past consultations and discussions that society and the general public consider this method as acceptable and are ready to adopt it.

Deputy President, I sincerely hope that Members will support the Bill and reach a consensus in the course of scrutiny in the light of the views of various sectors so that the Bill will be enacted early, thereby reducing the environmental nuisances caused by the idling of motor vehicles.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Motor Vehicle Idling (Fixed Penalty) Bill be read the Second time.

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

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Employment (Amendment) Bill 2009.

EMPLOYMENT (AMENDMENT) BILL 2009

Resumption of debate on Second Reading which was moved on 8 July 2009

DEPUTY PRESIDENT(in Cantonese): Mr WONG Ting-kwong, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR WONG TING-KWONG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Employment (Amendment) Bill 2009 (the Bill), I now report on the deliberations of the Bills Committee.

Non-payment of the Labour Tribunal (LT) or the Minor Employment Claims Adjudication Board (MECAB) awards *per se* is currently not a criminal offence. The objective of the Bill is criminalizing wilful non-payment of LT and MECAB awards. The Bills Committee has held nine meetings and listened to the views of deputations at one of the meetings.

Some members have queried the need to criminalize non-payment of LT and MECAB awards, given that defaults on wages and other statutory entitlements are already offences under the Employment Ordinance (EO).

The Administration has advised that although the failure to pay wages or certain other statutory entitlements is an offence under the EO, non-payment of LT or MECAB awards *per se* is currently not a criminal offence. Therefore, attaching criminal liability directly to the default on LT or MECAB awards would target employers who have no genuine financial difficulty but are unwilling to pay, and serve as an important and additional deterrent.

Some members have expressed concern about the read-across implications of criminalizing non-payment of LT and MECAB awards on other civil judgments. The Administration has advised that it is aware that extending the criminal liability to other payments not underpinned by criminal sanction may entail much wider implications beyond the EO. The Administration thus considers it of cardinal importance to ensure that the new offence is limited solely to LT and MECAB awards comprising wage and statutory entitlements that are underpinned by criminal sanction under the EO.

As specified in the Bill, the consent of the Commissioner for Labour (CL) in writing is required for instituting prosecution for the new offence. Before giving such consent, the CL must hear the person against whom the allegation is made or give the person an opportunity of being heard. Some members have queried the need for the written consent by the CL and hearing of the suspect as specified. Nevertheless, some other members consider it necessary to protect scrupulous employers and provide more safeguards when non-payment of LT or MECAB award of a civil nature is made a criminal offence.

The Administration has explained that the requirements for the CL's consent and hearing give the suspect an early opportunity to inform the authority of his explanation and any special circumstances that would likely mitigate his culpability or even make it unnecessary to bring prosecution against him. Early knowledge of possible exculpatory matters is to the benefit of both the employees and the employers involved, as it could help expedite the authority's investigation and decision on whether or not to prosecute.

The Administration has pointed out that other offences under the EO that can lead to imprisonment bear the same requirements for the CL's consent and hearing. Similar requirements of consent and/or hearing before prosecution can also be found in other ordinances.

Some members are concerned that the requirement for the CL to give consent may unduly prolong the time taken for initiating prosecution against law-defying employers. They have asked the Administration to consider providing an internal guideline, administrative order or a performance pledge on the time limit for the CL to give consent. Some other members, however, consider that flexibility should be allowed for the Labour Department (LD) to complete the necessary procedures under different circumstances.

The Administration has explained that the LD would commence investigation expeditiously and closely monitor the progress of the cases. Prosecution has to be instituted within six months of the offence day. Under the EO, the LD would arrange for hearing of the person who is alleged to have committed a wage offence or certain other offences. If sufficient evidence is revealed, the authorized officer would without delay give consent in writing on behalf of the CL to commence prosecution.

The Administration has pointed out that unlike an offence that can be detected on the spot by public officers, the LD in prosecuting an offence under the EO has to rely on evidence from the employee who is owed wages or other statutory benefits. The length of time for the employee and other relevant parties to provide statement and information varies from case to case and is beyond the control of the LD. It is therefore not practicable to provide a definite time limit for the CL's consent for prosecution.

The Administration has also pointed out that the criminalization of default on LT and MECAB awards, which are civil judgments in nature, is an important achievement that reflects the mutual understanding and accommodation among different stakeholders including employee and employer representatives, and in particular those sitting on the Labour Advisory Board (LAB). Employer members of the LAB have given their support to the proposed offence on the understanding that sufficient procedural safeguards would be put in place to ensure that the proposed offence targets only the wilful offenders. As improvements in labour legislation need the support of both employees and employers, the Administration considers it imperative to provide procedural safeguards to target wilful offenders.

The Administration has assured the Bills Committee that the LD is committed to issuing summonses, without delay, once sufficient evidence is revealed upon completion of investigation and, if the case requires, once legal advice is available. It will ensure that the investigation and prosecution of suspected offences will be conducted expeditiously and properly. Nevertheless, there is a need at the same time to allow for flexibility to cater to the different circumstances of individual cases to ensure that every prosecution case could be handled properly and fairly. The Bills Committee has requested the Administration to keep records as far as practicable on the time required to complete the relevant procedures, review the implementation of the Amendment Ordinance one year after its commencement, including the CL's consent for prosecution and other procedural requirements, and report to the Panel on Manpower.

Under the Bill, the proposed offence applies to any "specified entitlement" as defined in the Bill. Some members take the view that compensation and terminal payments arising from unreasonable and unlawful dismissal should be included in the definition of "specified entitlement" under the Bill. They consider that although the compensation does not carry criminal sanction upon its

default under the EO, it should be covered as "specified entitlement" as it arises out of unreasonable and unlawful dismissal which *per se* is a criminal offence. Likewise, terminal payments arising out of unreasonable and unlawful dismissal should also be included in the definition of "specified entitlement".

The Administration has advised after it has explored the possible read-across implications and consulted stakeholders that, the overall construction of the safeguards in the Bill stays intact to ensure that the proposed offence targets wilful defaults only, the Administration has no objection to proposing an amendment confined to including compensation and terminal payments that arise from unreasonable and unlawful dismissal in the definition of "specified entitlement". The Administration will move Committee stage amendments (CSAs) to the Bill.

Deputy President, I will now express my views and those of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

Irresponsible employers who have committed an offence of wage default and still continue to make non-payment of LT and MECAB awards have all along been criticized by the labour sector. Information from the LD indicates that, within the first nine months in 2009, 942 summonses were served on convicted employers for wage offences, 53% more than that in the same period last year; 277 summonses were served on persons in charge of limited companies for wage offences, 94% more than that last year, thus reflecting that there was a tendency for the situation to deteriorate in recent years. Therefore, to achieve stronger deterrence of unscrupulous employers who ignored court orders and wilfully failed to pay wages, the DAB and I support the proposal on the institution of criminal proceedings against these unscrupulous employers as quickly as possible.

However, I have to stress that the small number of unscrupulous employers are just some black sheep, while most employers are law-abiding; so, in creating the criminal offence concerned, we must treat employers fairly and avoid netting in innocent employers. I am gravely concerned about some main points in the Bill related to safeguards for employers.

In the course of scrutiny of the Bill, some members considered that, before proceeding with prosecution, it was not necessary to get the consent of the CL or

give the suspect an opportunity of being heard as this would prolong the prosecution process. I object to this. A suspect has the right to an opportunity of being heard, and it will be unfair to immediately proceed with prosecution, depriving the suspect of an opportunity of being heard. Although defaults on wages by employers are offences, that such cases have substantially increased in recent years is actually due to the adverse business environment. In particular, as a result of the financial tsunami, the turnover of many companies has plunged and business has become difficult. The employers of some companies with temporary cash flow problems have no alternative but to default on wage payments, and some have even become bankrupt. Hence, we cannot indiscriminately think that employers who fail to pay wages have bad intentions and willfully evade responsibilities. We must be fair and give these employers an opportunity of defence. Moreover, defaults on wages are already criminal offences and non-payment of LT or MECAB award is of a civil nature, but it will become a serious criminal offence after the enactment of the Bill. Indeed, we cannot act rashly, nor should we casually remove the procedure before proceeding with prosecution, depriving these employers who are not unscrupulous of protection.

Furthermore, a member has proposed specifying a time limit for the CL giving consent in writing, so as to expedite the commencement of prosecution. Specifying a time limit is unfair to the CL and the suspect because every case is different and the time taken to handle each case varies, depending on its seriousness or complexity. The CL should be given sufficient and appropriate time to complete the necessary procedures and we cannot act rashly; otherwise, we will only be outsmarting ourselves and making mistakes.

As proposed in the Bill, an employer who wilfully and without reasonable excuse fails to pay any sum payable under such a LT/MECAB award within 14 days from the date on which the sum is due commits an offence. Doing so wilfully and without reasonable excuse are the factors to be considered when it has to be decided whether prosecution will be instituted. Some members however consider the sole element of wilfulness a sufficient safeguard for innocent defaulting employers and suggest deleting "without reasonable excuse". It should be noted that "reasonable excuse" is not an exceptional basis for defence in criminal prosecutions; the prosecution must prove wilfulness in the first place. Regardless of whether an employer will be convicted, he should have an equal opportunity of defence against the prosecution. In other words, an opportunity

for the employer to be heard must be provided, and the Court cannot just accept the prosecution's proof without giving the accused an opportunity of defence. The Court will judge if the excuse is reasonable before making a prosecution decision. This can sufficiently avoid netting in the accused innocently.

Furthermore, under the proposed section 43Q, where a body corporate or a firm is proved to have committed the proposed offence with the consent or connivance of, or the offence is attributable to any neglect of any director/partner or other responsible officer of the body corporate/firm, such director/partner or officer commits the like offence. Some members have expressed concern about whether the rebuttable presumption provision in the proposed section would render prosecution against directors and responsible persons of a body corporate difficult, and they have enquired about the purpose of the rebuttable presumption provisions. In my opinion, since the employees of the prosecution may not have a completely accurate grasp of information on the responsible officer of the body corporate, and we can even not rule out the possibility that they will take it out on the responsible officer of the body corporate since their wages have long been unpaid and they have become very furious, thus erroneously netting in those who are not aware of or have not participated in the offence committed by the body corporate. Thus, the rebuttable presumption provisions on doubtful prosecution evidence are essential.

Also, the Government has heeded good advice and taken on board the suggestions of some members and proposed an amendment to include the compensation and terminal payments arising from unreasonable and unlawful dismissal in the definition of "specified entitlements". Although the DAB supports that, I wish to emphasize again that we must ensure that only the compensation and terminal payments arising from unreasonable and unlawful dismissal will be regarded as specified entitlements.

Summing up, the Bill has basically struck a balance between the interests of employers and employees. The proposed criminalization will remove the hurdles facing enforcement against wage offences, such that employees with limited financial capacity do not need to spend money and make efforts to seek the payment of awards. This can effectively catch employers who committed illegal acts, and enable employees to get back their wages in arrears sooner. Since the offence only pinpoints wilful non-payment of wages, and only

employers who fail to pay without reasonable excuse will be convicted, I believe employers will be sufficiently protected, granting properly enforcement by the authorities.

With these remarks, Deputy President, the DAB supports the Bill and the amendments.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, on behalf of the Hong Kong Confederation of Trade Unions, I certainly support the passage of the Bill today. We can say that we have been waiting for this Bill for more than three decades.

As Members are aware, it has been a long-standing problem since the establishment of the Labour Tribunal (LT) that workers cannot recover their wages in the end, even though their cases have been adjudicated by the LT. Over the past three decades or so, we have been negotiating with the Government in the hope of introducing improvements. We must thank the Chairman of the Panel on Manpower of the last term, Mr LAU Chin-shek, for this Bill because he had been discussing with Secretary Matthew CHEUNG and the Chief Executive for a lengthy period. Thanks to the lengthy discussions conducted by Members in the Panel on Manpower in the last Session, we can finally yield results in this term and clearly see the Secretary …… although I proposed last week to deduct one month salary of his, he could still receive 11 months of salary. And one of the good deeds the Secretary has done is this one today. We see that the Government has finally tabled this piece of legislation to the Legislative Council. Having said that, we still fear that the legislation might be pleasant to the eye but of no use. I will explain this later. First of all, I would like to say a few words about why this law is so important to the labour sector.

As the labour sector is currently facing an unfair situation, I hope the situation can be averted upon the enactment of this law. The situation is that many workers actually face great difficulties in fighting for their statutory rights and interests. First of all, they have to approach the Labour Department (LD) for assistance in the event of an incident. Should the LD fail to mediate successfully, their case will be referred to the LT. Upon registration, the first "call over" hearing will be conducted for mediation purposes to see if the case can be resolved successfully. Should the first mediation attempt fail, the second and

third "call over" hearings will be conducted. Before adjudication is made by the LT, the case might be delayed for two or three months. The whole process will take six to nine months before adjudication can be made by the LT. However, this does not mean that the matter is already settled, because nowadays employers know very well how to play this game by refusing to pay.

I have recently received a case concerning a listed company, called Climax Paper Converters Limited, the trading of which has already been suspended. This company has failed to pay its workers wages amounting to nearly $200,000, including commission. Although the workers knew that their employer had already been summoned to the LT and adjudication had already been made by the LT after six to nine months, their employer was still reluctant to pay. So what can they do? At present, there are two solutions if a company is still reluctant to pay after adjudication has been made by the LT. The first solution is to hire a bailiff, and the second solution is to apply for liquidation of the company. However, both solutions are difficult.

These workers opted for the first solution and hired a bailiff because they knew that their employer had a car worth $200,000 to $300,000. When the bailiff reached the company, the employer produced a purchasing agreement indicating that the car had been sold to one of his employees. How could the employee have more than $200,000 to buy a car? The employer must have made a fool of them! The bailiff then advised the workers that they could question the authenticity of the purchasing agreement, but to do that, they would have to bring the case to Court for adjudication. Should the workers lose the case, they would have to pay tens of thousands of dollars in litigation fees. Moreover, they had to pay for the fees charged by the bailiff during the period.

As Members should know, it costs around $4,000 to $5,000 to hire a bailiff for seven days. The workers might lose their hard-earned money should they opt for hiring a bailiff. In the end, they might still be unable to close the company. Therefore, in handling this sort of cases, I will never advise workers to hire a bailiff, because I know that most of these cases are doomed to fail.

Furthermore, in some of the cases I had encountered, I found that people from several companies were already there when I arrived at the entrance to the company in question. When I declared my intention to close the company, the

bailiff would say that everything there no longer belonged to the company. Instead, it had already become the property of some other companies. I have encountered such circumstances many times before. Therefore, I think that hiring a bailiff will only drive workers to a dead alley.

The option of applying for liquidation will also lead to two problems. First, the workers will have to approach the Legal Aid Department (LAD), which will conduct assets tests. Hence, it is yet another problem as to whether the workers can pass the tests. We have often suggested the LD take care of these matters, and yet it is reluctant to do so. On the other hand, the LAD is reluctant to accede to our proposal of granting exemptions. After much effort, if the workers can still not pass the assets tests in the end, the whole matter will get stuck. Even if the workers manage to pass the means tests, they can only apply to the Protection of Wages on Insolvency Fund (PWIF) for $36,000 in default wages. As regards the commission, the amount of wages defaulted by the Climax Paper Converters Limited, as mentioned just now, plus commission and payment in lieu of notice, has already added up to nearly $200,000. So, what can the workers do?

Certainly, we welcome the third option offered by the Government now. But what problems will occur? My concern is that this option will lead to criminalization of default on the LT award, which is unprecedented. The workers may approach the LD 14 days after award is made by the LT to request that the criminal prosecution procedure be activated. However, they will have to overcome hurdles after hurdles afterwards and endure a lengthy tough period. Insofar as the first hurdle is concerned, if they have to make the company — I must add that, like resolving wage default problems, they are also required to overcome hurdles after hurdles. To criminalize the default on the LT award is similar to criminalizing the wage default problems, as hurdles after hurdles have to be overcome as well. First of all, workers have to prove that corporate employers (which might be limited companies) have acted wilfully without reasonable excuse. This is the first hurdle.

After this hurdle, if the entire matter is to really achieve deterrence, a director will have to be held liable for the offence because the Court cannot sentence the limited company's seal to imprisonment. Although criminal offence can lead to imprisonment, there is no way for a seal to be sentenced to imprisonment. The company can only be fined. After a director is held liable

for the offence, another hurdle will have to be overcome, that is, to prove that consent, connivance or neglect on the part of the director or the so-called responsible officer of a body corporate (we have clarified once that even the "shadow" is acceptable, though evidence must be adduced) is involved.

Is it easy to prove that the employer is not in the dark? This is why we have along proposed streamlining the procedure to include the situations mentioned above with the elements of "wilfully" and "without reasonable excuse". Honestly, "being kept in the dark" can be a reasonable excuse. But why must there be so many hurdles? I have all along proposed that the elements of "wilfully" and "without reasonable excuse" should apply to limited companies and directors, that is, responsible officers of corporates. However, the Government has not acceded to this proposal. Instead, we are required to overcome hurdles after hurdles.

Furthermore, there is something strange in the legislation, and I hope the Secretary can think about if the "tail" requiring that written consent by the Commissioner for Labour (CL) be given before prosecution can be instituted is superfluous. Of course, prosecution cannot be instituted without consent. But why should the Government come up with such a superfluous procedure? It is the same as "'taking off the trousers and …… " — I am not going to say it because it is really too vulgar.

Why should the LD obtain a written consent as it is responsible for instituting prosecution? Likewise, the police must not obtain a written consent beforehand if they are to investigate some criminal cases, for the cases are already under investigation. Insofar as the whole issue is concerned, this is unnecessary. We originally intended to discuss with the Government whether a deadline can be set, and yet the Government is reluctant to do so. While it is estimated that it will take six to nine months for the LT to adjudicate a case, it might take the Government three to six months to reach a judgment. However, the Government is reluctant to make any performance pledge by prescribing the period for the completion of prosecution.

The hurdle is that the written consent of the CL must be obtained. We have no intention to object to allowing the other party to give explanation, as this procedure is required in the investigation process. However, if the other party wishes to delay the process, what should we do? We have to give him an

opportunity because it is prescribed in the law that he should be given the opportunity of defence. However, the entire procedure will be lengthened if the period is delayed for too long and a written consent has to be obtained.

Therefore, we hope that the procedure can be simplified so that these problems can be resolved more speedily. I hope the superfluous "written consent" can be deleted. I hope the Secretary can say a few words on the time required for the whole process to complete when he delivers his speech later. We are extremely worried because the wage default cases being processed currently take nearly half a year. Coupled with this procedure, which will take another half a year, the time required will become too long. Although the legislation is in place, the procedure will, eventually, still leave the affected workers mentally and physically exhausted.

Another subject of concern to me is enforcement. Upon the institution of prosecution, investigation will proceed. Although the prosecution and investigation divisions are already in place, and there is adequate manpower to perform the investigation and prosecution duties, a new item has now been added. I am worried that everything will slow down in the end if additional manpower is not provided. This is because the LD is responsible for investigating not only criminalized cases relating to the LT, but also all criminalized issues under the Employment Ordinance. During our discussions, the Bureau indicated that it would decide whether additional manpower would be provided in 2010-2011 depending on the circumstances. I think there is no need for the Bureau to do so, because the LD is simply short of manpower. The process of handling cases involving prosecutions against non-payment of wages has already been very slow. It will definitely get even slower with the addition of one more duty. Therefore, I hope additional manpower can be provided to ensure that the prosecution procedure can be expedited when the Ordinance is implemented, so as to enable workers to recover their defaulted wages expeditiously.

Deputy President, there is one more point I hope the Secretary can answer. When will this Ordinance commence formally? After the passage of this legislation today, its commencement date will have to be gazetted and passed in this Council. I am worried that time will be wasted again. I hope the Secretary can reply whether it is possible for this legislation to commence in July, that is,

before the conclusion of this Session? After the passage of this legislation today, I believe Members will not take issue with its commencement date.

Of course, the Secretary might indicate in his speech later that it takes time for publicity to be launched even if the legislation is set to commence. There is no problem with this. As I pointed out during the deliberation of the legislation, the easiest way to let people know is to make use of the LT, since all cases will go to the LT in the end. We only need to put up large posters at the LT, to be followed by Judges responsible for handling cases in the LT explaining to the public that, upon the adjudication of a case, non-payment of awarded sums will be an offence. If it is decided that the legislation shall commence starting from 1 July, then the details should be published clearly in May or June, in this way the problem can be resolved. Therefore, I believe the commencement date is not a problem. I hope the Bureau can finalize everything expeditiously. Thank you, Deputy President.

MR IP WAI-MING (in Cantonese): Deputy President, I hope the Secretary can bring the legislation into effect expeditiously after the Second and Third Readings of the Bill today. It has been a long time since the labour sector began campaigning for this piece of legislation. Basically, the 1960s saw the criminalization of default on payment of wages. However, we see that the Government has all along failed to enforce the law seriously. As a result, default on wage payment has become quite serious. It was only several years ago that the Government sensed the need to stem the undesirable trend towards default on wage payment by prosecuting some employers who had defaulted on payment of wages and sentenced them to imprisonment after probably seeing a number of trades and industries, especially the unscrupulous employers in the catering industry, treating the Protection of Wages on Insolvency Fund (PWIF) as an automated automatic teller machine. To a certain extent, the Government has indeed stemmed the undesirable trend towards default on wage payment, and it deserves our commendation. Do not say that we often criticize the Government.

Workers might not be able to recover their defaulted wages even if they exercise their legal rights by bringing their employers to the LT and recovering from employers their entitled benefits under the Employment Ordinance and win the lawsuit. As pointed out by some colleagues just now, we can tell from our

experience in such work that the number of these cases is actually not small, and the recovery process is arduous. Fist of all, the workers have to approach the LD for listing, and it will take at least one month or two weeks or so. Then, they have to approach the LT for listing, and that will take approximately a month. After that, they have to wait for another month before they can appear in Court. Should a trial be required, it might take half a year before an award can be obtained. Even if an award is granted, it does not necessarily mean that they will receive money. As mentioned by colleagues just now, many formalities will have to be completed. If the workers do not opt for a Writ of Fieri Facias, they may apply to the Legal Aid Department (LAD) for liquidation. However, it may take years going around in circles, but the workers will still not able to get the money. In the end, they might have to approach K K NG, which means that they have to obtain money from the PWIF, not knowing how long they will have to wait. Regarding the award of the LT …… we welcome the approach of criminalizing breaches of such awards.

Here, I would like to cite a very impressive example. The Secretary had made some efforts in handling this case when he was the CL. At that time, a group of printing workers were owed wages for nearly a year. When they approached the LT for recovery of their entitled benefits, the Judge ruled that both parties should reach a settlement, and the employer was ordered to repay workers their defaulted wages in 30 instalments. The workers had not approached me before they went to the LT; they approached me afterwards. Should they let me handle the case, I would have asked them to reject the offer of repaying their wages in 30 instalments. Notwithstanding this, the workers did not get their defaulted wages, not even one instalment, because the employer had changed the name of the factory and transferred all the assets. As a result, they could not even apply for a Writ of Fieri Facias. Even if they applied to the PWIF, they could only receive four months' wages of the amount they should have received before they left the company. Eventually, they could only approach us. We considered that the employer had obviously breached the law, and his act was intolerable. We issued a letter to the CL, Matthew CHEUNG, at that time, and he took a very serious view on the case. After much effort, the employer was prosecuted. In the Court, the Judge ordered the employer to repay all the defaulted wages before sentencing. The Judge also made it clear that the employer would be sentenced to imprisonment should he fail to do so.

In the end, the workers got back all their defaulted wages. However, the entire process took a surprisingly long period of three to four years, not including the year during which the workers were not paid any wages. Employers just need to pay them wages for their hard labour. Why should the process take so long? Why should workers be made to bear such a heavy mental burden?

I would like to thank the Secretary here because I did not thank him for his assistance in this case at that time. However, should the LD handle each and every case in this manner? How much manpower can the LD afford in handling so many cases? Therefore, we hope the legislation this time around is just a beginning to make employers realize that they would be held criminally liable for default on award by the LT. However, concerning the criminal liability of employers …… just now, colleagues also mentioned that a number of formalities would have to be completed, and there must be the elements of "wilfully" and "without reasonable excuse" — I can almost recite these two expressions fluently from memory. I remember that we have debated numerous times in the Labour Advisory Board that it makes no sense to include "wilfully", as the expression "without reasonable excuse" can already serve the purpose. In the end, however, both "wilfully" and "without reasonable excuse" are written into the legislation. In our opinion, a review should be conducted after the legislation is enforced for a period of time. An employer should pay wages in arrears if he cannot come up with any reasonable excuse; otherwise, he should be criminally prosecuted.

On the other hand, I hope the LD can get its job properly done by working with the LAD and other relevant departments …… to institute criminal prosecution against an employer if he is reluctant to act as ordered by the award of the LT may not bring actual benefits to workers, as employees will still have to complete complicated formalities to lodge civil claims for compensation. At present, the biggest obstacle is that workers are not given legal aid. If their employer still has assets, they should certainly apply for liquidation in the hope that the employer's assets can be sold in exchange for money. Otherwise, the PWIF will ask the workers to produce a liquidation order before it will make advance payment of the defaulted wages. This formality must be completed, though it is going to be very difficult. This is because the line drawn by the LAD is indeed very low. Even though the Government stated a couple of weeks ago that the line governing legal aid will be raised to more than $200,000, I believe many people will still be ineligible for legal aid.

In this aspect, the Government is retrogressive. I hope the Secretary can discuss with Secretary TSANG Tak-sing. Prior to the mid-1990s, the Wage Security Division, which was set up under the LAD, was responsible for assisting employees in recovering wages in arrears. Back then, the LAD would offer employees unconditional help, after they had won the lawsuit, to enforce the award, or even apply for liquidation of employers. I have no idea why such a change was introduced in the mid-1990s. We have always considered that workers are in a disadvantaged position, and so the LAD or the LD should provide more assistance to them.

An appropriate employee should be identified to apply to the LAD for recovery of wages in arrears and winding up the relevant company. I believe both the Secretary and the Assistant Commissioner for Labour have never experienced the difficulties involved. In one of such cases, 20 workers …… the company had already ceased operation even though an application for liquidation of the employer had yet to be made. Although the employees should receive severance payment after winning the lawsuit, what happened to them? As no one applied for liquidation, the 20 workers ended up getting nothing from the LAD. Consequently, they had to continue to wait. In the following six months, they had to look up all newspapers publishing legal advertisements to see if anyone had applied for liquidation of the company. After a lengthy wait of six months, they were finally able to get back the wages in arrears from the PWIF when someone applied for liquidation of the company.

Deputy President, why should we keep raising this issue relentlessly? Even if the LT has made an order, if the order made is not enforced after the passage of the legislation today, the employer can still …… although the Government can prosecute him subsequent to criminalization, the assistance offered to workers may actually compare less favourably than civil assistance. We really hope that the legislation, after enactment, can deter some unscrupulous employers — I will merely describe these employers as "undesirable" because I do not want to describe them as "unscrupulous". Insofar as civil claims are concerned, I hope that the LD and other relevant government departments can come up with more ways to assist workers in enforcing the awards and obtaining actual benefits. In our opinion, this is most imperative. I hope the LD can continue to work hard on this.

Lastly, we maintain that the expression "wilfully and without reasonable excuse" should do away with "wilfully". All in all, the expression "without reasonable excuse" can already serve the purpose. Secondly, should the prosecution procedure pose so many hurdles? Lastly, during the scrutiny of the Bill, we found that the thinking of the Government was quite ossified in some ways. In particular, the terminal payments under section 32O and the compensation amount of $150,000 under section 32P were initially not included in the scope of "specified entitlements" under the Ordinance. Moreover, we maintain that, given the $150,000 is awarded due to unreasonable or unlawful dismissal, and unreasonable and unlawful dismissal is one of the five kinds of acts entailing criminal prosecution, we have therefore insisted that they be covered. We welcome the Government eventually taking on board our view and amending this law to include terminal payment and awarded compensation in "specified entitlements". However, I still hope that the Government can open up its mind in future, so that we will not have to argue with it so fiercely that our gums start to bleed before our amendments are accepted.

We welcome the Government's amendments and hope that some ambiguous provisions in the legislation can be further improved in the next amendment exercise. Lastly, we hope the Government can provide more assistance to the disadvantaged workers, especially workers whose wages are in arrears.

Deputy President, I support the Bill and all the amendments. Thank you.

MR TOMMY CHEUNG (in Cantonese): Deputy President, pinpointing the failure of some employers to pay the awarded sums to their employees according to the awards made by the Labour Tribunal (LT) or the Minor Employment Claims Adjudication Board (MECAB), the Employment (Amendment) Bill 2009 (the Bill) seeks to achieve additional deterrence against defaulting employers. The Liberal Party supports the Bill.

The Liberal Party will never oppose the Government protecting employees' interest by way of legislation. We will also actively participate in the deliberation work of the relevant Bills Committees. Only that the interests of

employers should be taken into account while protecting employees' interests, so that a balance can be struck between the two.

A relatively controversial part of the Bill is its provision for some new offences — An employer commits an offence if he wilfully and without reasonable excuse fails to pay any sum awarded by the LT or MECAB within 14 days after the date on which the sum is payable by the terms of the award. If an employer who is a body corporate is proved to have committed an offence of this sort, its director may also be criminally liable.

The Liberal Party considers that it is a matter of course for borrowers to repay money. It is only reasonable that defaulting employers should be held criminally liable. However, we are worried that innocent employers might be caught by the enforcement of the law.

All business operators know that, in addition to the hectic business of their companies, they have to face ever-changing issues every day. Even the daily administrative work of the companies can be very tedious, too. Moreover, 98% of the business operators in Hong Kong are small and medium enterprises (SMEs) which have little administrative manpower. Very often, their administrative work is undertaken by the employers. Should the legislation on a minimum wage be passed, employers will find it even more difficult to employ more staff. Hence, they may easily miss the 14-day deadline and risk being prosecuted at anytime.

Having said that, perhaps some colleagues and officials of Policy Bureaux will refute me by saying that the new section 43S gives employers opportunities to make representation. There is also a provision which lets employers cite reasonable excuse in defence. So, what are they afraid of? I believe all employers of SMEs are afraid of spending time to go to the Labour Department (LD) to give explanation or appearing in Court to cite excuse. Even if they have reasonable excuse, how can they go about defending themselves? Should they opt for making representation on their own, they are afraid that they are not up to standard and will make even more mistakes should they talk more. However, hiring a lawyer will cost them more money. Even if they find they can justify themselves, they still have to face a lot of troubles.

As stated by me earlier, the Liberal Party supports the passage of this Bill to impose severe penalties on employers who have really breached the legislation and wilfully defaulted on payment. However, as the new criminal provision will affect tens of thousands of employers of SMEs, we hope the Administration can enforce the law cautiously upon the commencement of the legislation, and gain a better understanding and enhance communication before instituting prosecution to avoid punishing the innocent and causing trouble to SMEs.

Furthermore, instituting criminal prosecutions against defaulting employers is unprecedented in Hong Kong. I believe many employers may not be aware that the Bill will soon be passed. Therefore, I urge the Administration, particularly the LD, to make more publicity efforts prior to the commencement of the Ordinance to enable those who will be affected to gain a better understanding of the content of the provisions.

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

DR PAN PEY-CHYOU (in Cantonese): Deputy President, I heard Mr Tommy CHEUNG talk about the predicament of employers just now. The unscrupulous employers whom we unionists talk about seem to be, in the eyes of Mr Tommy CHEUNG only doing all these things because they have no other alternative.

I would like to express the concern of the labour sector for defaults on wages. We want to make everyone know about the hardships faced by workers for non-payment of wages and I want to show my support for this Bill introduced by the Government. I will make it simple, for I am not as experienced as my colleague, IP Wai-ming, in dealing with the nuances of labour affairs. Having said that, I do understand the principles involved.

In the old agrarian society, farmers had to depend on the mercy of the gods for a harvest. An example of this is like the recent drought in the south western part of China and, despite all the hard work done by farmers, if the gods do not allow it, there can never be a good harvest. There are times when crops are growing well, but then come a sudden flooding, the crops may all be destroyed and there can be no harvest and no food. It would be useless to blame the gods. In modern society, workers expect rewards for their labour. But we often hear

workers complain about "all sweat no pay". Why is it that getting one's wages will have to depend on the mercy of the gods? Or rather, it should be the mercy of other people, that is, the whims of the boss? At times, the whims of a boss are more unpredictable than the elements.

It is sensible to expect a reasonable reward for workers who have done their work. For example, a worker who has worked for one month should be paid the wages for one month. A worker who has worked for one week should be paid the wages for one week. Even if he has only worked for one day or even one hour, he should be paid the wages for one day or one hour. Of course, in reality, as Honourable colleagues from the business sector have just said, employers will have to face business conditions that change all the time like the weather, and so there may be some employers who went bankrupt because of a cash flow problem or because their business has failed and so they are unable to pay for the wages of their employees for the time being. Should such special circumstances occur, I think many workers will understand the difficulties of the employer and they are willing to tide over the hard times with their employer.

But there are really some employers in Hong Kong who are unscrupulous, or as Mr IP Wai-ming has put it, they are undesirable employers. They do not pay the wages deliberately and resort to all sorts of ways and means to evade payment. I know that this problem is particularly serious in the catering sector and there are lots of such examples. A restaurant may seem to be doing good business but it can fold all of a sudden. It defaults on the payment of goods supplied and the wages of its employees. The boss just runs away. Then he opens another restaurant in another location. Such incidents' are most common and the Protection of Wages on Insolvency Fund is nothing but an ATM to these employers. These unscrupulous employers will exhaust all methods and exploit the loopholes in law to evade their responsibility in law. They will default on wages in a vicious manner and in doing this, they are really exploiting the workers and depriving them of the reward for their labour. Workers toil and labour but they do not get the wages due and they have to face a problem of disruption of their means of living. This is because many low-income workers do not have much savings and when they cease working, their living will be put at risk. Their families will experience great hardship. We know that some restaurant owners sponge off workers of their wages, just like the situation described by me.

Default on wages or non-payment of wages is an encroachment on the right to income of employees and this has a direct impact on the living of the dependants of the employees. In law, as Mr IP Wai-ming has pointed out, default on wages is a criminal offence. Although it is a criminal offence, when employers are convicted, employees have to resort to civil action to recover the wages in arrears. We consider that since default on wages is a criminal offence, it is only right and reasonable that criminal proceedings are initiated against employees to recover their wages in arrears.

Now that the relevant law has yet to be passed and civil action takes a lot of time and money, if workers do not have any legal aid, it is likely that they will spend tens of thousands of dollars and much time to recover the sums in arrears through legal action. At times workers may have to spend some tens of thousands of dollars only to recover wages in arrears amounting to something over ten thousand dollars or so. This is not worth it. There are very few persons who want to spend some tens of thousands of dollars and a few months' time or more in pursuit of justice and wages in arrears. Hence such defaulting employers are able to escape the punishment by law.

In the last term of this Council, CHAN Yuen-han, WONG Kwok-hing and KWONG Chi-kin of the Hong Kong Federation of Trade Unions put up a fight to criminalize non-compliance with the rulings of the Labour Tribunal (LT), but the Government made a lot of excuses and said that default on wages was a civil matter and the Government should not intervene in them. And the practice that has been going on for decades is left unchanged. Fortunately, with the great efforts we have made, we have succeeded in making the Government face up to the issue. Here, I would like to commend the Secretary for his efforts and amending the relevant law to make non-payment of LT awards a criminal offence. We are therefore grateful to the efforts made by the labour sector and other Members in striving to make this a reality and the Government for being willing to take corresponding action.

Lastly, we support the Bill and the amendments. I so submit.

MR WONG SING-CHI (in Cantonese): Deputy President, ever since the outbreak of the financial tsunami two years ago, it has been very hard for employees in all trades to earn a living. Millions of wage earners in Hong Kong

have to face in the job market difficulties they have never met before and bear tremendous psychological pressure. Therefore, in view of the structural changes experienced by our economy and the unforeseeable prospects in employment in the labour market, the Democratic Party thinks that the executive authorities should put forward a package of ideas on training and creation of more jobs. Apart from that, the SAR Government should have better measures in policies and laws to protect the rights of wage earners and help these people who have put in the best of their efforts for Hong Kong to face adversity.

In this Legislative Session, three Bills are closely related to the millions of wage earners in Hong Kong. The first one was the Occupational Deafness (Compensation) (Amendment) Bill 2009 passed in February. And there is the Minimum Wage Bill which I hope to be passed within a few months at the earliest. Now we are discussing the Employment (Amendment) Bill 2009 which was introduced in the interim between these two Bills. The introduction of this Bill is precisely due to a considerable number of provisions in the Ordinance failing to protect the reasonable rights of employees. Therefore, the Democratic Party will fully support the passage of this Bill under debate today and the amendments proposed by the Government. I also hope that the Secretary can work hard to designate a day in memory of those people injured at work. Today is 28 April, the Workers' Memorial Day. There are many workers outside who urge the Government to really care about their protection from injury at work. I hope that apart from this Bill, the Secretary can do something in recognition of and compensation for those who died and sustained work injuries.

Deputy President, for many years the Democratic Party has stressed that the labour force in Hong Kong is the main contributor to the brilliant achievements of Hong Kong. Workers are an important part of economic activities and therefore macro policies such as labour and industrial policies, as well as those on technology should be mutually complementary. On the other hand, economic restructuring should take into account the development of human resources for the related policies are interactive. As we all know, the labour force in Hong Kong plays a vital role in our economic development. So the Democratic Party is convinced that wage earners should share the fruits of economic prosperity in a reasonable manner. However and regrettably, as employers and employees have remained in an unequal position in the labour market long term, the market mechanism has not operated in the labour market as

comprehensively as it is in the commodities market. I therefore think that the Government should not only rely on the market mechanism in labour and manpower policies, and meanwhile it should provide some better labour protection and adjust the degree of government intervention in the light of socio-economic development. The Bill of which Second Reading debate is resumed today is a good start and I hope the authorities can keep up with the good work.

Deputy President, as described in the papers today, the object of the Bill is to amend the Employment Ordinance (Cap. 57) to create a new offence against non-payment of any sum awarded by the Labour Tribunal (LT) and the Minor Employment Claims Adjudication Board (MECAB) by employers. The Bill also provides for prosecution in respect of the proposed offence, the liability of directors, partners and employers in this regard, and evidence on certain matters in the legal proceedings. The relevant offence is also applicable to any rulings by the LT and MECAB comprising wages and entitlements underpinned by criminal elements under the Employment Ordinance. Moreover, an employer commits an offence if he wilfully and without reasonable excuse fails to pay the awarded sum within 14 days from the date on which the sum is due. These are the relevant details.

Deputy President, as the authorities have mentioned in the Bills Committee, this Bill which seeks to criminalize non-payment of sums awarded by the LT and MECAB is definitely a breakthrough. This is because the Bill can impose criminal liability directly on any employer who defaults on the payment of a sum awarded by the LT and MECAB. Hence it can punish and achieve a deterrent effect on unscrupulous employers who do not have any genuine financial difficulty but are not willing to pay the sum awarded.

Deputy President, for many years we have seen that there is long-standing inequality between employers and employees in Hong Kong in the labour market. Employees are constantly in a weaker position and even though the International Labour Conventions clearly stipulate that workers should enjoy protection in employment, occupational safety and health, comprehensive social protection, the right to organize trade unions and the rights to collective bargaining and strikes, there is no sound law in Hong Kong to ensure that these reasonable rights are fully realized here. There are no sound laws in Hong Kong to ensure that these …… All along, when employees seek help from the departments concerned to

resolve some of the money disputes with employers which they are unable to settle, they would usually go to the LT and the MECAB for adjudication. As the method of adjudication there and the enforcement of the rulings are no different from a verdict in criminal action, some unscrupulous employers will make full use of this grey area in law and do not take the LT and MECAB seriously. Despite the rulings made, they will not pay the sums awarded. It is in this way that labour laws have become a toothless tiger. Many people from all sectors across the community have expressed their concern for this problem and the attempt to criminalize non-payment of sums awarded by the LT and MECAB today will surely increase the deterrent effect on employers who default on wages and reduce the chances of similar events happening.

Deputy President, after discussions between the Administration and the Bills Committee for several months, the Democratic Party thinks that the amendments proposed by the Bureau are worth supporting. Apart from some technical amendments, the amendments made by the Bureau seek mainly to include compensation under section 32P and terminal payments under section 32O arising from unreasonable and unlawful dismissal in the specified entitlements under the proposed section 43N(1). Deputy President, I believe the decision of the authorities is correct. As for the reasons, Honourable colleagues have explained very clearly in the Bills Committee that although the compensation under section 32P does not carry criminal sanction upon default under the Employment Ordinance, it should be included as "specified entitlements" because it arises from unreasonable and unlawful dismissal. Likewise, terminal payments under section 32O arising out of unreasonable and unlawful dismissal should also be included in the definition of "specified entitlements". Therefore, Deputy President, I think the arrangements in the amendments proposed by the authorities show that they have acceded to the demands of the public. The Democratic Party hopes that the authorities can continue with this good work and, in introducing other Bills in future, think more from the angle of employees and consider their needs. This will result in better protection of the rights of wage earners.

Deputy President, having said this, we that think although we have sung praises of the Government just now, it is not true that it is free from criticism. I would think that some criticisms should be made of the Government in certain aspects. The Democratic Party hopes to make use of this opportunity to express our concern about the enforcement of the eventual Amendment Ordinance in

future. First, our colleagues mentioned in the Bills Committee the proposed stipulation under section 43S of the consent of the Commissioner of Labour (CL). But this requirement may result in unnecessary delay in instituting prosecution against unscrupulous employers who defy the law. The Administration replied that investigations would be conducted speedily and the progress of the cases in question would be closely monitored. These will ensure that after the investigation is complete, summonses will be issued to these unscrupulous employers when the evidence collected is considered sufficient. But can the Labour Department (LD) fulfil this pledge? Does the LD have enough manpower to carry out investigation and prosecution and will this affect the effective enforcement of the Ordinance? Or will the LD be unable to see it through as promised because of some technicalities or some other reasons and hence render the Amendment Ordinance a toothless tiger, leaving the unscrupulous employers at large? These are our concerns. So I hope that the Secretary can keep in close contact with the Department and enforce the Ordinance in earnest so that unscrupulous employers will all be punished. In view of this, the Democratic Party remains cautious.

On the other hand, we think that publicity work for the Ordinance should be stepped up. As Members know, a piece of legislation will remain empty talk despite its being a good one if it cannot be put into force. So the question of whether a law can be enforced hinges on the publicity given to it so that citizens can understand its importance. Now the Government says publicity will be launched in newspapers after the Bill is passed, and posters and promotion leaflets will be distributed to employers' associations, staff unions, human resources manager associations and tripartite trade committees. Efforts will be made in these publicity activities to state clearly the definition of entitlements and that payment in lieu of notice is also covered, and so on. The Democratic Party hopes that Secretary Matthew CHEUNG and the LD can do as they have said and will not go back on their words. For otherwise, the minority unscrupulous employers will be happy as the Government is powerless to fix them and the millions of wage earners in Hong Kong will be disappointed with the Government again. I hope the Secretary can really take this forward and do well in the publicity work.

Lastly, Deputy President, if the Bill can be passed early, it will mean that the millions of wage earners in Hong Kong can benefit earlier. But I think with

the passage of time, there will be a need and also room for the Employment Ordinance to be improved and fine-tuned. The Democratic Party hopes that the authorities can regularly review the Amendment Ordinance in a pragmatic manner to ensure that it has enough flexibility in enforcement and that the Ordinance can keep abreast of the times reasonably.

Thank you, Deputy President. I so submit.

MS LI FUNG-YING (in Cantonese): Deputy President, with two days to go before the 1 May International Labour Day, the resumption of the Second Reading of the Employment (Amendment) Bill 2009 arouses a lot of feelings within me. I support any measure that will enhance the protection of employees, but I am saddened by the fact that the so-called consensus reached in respect of the Bill is a great compromise made in favour of the employers.

According to the authorities, for any small progress to be made in the laws in Hong Kong to further the protection of the rights of workers, an important principle must be fulfilled, and that is, the three parties of employees, employers and the Government must all agree. The Bill under scrutiny on this occasion is a good example of the absurdity of this principle. The aim of the Bill is to penalize those employers who have been ruled against by the Labour Tribunal (LT) and the Minor Employment Claims Adjudication Board (MECAB) but have not fulfilled their obligation to pay the sums in arrears to their employees, such that deterrence can be achieved. To put it in the language of the common people, the Bill aims to target on those employers who have been found guilty. It is clear that they are in the wrong. During the deliberations on the Bill, the Government stressed repeatedly that various stakeholders like representatives of employees and employers have to show their understanding of each other and that the Bill can only become law when employer representatives can assume that the law has enough procedures to ensure that it only targets at employers who wilfully default on payment. But can we make a request to amend the labour law to the effect that employers have to prove that the employees deliberately absent themselves from work before their wages are withheld? If representatives of employers do not agree to this, then on what grounds can they ask that the obligations they owe to the employees should be classified as wilful and otherwise and that an employer is found guilty only when he has acted wilfully? But it is under this principle of tripartite agreement that the pendulum

of the Government is found to swing once again towards the employers and their unreasonable requests are acceded to.

Another shortcoming of the Bill is the duplication of procedures. An employee can only recover the entitlements ruled by the Court after lengthy procedures. Such procedures include a grace period of 14 days after the awarded sum is due and when it is unpaid. On top of this, prosecution can only be instituted when the employer is proved to have acted wilfully and without reasonable excuse. It is obvious that the prosecution procedures are basically a repetition of the procedures in the LT for recovery of wages in arrears. The Government does not agree to combining the civil and criminal proceedings related to default on wages and proceedings related to labour rights, saying that this is likely to have the effect of going beyond the scope of application of the Employment Ordinance (EO). But in the matter of criminalizing default on the statutory entitlements of employees, the Government thinks that the most important thing is to ensure that the newly created offence is only applicable to awards made by the LT and the MECAB and that such awards must comprise employee entitlements under the EO the non-payment of which would entail criminal sanction. I can only say that the Government can say whatever it likes. If it so agrees, it will think that criminalization will have no effect on civil litigation. If it so disagrees, such as in the case of not repeating the prosecution procedures, it will say that it has the effect of going beyond the scope of application of the EO.

(THE PRESIDENT resumed the Chair)

President, we are about to pass this Bill, at a time when the Labour Day is just around the corner. On the surface, this will enhance the protection of employees, but at the deeper level the protection of the rights of the employees has been distorted and fragmented by this need to obtain a so-called consensus from the three parties of employers, employees and the Government. I support the resumption of the Second Reading of this Bill today, but that does not mean that I am satisfied with the fragmented protection given to employees in this Bill. This is the stand I want to make clear at this time before the advent of the Labour Day. Thank you, President.

MR JEFFREY LAM (in Cantonese): President, a company has many important assets, such as plants, machinery, and so on. However, when it comes to the most valuable asset, it must be its employees. Good labour relations motivate the company to move forward. For many employees, the happiest day is the day when they are paid wages. Wages represent returns for their devotion to and recognition of their work. Therefore, I agree that severe penalties should be imposed on a small fraction of employees who are able to pay wages but have wilfully failed to do so.

This Bill targets at the awards of the Labour Tribunal (LT) and the Minor Employment Claims Adjudication Board (MECAB) in that an employer should be held criminally liable for failing to pay any sum awarded "wilfully" and "without reasonable excuse". I agree that greater deterrence can be achieved with this arrangement.

Nevertheless, I wish to emphasize that many employees are concerned that the criminal sanction imposed this time around may affect other civil awards. Given that the awards of the LT and the MECAB are civil in nature, they are enforced in the same way as other civil awards. It seems that the amendments introduced this time to criminalize non-payment of LT and MECAB awards will combine civil and criminal proceedings, to be followed by the imposition of criminal sanction. Representatives of the industrial and business sectors and I have expressed concern about this in the Bills Committee. Therefore, the Government must be absolutely clear in enforcing the law. It cannot rely solely on such explanations or reasons as "enhancing deterrence" or "convicting scrupulous employers" to criminalize civil cases.

President, I think that the authorities must make it clear that the law, after amendment, will only punish employers who have no genuine financial difficulties but are unwilling to pay LT and MECAB awards. In other words, only those who have failed to pay "wilfully" and "without reasonable excuse" should be held criminally liable. The law is not meant to target on people who are simply unable to pay.

At the same time, the onus of proof should not rest on the employer. Instead, the prosecution must prove the wilful intention of the employer. Before giving the written consent for prosecution to proceed, the Commissioner for

Labour is also required to listen to the submission made by the accused or give them ample opportunities to make a submission to avoid catching the innocent.

The authorities must prosecute those who are really responsible for the failure to pay LT and MECAB awards, rather than simply holding directors liable or solely relying on titles to judge if certain persons should be held criminally liable. It must ascertain that the non-payment is caused by the consent, connivance or neglect of the suspect(s) to avoid netting in innocent people.

President, the industrial and business sectors as well as the labour sector have made enormous contribution to Hong Kong economy. The labour relations in the vast majority of companies in Hong Kong are good, and both employers and employees are well aware of their respective responsibilities. Owing to the far-reaching impact of this Amendment Bill, I hope the authorities can launch extensive publicity and education before the commencement of the legislation to give employers (particularly the proprietors of some small and medium enterprises) and employees a clear understanding of the legislation and return to this Council to present a report one year after the commencement of the Amendment Bill, so that the effectiveness of the legislation can be reviewed.

President, I so submit.

MR ANDREW LEUNG (in Cantonese): President, on behalf of the Federation of Hong Kong Industries (FHKI), I speak in support of the Bill today.

Both the FHKI and I have all along stressed that every employer should pay the wages to their staff punctually as a matter of responsibility. In case of default on wages or other financial disputes involving both employers and employees, the employees may seek help from the Labour Tribunal (LT) under the existing mechanism. On this occasion the Government imposes criminal liability on employers who fails to pay sums awarded by the LT or the Minor Employment Claims Adjudication Board (MECAB). The Government stresses that this arrangement will penalize employers without genuine financial difficulty who wilfully refuse to pay the awarded sums, thus achieving greater deterrent effect. Both the FHKI and I agree that the relevant law should be amended to

enhance the deterrent effect and to protect employees who incur financial loss as a result of employers wilfully defaulting on sums awarded by the LT. We agree that the law should thus be amended to protect employees and penalize employers who, despite their financial means, have wilfully refused to comply with LT awards.

President, although we support amending the law, the FHKI and I think that there ought to be some limit in law and one can just not amend a law just because it is thought that the deterrent effect should be enhanced. It is also not fair to handle matters that can be otherwise resolved by civil action by way of criminalization.

In common law, there are different means to handle civil and criminal matters. For criminal cases, there is a higher standard for conviction than that required by civil cases and the prosecution must prove beyond reasonable doubt before a person is convicted. During the deliberations on this Bill, I told many Members of this Council from the business and legal sectors that this Bill, in an attempt to exhaust all means of criminalizing civil matters, was in fact walking on a tightrope. It might lead to great implications to other laws and destroy the common law principles all along treasured by Hong Kong.

As Members have said repeatedly in the meetings, compared to civil proceedings, criminal proceedings require a more stringent standard of proof. As Members of this Council, we are obliged to defend the impartiality of a judicial system and the core values of Hong Kong. Any act of criminalization must be accompanied by sufficient safeguards. Insofar as the current amendment of the Employment Ordinance, we must have sufficient safeguards so that employers who are genuinely unable to pay the award sums will not be penalized.

As I have said in the Bills Committee, after the Bill has come into effect, the authorities must offer more protection to the good employers, including shouldering the burden of proof, instead of placing the burden of proof on the employers and requiring them to prove their innocence. In enforcement, the authorities should target at only shareholders and staff who are genuinely responsible for decision-making, rather than trying to jail shareholders who have made investments but are not related to the non-compliance of LT awards.

On the proposed section 43P(1)(b), that is, making it an offence if an employer fails to pay any sum awarded by the LT, we demand that the two vital elements of "wilfully" and "without reasonable excuse" should be included to single out the wilful non-compliance cases for targeted sanction. When prosecution is to be instituted, the prosecution must prove that the employer in question has knowingly and wilfully defaulted. The Administration explained at the deliberation stage that only when the first tier of offence element was satisfied that the reasonable excuse would come into play to further protect an employer who has presented a valid excuse to avoid conviction.

As a representative of the employers, I urge that before prosecution action or any legal action is taken, the employer concerned should be given an opportunity to state his case. This is because once prosecution action has commenced, a very adverse impact may be caused on the employer and the company. An opportunity for the employer to be heard must be provided before commencement of prosecution, thus ensuring that if there is no reasonable prospect of conviction due to reasonable excuse of the employer, no prosecution will be instituted against him. I consider that the two major elements of "wilfully" and "without reasonable excuse", together with other elements of the Bill, can offer sufficient protection to innocent employers while maintaining the deterrent effect of the law.

In addition, regarding the inclusion of compensation under section 32P and terminal payments under section 32O arising from unreasonable and unlawful dismissal in the specified entitlements in the proposed section 43N(1) which the Secretary is going to propose later, I urge that when enforcement action is to be taken, the suspect should be given an opportunity to be heard and the consent of the Commissioner for Labour (CL) prescribed as a prerequisite to prosecution to ensure that the proposed offence pinpoints wilful defaults only.

In view of the fact that criminalizing civil matters on this occasion is unprecedented, I hope that when the Secretary speaks later, he can undertake that the Administration will keep records as far as practicable on the time required to complete the relevant procedures under the proposed section 43S, that is, giving the suspect a chance to state his case before the CL gives his written consent to commence prosecution. Moreover, it should also review the implementation of

the Amendment Ordinance one year after commencement, including the CL's consent for prosecution and other procedural requirements, and report to the Panel on Manpower.

President, I so submit.

MS AUDREY EU (in Cantonese): The Chairman of the Bills Committee on Employment (Amendment) Bill 2009 used to be Mr Alan LEONG of the Civic Party, but he had resigned as a Member of this Council because of the resignation *en masse* in five functional constituencies to achieve a *de facto* referendum and so he was unable to continue with work on this Bill. President, I am glad that I can show my support for the resumed Second Reading of this Bill today on behalf of the Civic Party.

President, Andrew LEUNG said when he spoke earlier that criminalizing civil matters was unprecedented. In fact, there are many things at common law that may involve both civil and criminal sanctions. Suppose you have a commercial transaction with someone, this is of course on the surface a contract in civil law, but if there is deception, then this can lead to criminal sanction. Or if you have fought with someone, the other party may institute a civil claim against you, saying that you have inflicted bodily harm on another person, but of course a criminal prosecution may also be instituted against you. Likewise, if you drive a car and hit someone or another person's car, of course, you will be involved in a civil claim in insurance, but you may also face a criminal charge. So there are matters that can lead to both civil and criminal actions and this is nothing unusual.

Having said that, the Bill before us today is actually some kind of a breakthrough. Why? Because it is a breakthrough in that if the matter is pursued in a criminal action, some directors may be held liable.

President, Hong Kong is a place where the rule of law prevails, but even if our laws are perfect, if they cannot be enforced, it is only like empty talk. There are many cases where even though the laws are sound, but when the parties involved do not have any bargaining power or they have markedly different degrees of bargaining power, in such circumstances, even if there are laws that can be invoked, the weaker party dare not or cannot invoke such laws. This is

because if the case is taken to the Court, a lot of costs may be incurred and the person cannot afford them. Or he may be worried that if he sues his employer, he may lose his job and other problems may arise. Therefore, he does not dare to sue his employer.

Therefore, President, it is a fact that no matter how labour laws are written, we would often hear employees say when they make a complaint that although it is stipulated in the law that non-payment of wages will lead to criminal prosecution, they will not dare to invoke the relevant law.

Then why do we have this Bill? This is because although the Labour Tribunal (LT) or the Minor Employment Claims Adjudication Board (MECAB) may have made a ruling, saying that the relevant employee can recover his wages in arrears or that the employer in question should pay the wages, and although we can see that there are many such rulings and the employers concerned are prosecuted, there are one-seventh, that is, one in seven such claims cases where the recovery action fails. This means that the employer does not act in accordance with the Court decision. So there are voices demanding that the employers in such cases — especially if the employer is a director of the company concerned — should be held criminally liable. The case should have been regarded as a contract, a civil case where there should be payment of wages, and there is a decision made by the Court. And in this case, if a criminal element is added, that is, when the boss or the director is held liable, would it ensure or enable the employee concerned to have a greater chance of recovering the wages in arrears? It was against this background that the Government introduced this Bill. A long period of time has been spent on scrutinizing it from last year to the present. The Government has made a great compromise and, as Ms LI Fung-ying and many Members from the labour sector have pointed out, the pendulum tends to swing to the side of the employers as many provisions protecting the employers are added to the Bill. We can see this in the following. First, as I have said, before any prosecution can be initiated, there must be a ruling from the LT or the MECAB. Just as Ms LI Fung-ying said, the employer must be found guilty first and he is ruled by the Court to pay the wages in question and there must also be consent from the Commissioner for Labour. Before such consent is given, the suspect is given a chance to be heard and he can make his defence. And then it must be proved that he has acted wilfully and without reasonable excuse before prosecution action can be instituted. The threshold of a criminal offence is high and that means it must be proved beyond

reasonable doubt that the person concerned has defaulted wilfully and does not pay even though he can make such payment and also there is no reasonable excuse for it.

Besides, no prosecution can be instituted if a winding-up order has been issued by the Court against the suspect's company and there is no prosecution witness available. And the employer can pay the sum awarded by the LT in instalments. Hence, all sorts of safeguards are written into the Bill.

It can be seen that the Bill does not target on employers who become bankrupt because of other reasons, when they have no money, unable to pay the wages. The Bill targets on employers who act wilfully, or where deception is involved or who act in total neglect of their duty as employers. Prosecution will be instituted only in these cases. Therefore, the breakthrough or the door opened is in fact very small indeed as all sorts of safeguards are written into the Bill. This explains why Members who are on the side of the employers say that criminal prosecution can be instituted only against employers who have the ability to pay but still exploit the employees.

Secretary, I do not know when after this law is passed or when it is invoked later on, how many prosecutions can actually be initiated. Can the deterrent effect really be achieved? Will there be any improvement to the situation where recovery action fails in one out of seven of these cases? Will the Secretary tell us later in his reply how effective he expects the law to be?

The Civic Party will support a point made by LEE Cheuk-yan earlier, that it is hoped that the Bill can come into force earlier and, where the circumstances permit, the law is made not only sound in drafting but also stringently enforced. Thank you, President.

MR RONNY TONG (in Cantonese): President, the Chairman of our party, Ms Audrey EU, asked me this morning whether I would speak. My immediate response was since all the parties in this Council were supportive of the Bill and no amendment came from any Member, then I wondered if I had any need to speak. I replied that I would not speak. However, as I am sitting here and listening to speeches made by representatives of the bosses, I feel that I have to speak. Is it such an unforgivable sin to sue a boss in Hong Kong?

President, a salesman who sells cooker hoods are always under the strict control of his boss and if in trying to sell a cooker hood worth only a few hundred dollars he said something wrong, then he would prosecuted for a criminal offence. Then is suing one's boss an unforgivable sin? Why will some acts which entail civil sanction turn into acts entailing criminal sanction with the passage of time? It is because when certain civil liabilities have not achieved the result of justice after some time, society would think that such aims cannot be achieved by civil liabilities and so criminal liabilities should be used to strive for or meet a certain goal.

President, there are many examples that can show that the remarks by Mr Andrew LEUNG earlier are not correct. In the Copyright Ordinance, for example, the infringement of copyright entails civil liability, but the person who commits such an act will have to be held criminally liable. This is also the case with insider trading, and a complete balance sheet showing the company's liabilities must be prepared. This is also the case with initial public offers. Such examples can be readily found and there are indeed many, many such examples. It can be said that when civil liability cannot result in justice being done, then there is a case to resort to criminal liability. When criminal liability comes in, the standards applied are completely identical to those required of a criminal prosecution. There is no difference at all. There are also sound safeguards in legal proceedings and principles of justice. We all know that the most important rule in common law is that unintentional conviction of the innocent is a greater evil than the unintentional acquittal of the guilty. All defendants prosecuted in criminal proceedings are given reasonable protection by the Judge to a certain extent in law. The evidence adduced by the prosecution can only be used to convict the defendant when it is proved beyond reasonable doubt. So even if prosecution is instituted, it should not be seen as an oppression of the defendant. The judgment made by the Court is most fair. Then why should some people think that no prosecution should be initiated and that numerous safeguards have to be put in place? President, as I have said, why does a salesman who sells cooker hoods not have all these safeguards but only the boss can have all of them?

President, the provisions in this Bill which are regarded as protection for the boss are described as essential, but they in fact pose difficulty to enforcement. The greatest problem comes from the principles. First, the way the Bill is

written is absurd. President, why do I find it absurd? Let us look at this provision: If the employer wilfully and without reasonable excuse fails to pay any sum payable under the award within 14 days after the date of the award, the employer commits an offence. President, the employer can say that he has forgotten to pay the wages and when the Court rules that payment should be made, he can say, "Sorry, I forgot that the Court had ruled that payment should be made." When the Court orders him to pay, he can ask, "Am I being wilful?" Is this unreasonable? Come to think about this. President, it is "wilfully and without reasonable excuse", not either one. It is "wilfully and without reasonable excuse". President, if something is done wilfully, then there would not be any reasonable excuse for it, right? If there is reasonable excuse, then whether it is done wilfully is out of the question. What we are discussing now is cases in which the Labour Tribunal has ruled that the boss has defaulted on wages and failed to pay them. The Court has already ruled and pointed out that the boss is wrong. But even if the Court has ruled, the boss can still not comply with it, saying that he has reasonable excuse or he has not been wilful. This is his defence. President, this is incredible.

Second, prosecution action can only be instituted after a written consent is issued by the Labour Department (LD). And the boss is still given a chance to explain before written consent is given. In other words, the LD now takes the part played by a Judge and decides for the Judge whether or not this kind of criminal proceedings should commence and it is only with its consent that such proceedings can commence and the case be heard by a Judge.

President, such things are never found in common law system of justice. It is not a healthy development at all. This is because government departments should never intervene in judicial proceedings and they must never decide on such proceedings or whether an act should be tried in a court of law. Why should this happen now? Is a decision made by the LD more powerful and reasonable than one made by the LT? If this is the case, then why should we still have the LT? President, I was furious with these provisions when I examined this Bill. If I was asked about it, I thought I ought to propose some amendments. However, I did not do so because many Honourable colleagues from the labour sector thought that these provisions could be accepted first because it was better than not having the law amended.

President, I am a lawyer and I do not come from the labour sector and so the focus of my attention falls on whether this piece of legislation will be compatible with social justice. From this angle, if I were to propose amendments to this Bill, I might be overreaching myself in some way. I would place myself in an embarrassing position if the labour sector raised objection. My position is similar to that of the labour sector and since it has accepted the Bill, then there is no reason for me not to accept it. But I think the authorities must be held responsible irrespective of whether the labour sector accepts it or not. If something is sensible, then it is so. There is no question about it. If it is not sensible, then it is so, too. There is again no question about it. As a celebrity has said recently, "What is true cannot be false, and what is false cannot be true." This Bill is not only an insult to the labour sector in Hong Kong, it is also an insult to the intelligence of an ordinary man. So I hope that after the Bill is passed into law, after some time, say one or two years, the Secretary should really think about whether the Ordinance should be submitted to the Legislative Council again for amendment into a law that is more reasonable and better meets the requirements of justice and logic, so that employers who default on wages can really be brought under legal sanction and workers can really be protected by law. Thank you, President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, although the Employment (Amendment) Bill 2009 passing through this Council today is by no means perfect, to representatives from the labour sector, it is actually an improvement.

President, why is this an improvement? What is most significant about the Bill? Its greatest significance is that it has dealt with the rulings made by the Labour Tribunal (LT). For so many years in the past, and I do not even remember how many years, rulings made by the LT were all toothless tigers. They are almost useless, and these rulings remain no more than merely rulings. To the employees, they are not useful at all. Why? President, as an example, when an employee wants to recover the wages for his holidays, the sum involved may not be considerable and it may be just a few thousand dollars. If the LT rules in favour of the employee, the employer should be duty-bound to comply

with this ruling and return the sum to that employee. But if in the end the employer refuses to pay this sum of a few thousand dollars to the employee, then what can be done? The LT will only say that it has the responsibility to make this ruling but not the responsibility to recover the compensation awarded to the employee. The responsibility falls on the employee himself.

President, what can the employee do? The only thing that he can do is to institute civil proceedings, and in a civil action, the methods that can be used include liquidation. But if one wants to apply for the liquidation or petition for the bankruptcy of a company, the first thing he has to do is to spend a sum of money finding a bailiff to commence the winding up work of that company. The bailiff will demand a sum of money from that employee. If my memory is correct, the sum seems to be $2,000 and every time when the bailiff goes out on his official duty, a sum of $300 will be deducted. And if my memory is correct again, this is the sum to be deducted every time and such deductions will continue. If the bailiff fails in his first trip, then another trip will have to be made for the second time, the third time, and so on. What does all this mean to the employee? He sets out to recover an amount of money the employer owes him, but he ends up spending money first. The money spent is gone and cannot be claimed for reimbursement. But the worst thing is that for some companies, they may only have a few desks in their office and if the employee wants to include these furniture items in the liquidation, the bailiff will come and verify these company assets. But how much are desks and chairs worth? If they are sold, they may only worth some tens of dollars. Then at most the employee will get some tens of dollars. The issues which he will face are: first, his job is no more because the company has wound up and he is not employed; second, apart from this sum of tens of dollars, he can get nothing back, and there is also time wasted as the whole thing would need time. For the employee, he has to spend some $2,000 to $3,000 first in order to recover a few thousand dollars and he also needs to spend so much time. In view of this, many employees would just give up and stop trying to recover the money. It is because of this situation that many employers would just procrastinate on these awards and some even refuse to pay the compensation.

President, the rulings made by the LT are lawful and reasonable and the sum awarded is what the employee deserves. But employees can only regard themselves as unlucky because they can only have the ruling on paper, but the ruling will lead to no result at all. What is all that to us? In the past, we really

felt that we were powerless and could do nothing about the situation. This was because we could see that workers should have certain entitlements and these were due to them, but they were lost because of some factors beyond their control. I think this should not have happened and it is not worth it. So we have told the Government repeatedly that the problem must be addressed squarely and something must be done about it. Unfortunately and after all these years — it must have been more than 30 years since I began to fight for workers' rights in the 1970s up to now — nothing has changed. Employees can only pursue the matter, but to no avail.

On this occasion, the Government has made a big change and it is willing to take a step forward. The step taken by the Government is that prosecution will be taken if an employer has contravened a ruling made by the LT without reasonable excuse. There are of course many possible reasonable excuses and the authorities will need to consider all of them before instituting prosecution. It remains, however, an uncertainty as to whether prosecution action can be instituted. This is because the case has to go through some legal proceedings.

I hope very much that if the Bill is passed into law, at least some deterrent effect can be achieved on these unscrupulous employers. We know, of course, that not all employers are unscrupulous, but the kind of employers whom I have just talked about is certainly unscrupulous. In the end, the employees can get some compensation. This is what the employees deserve, even though the money at stake may not be a large amount. This is the most important thing of all. The method used in recovering a huge sum of money may be different and there are actually many recovery methods. When the deterrent effect is there, at least it would help the employees because they would not have to pay a lot of money before getting the compensation they are entitled to get. We attach great importance to this point and we support it.

But is this Bill free of shortcomings? No. In the point about reasonable excuse which I have just talked about and also the previous practice adopted by the LD for this problem and such like matters, we have to gather enough experience before work on this can be improved. I hope very much that the Government can learn from the cases, make constant adjustments and conduct reviews after the Bill is passed into law. Then workers can obtain the compensation to which they are entitled. Many of us from the labour sector

always say that the most important thing about work is to get paid and one's labour should be rewarded. We say this all the time. But for many years in the past, this was not the case and workers could not get what they deserved and their rights were not protected. Such problems have been here all along.

I can only see the Bill as a first step, a step which gives the rulings made by the LT some legal power. As to whether the LT can change its past image of a toothless tiger, we will have to wait until the law is implemented later on. I do not think any drastic and revolutionary change will result. But as we can see from many past examples, if we do not solve these problems, the impact on employee protection will become increasingly negative. Many employees will be disappointed and they will lose their confidence.

For all these reasons, we will certainly support this Bill and we hope that the Government can conduct more reviews to increase the transparency of the cases and make the problems public. This will enable us to know the inadequacies and shortcomings of the law so that amendments can be made later to enhance and improve it. Only by doing so can the law serve its purpose effectively.

I also hope other Honourable colleagues can support the Bill because it is a good start. It will help workers enjoy the basic protection they should get, reduce their loss and the unfair treatment they face.

President, I so submit.

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

MR PAUL TSE (in Cantonese): President, like Mr Ronny TONG, I did not intend to speak originally. But after hearing his remarks, I might as well raise another point of view from the legal perspective. In fact, at the meetings of the Bills Committee, I have heard of similar arguments advanced by Mr Ronny TONG, and I have also expressed similar opinions before. However, given that there is a chance now, I would like to reiterate them here.

President, a lot of such topics are being discussed in society. In fact, there is no absolute right and wrong, for social phenomena may tilt towards the left at a

certain stage. And sometimes, due to the occurrence of certain incidents, they may tilt towards the right. Perhaps, they simply keep on changing. All along, I tend to favour the less legislation the better because once legislation is enacted, there are bound to be enforcement problems. Of course, the ideal society is that there is no legislation and every one of us knows what we should do. But this is just an ideal that can never be realized. With continuous development, our society has become increasingly complicated, and it is thus necessary to enact more and more legislation. But standards are changing continuously. Why are some Honourable colleagues or certain sectors in society wary about criminalizing default on payment of wages and unwilling to accept it? They do not support unscrupulous employers, nor are they reluctant to help those workers who have toiled and laboured. President, the most important point is, where should we draw the line?

As a matter of fact, apart from many employees who have toiled very hard but fail to get their wages, I have also come across some cases in which many small bosses of small and medium enterprises, though having put in much hard work and effort and hired one or two staff, cannot get any payment even though they have got some businesses. They have lost all of their capital in the end and worse still, they have to pay wages for their staff. What do these small bosses feel? They have also toiled and laboured so hard and borne the risk. But why do they fail to get any money in the end and may even be prosecuted? They are facing the same problem. No matter the judgment is made by the Small Claims Tribunal or District Courts, in case someone refuses to pay or runs into bankruptcy, they cannot get any money and will lose all of their capital. The situation is the same, only that the number of workers and cases relating to the labour sector is higher and the political power may also be greater.

Therefore, it is advisable for the Government to move the line a little bit now. In principle, we should not criminalize civil claims, disputes and monetary claims arbitrarily. However, as mentioned by Mr Ronny TONG, if there is too much injustice in society, then up to a certain stage, we should move the line a little bit. Certainly, we must be very careful when drawing the line, as this may affect others' thinking and practice. Therefore, we should try it out slowly and gradually. Some colleagues from the business sector remind us that we should be extremely cautious and never be too aggressive. Otherwise, it may lead to changes in the whole ecology. This is understandable. However, what I most wish to comment on is Mr Ronny TONG's point about why, prior to the

criminalization, we still have to set some hurdles even though a judgment has been made. President, the reason is very simple. We, being lawyers, should all know it. Therefore, I was very much surprised by Mr Ronny TONG raising such a question. Even though the Judge has made an order, no matter it is an injunction or award of compensation, if a person does not comply with it, it is necessary to further prosecute him for contempt of court. Very often, such cases have to be referred back to the Court, so as to give him a chance to explain why he has not complied with the Court order. After that, he can then be sentenced to imprisonment. We cannot put someone who does not comply with the Court order in jail arbitrarily. The reason is so simple. We wish to draw a line to strike a balance between compliance with Court orders and prevention of putting someone in jail without reason. We simply want to provide an additional safeguard. It is that simple.

Mr Ronny TONG has asked why there should be a trial after the Court has made a judgment. Taking cases of refusal to pay maintenance as an example, shall we arrest those coldhearted husbands or wives immediately and put them all in jail? Moreover, as for cases involving small claims, given that victims have lent money to others and cannot get it back, or fail to obtain payment after dealing businesses with others, why should there be a trial instead of arresting and putting them in jail immediately? It is because a line must be drawn. Therefore, President, we should try it out now, and those people in the labour sector have also accepted it reasonably. In case we come to other situations which are more troublesome or involve serious abuse, we may have to move the line again. However, it is inappropriate to draw the line too aggressively for the time being to criminalize defaulted payment of wages without providing any safeguard. This is a relatively mild approach or a happy mean which a society like Hong Kong should adopt.

Of course, if we notice that such a line still fails to help wage earners in enforcement, I believe the majority public, including Honourable colleagues in this Council, will agree to further amending and tightening the legislation, so as to offer more assistance to the labour sector. But now, I do not consider the line unreasonable. I think it is a pity for the Government to bear pressures from both the labour sector and employers, hardly pleasing them at all. However, regarding these controversial issues, there is bound to be such a situation. All in all, I agree that the line should be drawn here, for it will not change human rights or freedom, which is *per se* a civil responsibility, into a criminal responsibility

too harshly without providing any safeguard. I only consider that there is no harm for me to express my point of view, so as to strike a balance. Thank you, President.

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

MR WONG KWOK-HING (in Cantonese): President, I wish to tell you that today is the happiest day since I have joined the Legislative Council, for this legislation on criminalization of defaulted payment of wages will soon be endorsed, representing an ultimate victory of all wage earners in Hong Kong whose wages are in arrears.

President, I am very happy because the endorsement of the Employment (Amendment) Bill 2009 is one of my three major wishes for participating in the work of the Legislative Council. Today, its passage represents the realization of my wish. I do have a sense of success and satisfaction, for this Amendment Bill is a breakthrough to plug the loopholes of the Employment Ordinance which has come into effect for more than 40 years since 1986. Ultimately, we can plug the loopholes of this Ordinance by means of this amendment.

The achievement we have today is attributed to years of efforts made by many members from the labour sector and workers whose wages are in arrears. They have suffered a lot in order to express such an aspiration. However, for more than 20 years under the governance of the Hong Kong-British Government, they could hardly strive for anything. The problem simply remained unresolved during the 28 years before 1997. The labour sector had been fighting for it for more than 20 years and could hardly make any breakthrough during the era of the Hong Kong-British Government. The SAR Government has been established for 14 years, but no breakthrough can be made until today. It takes more than 40 years for us to achieve such a breakthrough.

President, if this Ordinance is not amended, even though the Court or the Labour Tribunal (LT) rules in favour of workers, they can get nothing in the end as there is indeed no way for them to recover the arrears. If they wish to do so, they have to hire bailiffs to wind up the company at their own expenses and then

conduct an auction. A great deal of administrative costs will be involved, and it is an unknown whether the amount so obtained is sufficient to cover the costs for hiring bailiffs and other administrative costs. After deducting all these costs, they can then recover their wages in arrears. The situation is like this and I need not make it too complicated. In this society which attaches importance to human rights and democracy, why is there no protection for wage earners? In view of such a phenomenon of "working without pay", is there any justice in our society at all? Why has the legislature failed to make any amendment over the past several decades? After all, though a belated amendment, it is better than nothing. We have been waiting for it for more than 40 years.

President, precisely because of this loophole, in particular, non-payment of LT awards being not a criminal offence, unscrupulous employers can default on their payments as long as they wish. I do not mean that all employers are so unscrupulous. It is not fair to blame all of them, nor is it the stance of the labour sector. President, five strange phenomena have emerged as a result. The first one is that unscrupulous employers and contractors would tell their workers, "There is no problem to pay wages to you, but is it okay for you to receive, say, 50% or even 40% of your wages?" They simply keep on deducting their wages, and this is really what they have said, "Take it if it is okay, or else you can approach the Labour Department (LD) for assistance." Indeed, there is no need for me to prepare a script as this is part of my life. I have handled labour disputes for several decades, and this is what I have always heard from workers.

Secondly, the LD, after receiving complaints from workers, will invite both parties to a meeting to conduct conciliation. Although the conclusion is that workers are right and have won in principle, the LD will tell them, "Even if the case is brought to the Court, you may not be able to get back your money. Are you willing to accept a smaller amount?" Isn't it most ridiculous? How can the LD ask workers to accept a smaller amount? They have worked so hard but cannot get the full pay.

Thirdly, there was no LT in the past. This explains why Mr LEE Cheuk-yan said, "after the LT has established", for we did not have the LT in the past. After the establishment of the LT, conciliation will be conducted before making adjudication. The procedure of conciliation is that the LT will persuade workers to accept a smaller amount. Otherwise, even it has ruled in favour of

workers that they are entitled to the full payment of their wages, they may not be able to get back their money in the end. As I have just mentioned, workers should hire bailiffs at their own expenses. This is the third strange phenomenon.

The fourth strange phenomenon is that even if workers cannot get a single cent, they can do nothing. President, in order to get back the wages, some workers even climb up to scaffolds or signboards to commit suicide. In fact, they simply want to call in the police and ambulances, so as to force the Government to impose pressure on employers. Only then will employers be willing to sit down and negotiate with them to see if what percentage of their wages can be offered. How ridiculous. Why is there this phenomenon of "working without pay" in such a civilized society like Hong Kong? Workers have no alternative but to commit suicide and inflict injuries to themselves, so as to get back their wages. Is there any conscience in our society at all? Is there anything else which is more terrible than this?

President, the fifth strange phenomenon is that unscrupulous employers simply regard the Protection of Wages on Insolvency Fund (PWIF) as an automatic teller machine. They dare say, "I have no money. Just go to the PWIF. Let me give you the phone number. Do call it for assistance!" Those employers dare tell their workers to do so. President, I wish to quote some figures here. In the year 2007-2008, the PWIF granted $79,400,000; in the year 2008-2009, the PWIF granted $129,500,000; and in 2009 (not a whole year), the PWIF granted $143,400,000 as at 28 February 2010. More and more money has been withdrawn from this automatic teller machine.

President, all these strange phenomena have shown that it is absolutely impossible if judgments made by the LT and the Court are of a civil rather than criminal nature. Although this legislation is quite complicated and does involve benefits of both sides, many Honourable Members have also mentioned its complexity during the debate just now and explained that it is impossible to not criminalize it. In fact, it is essential and necessary to do so.

President, I am very grateful to see that this Amendment Bill will soon be endorsed today, and it is not necessary for me to speak too much anymore. I only wish to express my gratitude to a number of persons. The first one is a domestic worker called Yuen-kam, who is the client of a default case handled by

me in the Hong Kong Union of China Workers 40 years ago. She had toiled so hard for her whole life but failed to get any pay. Although the Fanling Magistracy ruled in favour of her at that time, she was unable to get a single cent. Because of this incident, I avowed to serve the labour sector and get this problem solved. Therefore, I wish to thank Yuen-kam for demonstrating her perseverance and enlightenment to me.

Secondly, I wish to thank workers whose wages were in arrears in the Dickson incident, which was also the trigger point forcing the Government to amend the legislation during these two terms of the Legislative Council. President, on 16 February 2006, three site workers of the Dickson Construction Company Limited whose wages were in arrears approached me for assistance. In this incident, 980 workers were involved, with defaulted payment of wages for 10 months amounting to over $20 million. As the incident could not be resolved after a six-hour negotiation at the Housing Department (HD) on 17 February, we led those workers to the Government House to stage a petition. Secretary Matthew CHEUNG was also there. Subsequently, we negotiated with the HD and had a 24-hour sit-in outside the HD. They composed a poem(1) at that time. I wonder if the Secretary can still remember it.

"Wages in arrears, when will this end ever?
How much does one know of our miseries?
Wages denied and cheques dishonoured; in straitened circumstances, we couldn't bear to look at our debts
Sweat and toil must still be there, only the promises are hot air
How much sorrow will be there?
Like a spring river flowing all the way to the east."

They all shaved their heads bald to accuse the Government of not enforcing the law. Indeed, this is a fact. Do you know that they have yet to receive their wages even now?

The third person I wish to thank is the former Chairman of the Hong Kong Construction Industry Employees General Union, CHOI Chun-wa. He, in collaboration with members of the Union, has made every effort to urge the

(1) The poem is to the tune of the YU Beauty, which was written by LI Yu, the last king of the Southern Tang kingdom in the five dynasties period (907-960 A.D.)

Government to solve the problem of defaulted payment of wages. Fourthly, I wish to thank Secretary Matthew CHEUNG and Secretary for Justice WONG Yan-lung. During the last term of the Legislative Council, I had been negotiating with Secretary Matthew CHEUNG. He should have heard of the song "Half a catty makes eight taels" I once sang in this Chamber, "We give half a catty of efforts but are not rewarded with eight taels". The Secretary did follow up the problem subsequently. I wish to express my gratitude to the Secretary for making genuine efforts to convey my views to Secretary for Justice WONG Yan-lung.

On 20 October 2008, that is, at the beginning of this term of the Legislative Council, I raise a request with Secretary for Justice WONG Yan-lung when raising questions regarding the policy address at the Panel on Administration of Justice and Legal Services. He accepted my request, saying that he had talked about it with the Secretary in detail and would introduce this Bill around September 2009. I wish to thank the Secretary and the Secretary for Justice for honouring their commitment. The Bill was eventually introduced, which is really a breakthrough.

Lastly, I wish to thank all Honourable Members who have worked very hard during this term of the Legislative Council. Although we come from different political parties and groupings and some of us even do not have any political affiliation, we all insist on putting in efforts for this legislation and eventually, we have achieved it today. However, I would like to respond to a comment made by Mr Ronny TONG just now. He said, "Originally, I also wish to propose amendments. But it seems that Members from the labour sector have already accepted it." He chose to make such a comment by the end of the debate today, giving no chance for Members from the labour sector present here to defend. It is unfair to them. If he wishes to make an accusation, he should do so earlier, rather than raising it at a time when others have no more opportunities to speak. I believe "Fung-ying" and other Members representing the labour sector will not be satisfied with it. President, the fact I wish to state is that if the Civic Party proposes an amendment, we will certainly support it. But Mr Ronny TONG from the Civic Party has not proposed any amendment. And now, he dares say that others have already accepted it. Such practice is not only against morality and justice, but also unfair. And most importantly, it is not the truth. I have to voice it out here; otherwise, this will do injustice to those Members who are elected by the labour sector if it is so recorded in the history.

President, in the last 20-odd seconds, I wish to strongly express a number of aspirations to the Government and Secretary Matthew CHEUNG. First of all, I wish the authorities can honour their commitment to execute their power of prosecution in a serious and prudent manner. As committed by the authorities at the meeting of the Bills Committee, they will deal with it as expeditiously as possible. I wish they can give me a response. Secondly, I hope that a review can be conducted after this law has been implemented for a period of time. As the saying goes, "while the righteous is mighty, the sinister is even mightier". We should never be lenient in combating those unscrupulous employers.*(The buzzer sounded)* …… Thank you, President.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, your speaking time is up.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Labour and Welfare to reply. This debate will come to a close after the Secretary has replied.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all, I would like to express my gratitude to the Chairman of the Bills Committee on Employment (Amendment) Bill 2009 (the Bills Committee), Mr WONG Ting-kwong, the former Chairman, Mr Alan LEONG and other members. The Bills Committee has held nine meetings to conduct detailed scrutiny and put forth valuable opinions on the Employment (Amendment) Bill 2009 (the Bill), so that we can resume the Second Reading debate on the Bill this afternoon.

The Bill mainly seeks to amend the Employment Ordinance (the EO) to create a new criminal offence against employers failing to make payment under an award of the Labour Tribunal (LT) and the Minor Employment Claims

Adjudication Board (MECAB), so as to achieve better protection of employees' rights and benefits.

The Bill, being very complicated, is a breakthrough in our policies. All along, the LT and the MECAB have been providing a speedy, inexpensive and informal forum for the adjudication of employment claims. The modes of enforcement of such awards are no different from the enforcement of any other civil judgments in respect of which the successful party bears the responsibility of enforcing the judgment if it is not complied with. Therefore, in case those irresponsible employers fail to effect payment of wages and entitlements to their employees wilfully even after the LT and the MECAB have so awarded, employees have to enforce such awards themselves. But very often, due to the time, money and efforts required, they are not able to get back their entitlements and seek justice in the end. Several Honourable Members have analysed this problem in detail.

There has been increasing concern in the community over some employers' failure to effect payment to their employees even after the LT and the MECAB have so awarded. Stakeholders are strongly in favour of making non-payment of LT awards a criminal offence, so as to achieve additional deterrence. Although some employer representatives also agree to imposing legal sanction on irresponsible employers, they think caution should be exercised to ensure that employers with no wilful intent to evade payments will not be netted in. After detailed consideration and thorough consultation with stakeholders on the proposal, the Administration introduced the Bill.

Although LT and MECAB awards are civil judgments in nature, defaults on wages and other statutory entitlements, unlike other civil debts, are underpinned by criminal sanction under the EO. The amendment is made on this basis, requiring that the new offence is applicable to non-payment of LT and MECAB awards comprising wage and entitlements that are underpinned by criminal sanction under the EO.

The Bill proposes that if an employer who wilfully and without reasonable excuse fails to pay any sum payable under an award within 14 days from the due date commits an offence, with a maximum penalty of $350,000 and three years' imprisonment. The elements of "willfully and without reasonable excuse" adopted in the new offence and the proposed level of penalty are on par with the

wage offences under the existing EO, which can also target at employers with intent to default and achieve deterrence effectively.

If an employer is a body corporate, the Bill proposes to introduce a provision similar to the existing section 64B under the EO, that is, the director and other responsible officers of the body corporate should be held liable for the defaults. As proposed, if a body corporate is proved to have committed the offence of defaulting on an award with the consent, connivance or neglect of its director or other responsible officers, the director or other responsible officers are also liable for the same offence. According to the Labour Department's experience, the provision serves as an important deterrent against the offence of body corporate defaults. At the same time, it can target at the truly culpable persons involved in such offence effectively and avoid netting in those who have totally no part to play in it. Similar provisions are also applicable to the situation under which if a partner of a firm has defaulted on an award, other partners or the management should also be held liable for it because of their consent, connivance or neglect.

After conducting a detailed scrutiny on the Bill, the Bills Committee is broadly supportive of its proposals and has put forth a lot of valuable opinions. And in consideration of members' view that unreasonable and unlawful dismissal is a criminal offence, the authorities have decided to move an amendment. If it is adjudicated that compensation under section 32P and terminal payments under section 32O arise from unreasonable and unlawful dismissal, such adjudication should also be included in the scope of the new offence. Also, we will propose to make a technical amendment to the drafting. I will move the proposed amendment at the Committee stage later.

Some Members have expressed concerns in their speeches just now, worrying that delay will be resulted if written consent by the Commissioner for Labour and hearing of the suspect are required under the proposed section 43S in clause 4 before prosecution can be initiated. I have to point out that as the legislative intent of the Bill is to target at those employers who wilfully and without reasonable excuse fail to pay the award, we should ensure the provision of sufficient procedural safeguards to identify wilful offenders. Moreover, the requirements can give the suspect an early opportunity to inform the authorities of his explanation and any special circumstances that would mitigate his culpability

or even make it unnecessary to bring prosecution against him. This is beneficial to both the employers and the employees involved, as it can help expedite the process of investigation and prosecution.

As a matter of fact, the procedure stipulated under section 43S is already applicable to wage offences at present. Our experience in enforcement shows that the requirements can help identify those employers with intent to default, so as to ensure that prosecution is fair and reasonable. Moreover, other offences under the EO that can lead to imprisonment bear the same requirements. Also, there are similar requirements in other ordinances.

The Labour Department will review its manpower requirement after the passage of the Bill, so as to ensure the adequacy of manpower for enforcement. Given that time should be allowed for the Judiciary to formulate the details of enforcement, coupled with the fact that extensive publicity and education will be conducted prior to the introduction of the new law to enable employers to understand the requirements, the new law, hopefully, can be implemented in the second half of this year. I undertake that after the law has been implemented for a period of time, I will give the Panel on Manpower (the Panel) of the Legislative Council a full account of its progress and implementation.

President, the Bill proposed by the authorities has taken the benefits and concerns of both employers and employees into account. On the one hand, it has achieved stronger deterrence against non-payment of LT and MECAB awards. At the same time, it can ensure that the new offence only targets at employers with intent to default, rather than those who have genuine financial difficulty or other concrete reasons. The proposal represents a consensus achieved by employers and employees in a tolerant and understanding manner, with a view to solving the problem which has troubled us for 40 years. As mentioned by Mr WONG Kwok-hing, it is a long-standing and major problem which is very difficult to solve. This proposal has been discussed and supported by the Labour Advisory Board and the Panel, and it has also incorporated the views put forth by the Bills Committee.

With these remarks, President, I implore Members to support the Bill and the amendments to be moved at the Committee stage later. I also wish to thank many Members for recognizing my work, as well as supporting us over the past

period of time, so that we can make such a great breakthrough this time. We will be very grateful if the Bill can be endorsed before the Labour Day. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Employment (Amendment) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Employment (Amendment) Bill 2009.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

EMPLOYMENT (AMENDMENT) BILL 2009

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employment (Amendment) Bill 2009.

CLERK (in Cantonese): Clauses 1, 2 and 3.

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2 and 3 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clause 4.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Chairman, I move the amendments to clause 4, as set out in the paper circularized to Members.

During the resumed Second Reading debate on the Employment (Amendment) Bill 2009 (the Bill), I mentioned that the new offence proposed in the Bill, which is applicable to awards of the Labour Tribunal (LT) and the Minor Employment Claims Adjudication Board (MECAB), should include wages and entitlements that are underpinned by criminal sanction under the Employment Ordinance (EO). In considering the criminalization of non-payment of LT and MECAB awards, the authorities note that some stakeholders have expressed concern about the read-across implications on other civil judgments. However, given that non-payment of wages and other statutory entitlements is a criminal offence under the EO, LT and MECAB awards being covered are unlike other entitlements which are purely civil debts. Therefore, the authorities propose that

the scope of the new offence should be established on this basis, so as to forestall read-across implications on other parts of the civil adjudication system.

The proposed section 43N(1) has set out payments that carry criminal sanction under the EO and defined them as "specified entitlements". In the course of scrutiny by the Bills Committee on Employment (Amendment) Bill 2009 (the Bills Committee), some members held that under the EO, although the compensation under section 32P does not carry criminal sanction upon its default, it should be covered as "specified entitlement", for it arises out of unreasonable and unlawful dismissal which *per se* is a criminal offence. By the same token, they consider that terminal payments under section 32O arising out of unreasonable and unlawful dismissal should also be included in the definition of "specified entitlement".

After considering prudently the possible read-across implications and consulting stakeholders, we consider that the criminal sanction upon unreasonable and unlawful dismissal can constitute a basis, resulting that awards made under section 32P and section 32O will be unlike other entitlements which are purely civil debts. For this reason, we propose to amend section 43N(1), so as to include the awards I have just mentioned in the definition of "specified entitlement". With such an amendment, if the adjudication made by the LT and the MECAB includes these awards, the new offence will also be applicable.

Moreover, the authorities also propose to make a technical amendment to the Chinese text of the proposed section 43R(1), so that its Chinese and English texts can be more consistent with each other.

These amendments have been agreed by the Bills Committee. I hope all Members can support and endorse them. Thank you, Chairman.

Proposed amendment

Clause 4 (see Annex I)

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Labour and Welfare be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendment passed.

CLERK (in Cantonese): Clause 4 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 4 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

EMPLOYMENT (AMENDMENT) BILL 2009

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the

Employment (Amendment) Bill 2009

has passed through Committee with amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Employment (Amendment) Bill 2009 be read the Third time and do pass.

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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Employment (Amendment) Bill 2009.

MEMBERS' MOTIONS

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

PRESIDENT (in Cantonese): First motion: Strengthening the regulation of the sale of residential properties.

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

I now call upon Mr James TO to speak and move his motion.

STRENGTHENING THE REGULATION OF THE SALE OF RESIDENTIAL PROPERTIES

MR JAMES TO (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

President, what we are going to discuss today is legislation on the guidelines on the sale of properties. In fact, this is nothing new. Mr Martin LEE had proposed a similar motion in 2006, which was negatived by a margin of one vote from Members returned by functional constituencies. I hope the situation can be better today, for it appears that the overall atmosphere of our society is slightly different from that in the past.

However, President, why do we keep on discussing if the sale of properties should be subject to regulation in law? In fact, we find that the present situation

is really very ridiculous. Recently, even the general public are saying, "In case there is any rigging in the stock market, the Securities and Futures Commission (SFC) has the statutory power to investigate into it. After investigation, it may handle such malpractice as a criminal case, while those being involved may even be sentenced to imprisonment and fines. But in case there is any rigging in the sale of properties, that is, if our secretary and director suspect that developers have engaged in market rigging, they will write letters to developers as if they are pen pals, and then wait for their replies. Subsequently, they will have correspondences with each other and become close pen pals. There are cases which have yet been settled to date." In fact, we, including the general public, suspect that there is rigging in the property market. As the Government faces great pressure, coupled with the incidence of a particular case, it eventually considered that follow-up can be made. So, they have correspondences with each other.

There are examples in which small traders and salesmen mislead consumers in the course of marketing. The most recent one is about the sale of range hoods, which was also mentioned by an Honourable colleague just now. The salesman concerned has been sentenced to imprisonment. However, the misleading practice adopted by large property developers has become a sales tactic. If small traders cheat, they will be arrested by the Customs and Excise Department and sentenced to imprisonment. On the contrary, if developers cheat, we may think that they are so smart in employing such a sales tactic, which is simply part of market operation.

Over the past one or two decades, we have all along been very concerned about whether legislation should be enacted on the sale of properties. Actually, we all know the background of this proposal. In 2000, Secretary Dominic WONG introduced a White Bill for consultation. But why was it withdrawn then? As reported subsequently, the Government had seemingly made a comment in the Executive Council in January 2001 that due to the doldrums in the property market, it hoped that the bill could be considered afresh pending improvement of the market situation in future. At that time, the Government had secured some administrative commitments by The Real Estate Developers Association (REDA). In view of the prevailing situation in the property market, the Government was afraid that it would deal a great blow to the market if numerous pieces of regulatory legislation were enacted. But most ridiculously, the Government also suggests adopting administrative measures to regulate the

overheated property market in recent years, only that it does not rule out the possibility of enacting legislation.

I asked my assistant to conduct a brief research and found that since 2000, the Government has mentioned 11 times that it will not rule out the possibility of enacting legislation. Whenever it makes such a comment, I will think of Master WONG Fei-hung starred by Alan TAM in a film. Every time, he will tell the other leading actor, "Do not do that again or I will beat you up. Do not come over here or I will beat you up. Do not come towards me or I will beat you up. Do not come near me anymore or I will beat you up." Of course, it is a comedy. But let us think about it. The Government has mentioned a dozen of times over the past 10-odd years, "Do not do that again or I will enact legislation. Do not push me anymore or I will enact legislation." It seems that a little progress is made each time, that is, introducing a number of additional administrative measures.

Of course, it is quite interesting this time around as the Government said, "We have not consulted REDA but introduced these measures unilaterally." When these so-called "nine proposals, 12 requirements" were introduced, the Vice Chairman of REDA came out simultaneously and spoke with a stutter, "The Government seldom consults us. Originally, it said that it would. But no consultation has been made so far. In fact, we should be consulted as there is room for improvement."

While such words are still ringing in our ears, we have noticed the sale situation of the Larvotto. Before obtaining the pre-sale consent, some real estate agents have begun to accept cheques willy-nilly. Of course, we may find an advertisement in the past few days, in which developers indicate that they have not instructed real estate agents to accept cheques, nor do they know whether their floor plan is true or not. But this is only their one-sided view, alleging that they have never told real estate agents to do so. Moreover, the Estate Agents Authority (EAA) has only targeted its investigation at real estate agents, rather than developers.

As we can imagine, there is fierce competition among real estate agents. However, without the acquiescence or implication made by developers (who allege that they have not given them any instruction), I think those real estate agents will not release the so-called floor plan and price list to several buyers in such a high profile. Eventually, they have not sold any flat, for they do not have

a binding agreement at all. In the absence of a binding agreement, no flat can be sold. Moreover, the developer has not applied for a pre-sale consent from the Government, not to mention the sale of flats. If this is the case, the developer can explain itself away easily, saying that it was simply trying to collect market information at that time, or those buyers were so eager to purchase the flats that they issued cheques even though they had not yet obtained the price list. The Government said that it should offer them some assistance, so that they could get the price list three days prior to sale. However, buyers have given their cheques to real estate agents even though they did not know the price beforehand.

If this is the case, what kind of world is this? Put it bluntly, I can only say that developers simply ignore the Government. On the one hand, they say that buyers are allowed to take pictures and measurements in their show flats. But when journalists pretended to be buyers and requested to do so, they obstructed them on all sorts of excuses (please excuse me for the vulgarity in Cantonese), trying to make things difficult for them. Moreover, after the Government had announced the introduction of a number of measures, several journalists pretended to be buyers and visited their show flats during these few days. But they could not find any indication on the walls or any door being installed. There was neither any show flat with no fittings inside, nor any list of electrical appliances or other products to be provided. Moreover, after removing those non-structural load-bearing walls, no solid line was marked on the floor to indicate their original positions. Also, doors of all the rooms and toilets in those flats were removed, and no solid line was marked on the floor to indicate their positions and sizes.

President, developers have currently stated their stance that there is room for co-operation with the Government. However, when the Government requested them to provide the price list a few days ago, they expressed great grievances, saying that such a practice would affect the market operation. I find it very strange. Talking about the influence on the market operation, I wish to ask, if small traders cheat by using inaccurate weighing and measuring equipment, can they say that this is related to the market operation? It is because many traders will cheat. For example, in tying up hairy crabs, why can't they use some more reeds? Every one in the market is doing the same thing, right? Can they use this as an excuse? No, they cannot. However, property developers can do so, saying that such a practice will affect the sale tactics in the market. They are afraid that their flats cannot be sold.

President, the crux of the problem certainly lies in whether there is any cheat or rigging in the market. We should have a formal mechanism and regulatory framework to protect consumers' interest. If you ask me, does the Consumer Council have sufficient power to protect their interest? I think it does not. However, if it can act more proactively, I will not object to it. As we can imagine, the SFC is responsible for protecting investors' interest in the securities market, and if we request the Government to set up an ad hoc regulatory body to protect the life savings of the public, which may involve millions or even tens of millions of investment on home ownership, is it unreasonable at all?

As far as I know, many developers consider that they have all along been playing the bully. The Government has to rely on them for selecting the Chief Executive, while the Central Government also has to listen to them in preserving the functional constituencies. Undoubtedly, they are very influential. However, as public grievances become more serious and our Premier keeps on saying that there are deep-rooted conflicts in Hong Kong, I believe our Premier should know what Hong Kong people are concerned about. Have those people adopted some reasonable approaches? What benefits have they obtained in Hong Kong? What attitudes do they hold? How do they treat the public in Hong Kong? I believe every one of us knows the answers. Put it bluntly, the crux of the problem lies in the supply of properties. If we introduce too many measures in respect of property transactions, we may somehow shift the focus.

However, the supply of properties is an even bigger problem. We have also conducted many debates on this subject before. Therefore, this time, I wish to focus on …… I hope we can endorse the legislation to regulate the pre-sale and transaction of properties. In 2006, Mr Martin LEE's motion could not be passed because of a margin of one vote. I hope Honourable colleagues, especially those returned by functional constituencies — we failed to obtain a margin of one vote from you last time — can speak more today and tell the Government that even you, your trades and your voters can no longer stand such a situation. While your trades are subject to various kinds of regulation, property developers are "already too fat to be able to pull up their socks". What problems have emerged in our society? Regarding functional constituencies, is there a situation under which some of them are more influential than others? I hope we can give it

some serious thoughts and encourage the Government to do some soul-searching seriously. In this world, can injustice be rectified a little bit? This is only a very humble motion, President.

Mr James TO moved the following motion: (Translation)

"That the sale of residential properties in Hong Kong has all along relied on advertising and publicity, sales brochures, visits to show flats, real estate agents and newspapers to provide information about properties and the property market to the public, and while the Government, The Real Estate Developers Association of Hong Kong (REDA), the Estate Agents Authority (EAA) and the Consumer Council have repeatedly laid down guidelines, launched publicity and issued reminders, cases of advertisements with ambiguous content, sales brochures without clear and detailed information, discrepancies between show flats and actual flats for sale, confusing market information, etc. still continue to occur; as such, this Council urges the Government to adopt the following measures to enhance the transparency and fairness in property sales and protect the interests of home buyers:

(a) on the basis of the Sales Descriptions of Uncompleted Residential Properties Bill which was published as a White Bill in 2000, to introduce legislation to regulate the sale of uncompleted residential properties;

(b) to revise the 'Consent Scheme' by incorporating into its conditions all the relevant guidelines drawn up by REDA, and prescribing more detailed requirements for compliance by developers, including strengthening the restrictions on the content of promotional materials and sales brochures as well as tightening the requirements on show flats, and requiring developers to publish on their web pages property sales information, including the full version of the sales brochure, the content of land leases and deeds of mutual covenant, every price list, records of sale and purchase agreements and completion of transactions, information on connected party transactions, information on related transactions, and details of internal and private sales, etc., with a view to providing clear and detailed information, and hence avoiding misunderstandings and preventing the public from being easily confused by rumours in the market; and

(c) to step up inspections, remind estate agency practitioners to comply with the codes and circulars drawn up by EAA, and penalize the non-complying practitioners, so as to enhance the credibility of the estate agency trade."

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

Mr WONG Kwok-hing will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Mr WONG Kwok-hing to speak and move his amendment to the motion.

MR WONG KWOK-HING (in Cantonese): President, the key point of my amendment today is paragraph (d), in which I call for the strengthening of the power of the Consumer Council (CC) to monitor real estate developers and estate agencies, while hoping that the Government will consider the introduction of legislation on cross-trade business practices, so as to uphold consumers' rights and interest, enable the CC to act in accordance with the law to protect consumers' interest, make it convenient for the public to make reports, and enable the CC to name real estate developers and estate agencies and make referrals.

I would like to base my speech on a poem that I have written for the Secretary today. I understand that the Secretary is fond of calligraphy. So am I. This is why I have written for her this poem in my own handwriting. I will, in accordance with the Rules of Procedure, ask a colleague to take this poem to her later — I will not walk to her — so she does not have to worry about it.

This poem reads, "Reproach, reproach, reproach; with the 'nine strokes, 12 variations', but without a timetable and a roadmap for legislation, how to ease the public's dissatisfaction". "Reproach, reproach, reproach" carries two meanings. First, to "reproach" means to admonish or reprimand. Why? Because the "nine strokes, 12 variations" are merely meant to reprimand the real estate developers for acting improperly and not heeding the views of the Government and so, they are "reproached, reproached, reproached". As Members can see, a

senior manager of a certain real estate developer — I have no idea how senior he is — had bought some flats through internal sale and was alleged to have done so in an attempt to prop up the market. Letters had been exchanged between the authorities and the real estate developer for four times. I do not remember it was how many weeks ago that this happened, but the matter has remained unsettled. This is why they must be "reproached".

At first, photo-taking was not permitted at some property developments but after an inspection by the Secretary, photo-taking is now allowed. So, there is again no rule governing this. Besides, some very beautiful numbers could be used for some floors of a development before, but this has also been changed now. All these show that the approach taken has remained to be just "reproaching, reproaching, reproaching", involving no regulation by way of legislation. This is the first meaning of "reproach, reproach, reproach".

The second meaning is a reprimand from the public. The public have reprimanded the Government's "nine proposals, 12 requirements" for being pointless and tantamount to a "toothless tiger". This is why public grievances and angers have continued to explode. Everyone will ask: Why has the Government become like this? Is it biased in favour of the interest of real estate developers? Is it "keeping one eye open and the other shut"? So, insofar as the regulation of real estate developers and estate agencies is concerned, the Government is not doing enough, not doing satisfactorily and not doing adequately. What is most indicative of the Government not doing satisfactorily and not doing adequately is its failure to provide a timetable and a roadmap for making legislation to impose regulation. So, it has to be "reproached, reproached, reproached" and in other words, it has to be taken to task. I hope that when the Government heard these voices of rebuke, it must not evade them or turn a deaf ear to them. I am afraid she does not hear this and so, I have to write this for her. I have to write this today because I am afraid that she does not hear this.

The "nine proposals, 12 requirements" take on a great variety, but the most pivotal point is that there is no legislation. This is why the real estate developers have no strong views on the Government's "nine proposals, 12 requirements", as they only have to coax the Government a bit and the latter would be happy with them. Why? It is because those are not legislation.

President, over the past few years the CC has received many complaints regarding residential property transactions, involving both first-hand and second-hand flats. In 2008 and 2009, the CC received 265 and 216 complaints respectively. While so many complaints had been received, the CC was unable to deal with them and so, it conducted studies and strongly urged the Government to amend and improve the legislation. I do not understand why the Government does not take into consideration the views of the CC. With regard to what the CC would wish to do but is unable to do, why does the Government not render any assistance?

President, the existing Trade Descriptions Ordinance does not cover transactions of residential properties and regulates only transactions in other areas. Is the Secretary aware of this? I know that the Secretary must be aware of this, just that she does not take actions to handle this. Since the Government is doing nothing, no wonder the public have to "reproach, reproach, reproach", and pass strictures on the Government over and over again.

President, the CC published on 25 February 2008 a report titled "Fairness in the Marketplace for Consumers and Business" which analysed and studied in detail the ways to uphold consumers' rights and interest. I have the executive summary of this Report with me now and let me cite from it the reasons why legislation should be introduced and why there must be a timetable and a roadmap. While she may not listen to what we said, she should at least listen to the words of the CC. This can pacify the public and vent their grievances and anger a bit.

In paragraph 3 of the executive summary of the Report, the CC said, "The Council considers that the deficiencies of the existing legal framework in addressing the above unfair practices …… ", and then in paragraph 5 it went on to say, "The Council's primary recommendation to address the majority of issues is to create a comprehensive consumer protection law (the "Trade Practices Statute") administered by a public enforcement agency." Let me further cite paragraph 6 which reads, "The current legislative framework available to consumers for counteracting unfair trade practices is sector-specific and formulated in what could be described as a 'piecemeal' and 'unco-ordinated' fashion. It therefore leaves gaps for unscrupulous practices to slip through the net. In particular, the unco-ordinated nature of the various laws poses

difficulties for consumers to understand the extent of their legal rights and for traders to comprehend the extent of their obligations to consumers." The ensuing paragraph 7 says, "…… enforcement of the existing laws by public agencies is typically through criminal sanctions, which are difficult to achieve. As a result, they are not often used ……".

President, let me further cite paragraph 10 which concerns what practices should be regulated: "The Council considers that the practices to be regulated must be unfair in that they impinge on the basic consumer rights to safety; the right to be informed; and the right to choose. Essentially, these involve misleading or deceptive acts or omissions regarding matters essential for an informed decision; aggressive or high pressure sales practices that significantly impair or are likely to significantly impair a consumer's freedom of choice or conduct; and other improper or unfair trade practices by a trader that fall short of the general principle of good faith and honest market practice."

I have to particularly highlight paragraph 11 which is about the scope of transactions that should be covered: "The Statute is intended to offer comprehensive protection to consumers and set out uniform trading standards across industries. Therefore, the scope of the term 'product' should be wide-ranging to cover all manner of goods and services purchased by consumers, including simple low cost items to valuable items such as a car, private residential property, and contractual rights and obligations." Paragraph 12 also points out that "the context in which the law should apply in relation to an unfair practice must be one of business (a trader) to consumer. It does not cover …… private transactions between two consumers."

President, I have cited at great length the conclusions of this study conducted by the CC to illustrate the importance and need of legislation. How could measures be implemented without legislation? How could regulation be imposed without legislation? It is, after all, impossible to rely on the "nine proposals, 12 requirements" to produce an effect of "verbal coercion". I, therefore, propose this amendment and earnestly hope that the Administration will not dismiss the views of the CC. They have already come up with ideas and solutions for the Government. If the Government refuses to listen to these views, it would really find itself being trapped in a state of worries, just as Prof LAU Siu-kai has said. It would only trap itself and could never find a way out.

I hope that the Secretary would like this poem of mine, and I do hope that she can hear my views. Thank you, President.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you should move your amendment.

MR WONG KWOK-HING (in Cantonese): Yes, thank you, President. I beg to move.

Mr WONG Kwok-hing moved the following amendment: (Translation)

"To add ", as" after "That"; to add "first-hand" before "residential properties in Hong Kong"; to delete "as such," after "occur;"; to add "and put forward an implementation timetable" after "measures"; to delete "for" after "detailed requirements" and substitute with "to require"; to delete "publish" after "developers to" and substitute with "provide"; to add "and in their sales offices more detailed" after "web pages"; to delete "and" after "in the market;"; to add "to provide additional resources" after "(c)"; to add "real estate developers, estate agencies and" after "remind"; to delete "practitioners" after "non-complying" and substitute with "real estate developers, estate agencies and estate agency practitioners in accordance with the law"; to add "real estate developers and" after "credibility of"; and to add "and safeguard the interests of home buyers; and (d) to strengthen the power of the Consumer Council to monitor real estate developers and estate agencies, including considering the introduction of legislation on cross-trade business practices, so as to enable the Consumer Council to exercise the power vested by law to name and criticize the real estate developers and estate agencies engaging in unscrupulous sales practices, and to allow people to make reports for referral to law enforcement departments for prosecution, so that home buyers can obtain adequate consumer information and protection" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr James TO's motion, be passed.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Members for their concern about the question of how the regulation of the sales of residential properties can be strengthened as well as their views on this issue.

We appreciate that buying a residential property is a major decision and investment in life. Clear market information and highly transparent sales arrangement are most important to property buyers. We have all along endeavoured to ensure that transactions of private residential flats are completed fairly and with greater transparency of information, in order to protect the interest of property buyers. We are determined to create an environment which ensures transparency of information and fair transactions for property buyers.

Over the past two years, we have introduced a number of measures to strengthen the regulation of the sales of first-hand, uncompleted residential flats through the Consent Scheme of the Lands Department and the guidelines issued by The Real Estate Developers Association of Hong Kong (REDA). These measures include requiring developers to provide on their websites and in sales offices information on the Agreements for Sale and Purchase (ASPs) within five working days after the signing of the respective Preliminary ASPs, standardizing the definition of saleable area, standardizing the presentation of price list, requiring developers to show the information on the price per square foot or per square metre in the saleable area of individual flats in their price lists, requiring promotional materials for the sales of flats and sales brochures to be handled separately, and requiring comprehensive and more detailed information on the properties be listed in the sales brochures. These measures have helped buyers access clear information on the properties and property transactions, thus enhancing the protection of the interest of consumers.

To address comprehensively the public's concern about sales arrangement and the dissemination of pricing and transaction information, on 21 April we officially requested REDA to issue new guidelines on nine proposals.

The underlying principle of these nine new proposals is to ensure transparency of information and fair transactions. They include: (1) Developers are required to duly observe REDA's guidelines in selling all uncompleted and completed first-hand private residential properties, which means that compliance

is required of uncompleted flats as well as other first-hand flats; (2) Developers are required to provide on-site unit(s) at the development for the public to visit when selling completed first-hand residential properties; (3) Developers are required to indicate, at the same time of making public the transaction information under the existing "five-day disclosure rule", those transactions which involve members of the Board and their immediate family members; (4) Show flats have to comply with a list of requirements, including the requirement that there should be at least one show flat showing the same conditions of the actual flat to be handed over to buyers upon completion in respect of internal partitions, fittings and finishes, and complimentary appliances. All show flats open for public visit for the first time after the implementation of the new guidelines are required to comply with new stipulations, and like the other measures, this new requirement will be incorporated into the Consent Scheme for compliance by all newly approved sales of uncompleted flats. As I explained to the media some time ago, suspension or revocation of consent is a deterrent against non-compliance; (5) More units should be included in the first price list for each batch of flats available for sale. For small-scale developments, the minimum number of units to be included in the first price list will be 30 units or 30% of the total number of units put up for sale in each batch, whichever is the higher. For large-scale developments, the minimum number of units to be included in the first price list will be 50 units or 50% of the total number of units put up for sale in each batch, whichever is the higher; (6) Developers are required to make public the sales brochures seven calendar days prior to the commencement of sale; (7) Developers are required to make public the price list at least three calendar days in advance of the commencement of sale when selling any number of units to whichever parties, and this requirement applies to current sales arrangements by reserving flats or pre-sale of flats or selling flats to the public in various other ways; (8) Promotional materials of the development should clearly provide the name of the district where the development is located and the address of the development; and (9) Developers are required to concurrently upload the sales brochures and all the price lists onto their websites.

The Transport and Housing Bureau is communicating closely with REDA and we aim to implement these new regulatory measures within the next few months. We will closely monitor the effectiveness of the new measures. Should they prove to be ineffective, we will not rule out the possibility of introducing legislative regulation, as the Financial Secretary has said.

President, in relation to most of the concerns raised by the Member in the motion, such as strengthening the requirements on the promotional materials, sales brochures, show flats and publication of price lists, these have actually been highlighted in the measures rolled out by us over the past two years as well as the new regulatory measures introduced now. As I said earlier, we have actually taken a series of initiatives in respect of the requirements on saleable area and promotional materials for the sales of flats, and so on. Under the current proposals, we will increase the strength of measures on all fronts, imposing a package of requirements pinpointing various areas, including promotional materials, show flats, publication time of price lists and sales brochures, the number of flats provided in the price lists, and making public information on transactions involving senior personnel. Developers are also required to concurrently upload the sales brochures and all price lists onto their websites. The objective is precisely to ensure greater transparency and fairness in the sales of properties to enable property buyers to access clear and accurate information such that they can make informed decisions of property investment.

President, we will give a conclusive response after listening to the speeches of Members in the debate on this motion. Thank you, President.

MS AUDREY EU (in Cantonese): Even though Hong Kong is a very, very small place which makes only a tiny dot on the map, it ranks second to none in terms of many things. Recently, the well-known journal, *The Economist*, has published the results of a survey indicating that Hong Kong has the biggest rate of increase in house prices among all major countries and territories in the world. Take a look at this year's property prices and we will see an increase of 27.7% over last year. The survey also points out that house prices in Hong Kong have been over-valued by 49.1%. I wonder if the Secretary agrees to this.

President, I have risen to speak today particularly in support of the word "legislation" in the original motion. The motion merely says strengthening the regulation, but I speak in support of introducing legislation to impose regulation. President, why do I say so? Talking about this issue, President, I have very deep feelings, because before I became a Member of the Legislative Council, I, as a barrister, had participated in the work of the Law Reform Commission (LRC). Since the report in 1995 …… President, that was 15 years ago and at that time, three reports relating to the sale and purchase of residential properties were

published successively. One was about the sale and purchase of uncompleted residential properties overseas, and another was related to the sale and purchase of converted completed flats. President, there were heated arguments in the community at the time because Hong Kong people considered that the property sales practices were problem-plagued and yet, they were not regulated under the law. The Government therefore appointed the LRC to carry out studies. The LRC then was comprised of many members who were representatives not only from the legal profession, but also from the Consumer Council and the real estate sector, and there was one representative from the Hongkong Land. Besides, there were also members from many other sectors and certainly, there were representatives of The Real Estate Developers Association of Hong Kong. People from various fields and sectors were involved and meetings had been held to look into this for a long time. A report was eventually published and then there was a long period of consultation and finally, there came the White Bill, which is the one published in 2000, followed by the consultation exercise in 2001.

President, when the consultation document was published, I had taken up office as Member of the Legislative Council. I remember very clearly that at that time, in the Ante-Chamber — Secretary Eva CHENG had not yet taken up office as the Secretary then — the responsible officials told me that the proposals were not going to work and that they had to be withdrawn. They said that no consensus was reached during the consultation, which had been conducted for less than a month, so the proposals had to be withdrawn. Why? President, the officials responsible for this issue explained to me that the greatest opposition related to the liability of directors. This actually bears some relevance to the bill we have just discussed, in that the question of criminal liability is involved. As the LRC proposed that there must be a high degree of transparency in the sale of residential properties and that the sales brochures must be clear and accurate, criminal liability would likely be involved if mistakes are found in the sales brochures, and the directors may have to be held criminally liable. This is the main reason why the real estate sector was resolutely opposed to the proposals, which ultimately caused the legislation to abort. The consultation document was published in June 2001 and withdrawn in July 2001. The Government said at the time that it would be fine because the real estate sector would exercise self-discipline and that they would put in place a series of guidelines and so, there would not be any problem.

President, what I would like to say is that this problem does not emerge just today, for it already emerged many years ago. As James TO said in his speech earlier, every time when this issue was raised with the Government, the Government would say that it would discuss it with the real estate sector and that the real estate sector would exercise self-discipline. Even in the Secretary's earlier speech, all that she had come up was a whole bunch of "nine proposals, 12 requirements", which all rely on the exercise of self-discipline by the sector itself.

President, why do I have such a deep impression? Because I had at the same time looked into a lot of sales practices, especially those adopted by dried seafood shops, in the Consumer Council. President, at that time, the price boards displayed at those dried seafood shops had misled the public into thinking that the price written on the boards was the price per catty but in fact, there were words written in very small print to indicate that it was the price per tael. As the public thought that the price was cheap, they therefore purchased the goods but when the shopkeeper had cut the dried seafood into small pieces, the customer was told that the price shown was the price per tael. The Government therefore introduced legislation and tabled a bill to the Legislative Council. The bill, which was eventually passed, stipulated that shops must state the prices clearly. Be it the sale of gold, jade or other commodities, the Government has introduced a relevant bill to the Legislative Council. But residential properties costing millions or tens of millions of dollars are the only exception, as their sales are not covered in the Trade Descriptions Ordinance and even cheating is not considered a problem at all.

Speaking of cheating, President, the Green Sense has published the findings of another survey recently, pointing out that since the exemption of prefabricated external walls from the calculation of gross floor area in 2006, almost all prefabricated external walls of housing estates completed after 2006 are found to be thicker, reaching a thickness of 30cm and causing the percentage of prefabricated external walls in the floor area to increase from 1% in the past to the present 4.6%. The Secretary may perhaps respond to this point later.

President, Mr James TO said earlier that a motion moved by Martin LEE in 2006 was negatived by a margin of just one vote. I also wish to mention that on 14 May 2008 Albert CHENG — I remember that he was standing there at that time — also proposed a motion for debate. I can recall most clearly that he used an analogy of buying a pair of shoes at a shoe shop then. He said that of course,

he would tell the shopkeeper that his size was 9 or 10, and everybody simply understood what this meant, and there was no point telling the customer the size of the shoe box. He said that by the same token, what reason was there for a consumer buying a flat to be told only the floor area but not how the area inside the flat was calculated? This motion was proposed for debate in the light of the publication of a Supplement to the Code of Measuring Practice by the Hong Kong Institute of Surveyors in 2008, and a debate was then held in this Council on whether the Supplement should be adopted as the prescribed and mandatory method of measurement. President, most of the Members were supportive of the motion but due to opposition from the functional constituencies, the motion again could not be passed. So, President, whenever this issue is raised for debate, I would think that Hong Kong people can hardly be blamed for always criticizing the functional constituencies and for always criticizing this Government for being biased in favour of the interest of real estate developers. I am, of course, particularly looking at Mr Abraham SHEK. I would like to hear what the Secretary would say in her response later on.

MR LEE CHEUK-YAN (in Cantonese): The gravity of disparity between the rich and the poor in Hong Kong is unmatched by any other place in the world, and another "reputed achievement" is that *The Economist*, as mentioned by Ms Audrey EU just now, has ranked Hong Kong as world's number one in terms of the rate of increase in house prices, which stands at 27.7%, compared to only 26% in Singapore. It seems that when Hong Kong is ranked number one, whatever it is about certainly will not be a good thing.

The disparity between the rich and poor is not a good thing. But why is there disparity between the rich and the poor? It is because Hong Kong people work for real estate developers and for banks all their life. The high property prices have certainly explained why the public are working for them. We have often been talking about social mobility or the downward movement of the middle class. But not only have wages been moving downward. People's livelihood has actually been moving downward too, and buying a property is indeed beyond the means of the people. So, the problem under discussion today is actually not the real problem. The real problem is, after all, the outrageously high property prices. Real estate developers have not only reaped excessive profits. They have even been cruel and heartless.

We are discussing sales practices today. With regard to what the Secretary said earlier, and even the "nine proposals, 12 requirements" as referred to by John TSANG the other day, I think they are all hollow and useless. In employing these tactics, his true intention is actually to confuse the public and conceal the facts. His tactics are meant to cause confusion among the public, but the real problem is not solved. What is the real problem? As I said just now, the real problem lies in the high property prices. Why does the Government not resume the construction of Home Ownership Scheme flats and increase the provision of public rental housing? Why does it not come up with ways to curb activities of property speculation by, for instance, levying a tax on property speculation? The greatest problem in Hong Kong now is that the entire economy is eaten up by real estate developers. This is the most fundamental problem.

However, after he had employed these tactics, the public seemed to have forgotten the problem of property prices, thinking that the Government is taking actions, which is actually not true. It is because the Government has failed to do the most important thing and that is, to introduce legislation. Our discussion today puts the greatest emphasis on legislation but strangely enough, whenever legislation is discussed, the Government will invariably make the same remarks, saying that issuing guidelines can produce quicker results and that legislation will produce results only after a certain period of time, rather than producing results immediately. Secretary Eva CHENG, the Government already said so a few years ago. Different Directors of Bureau had invariably said the same thing, and this time around, Secretary Eva CHENG is no exception when she says that the quickest way is to issue guidelines. This was said in 2008, and the same was said in 2006. I remember that Thomas CHAN had also said that the possibility of legislation would not be ruled out. So, it has been said for years that issuing guidelines is the quickest whereas making legislation is but slow. Had legislation been already enacted years back then, we would not have to talk about this anymore. Now, the Secretary has said yet the same thing, and I do not know for how many more years this will have to be put off. This is sheer absurdity, utterly ridiculous.

A number of colleagues have talked about some absurd situations earlier on. For example, an old lady hauling a stack of cardboards to the recycler for sale may be prosecuted for the increased weight of the cardboards probably because the cardboards are wet; a vegetable vendor in a market may be

prosecuted for deceiving customers by fiddling with the scale; and another example was cited earlier about a salesperson selling range hoods being prosecuted and imprisoned. All these cases involve just a small amount of money and yet, prosecution is instituted for cheating. But no prosecution will be instituted against cheating involving residential flats sold at millions of dollars or ten million-odd dollars or tens of million dollars, all because of the absence of legislative regulation. Is it so ridiculous in Hong Kong as such? If so, there can only be one explanation for this and that is, Hong Kong is ruled by real estate developers, and real estate developers control the Government.

But what has happened this time around is laughable. After the Government had employed these tactics, the real estate developers pretended to be in great fear as if they were doomed to an ordeal. What a good show they have put up. Buddy, the Government has not introduced any legislation, so why should the real estate developers be scared? However, the real estate developers have to put up this show with the Government, pretending to be weak and vulnerable in order to conceal the fact that Hong Kong is now ruled by real estate developers, by Abraham SHEK. He is a functional constituency Member and he is most formidable. Functional constituencies are most formidable. That they can resist legislation for so many years is indeed attributed to the efforts made by Mr Abraham SHEK. Being the representative of this functional constituency, he has stood up against legislation throughout the years and as a result, the Government still has not been able to introduce legislation. Although the Government says all the time that it does not rule out the possibility of introducing legislation, it invariably says that issuing guidelines can produce quicker results than making legislation and so, legislation has never been introduced. History always repeats itself, and the problem has remained unresolved. If, after some time, certain unscrupulous sales practices are discovered, a quarrel will start again but by then, many members of the public would have been victimized in each of these incidents.

Think about this: When buying a residential property, the public may often have to spend their life savings on it. If they fall prey to deceptive practices, being cheated in that they have bought a flat with inflated saleable area and inconsistencies with the descriptions, their life savings would be thrown down the drain. Can we justify this to the public? Can the Government justify this to the public? Does it not feel shameful for still taking no action to introduce

legislation even now? President, the legislation on regulation of the sales of uncompleted flats has been discussed for many years and yet, no conclusion has been drawn. This only reflects a pathetic reality and that is, real estate developers in Hong Kong are the fiercest. Thank you, President.

DR LAM TAI-FAI (in Cantonese): President, let me make my position clear right at the outset. I support the original motion proposed by Mr James TO and the amendment proposed by Mr WONG Kwok-hing today. I support them mainly because as we see boiling public angers now in Hong Kong, if we still allow the sales practices of some unscrupulous real estate developers and their unethical business tactics to worsen continuously, the public will suffer more badly and the Government's image will become even worse. I certainly support the two Members putting forward views to urge the Government to implement effective measures to protect the public, and this can also build a healthier international image for Hong Kong.

President, I think you should have heard quite often recently that many people (especially pan-democratic Members) have blamed the functional constituencies many a time for some social problems, such as the disparity between the rich and the poor, social conflicts, and surging prices. This motion, however, is very sensible, as it says what is right as right, and denounces what is wrong as wrong, and regarding the unscrupulous practices and misconduct of some members of the real estate sector, the motion does not lay the blame on us in the functional constituencies and it does not wrong us in the functional constituencies. So, I certainly support today's motion.

Having said that, I think their motion today is indeed lacking in strength.*(Laughter)* Mr WONG Kwok-hing stressed earlier the need to strengthen the motioning by the Consumer Council (CC) of real estate developers and estate agencies. I think the CC is unable to do a good job for reasons which have all been explained earlier. WONG Kwok-hing's proposals are like the poem he has just read out to us, for the methods proposed are too gentle and lenient, and it is useless to "reproach, reproach, reproach".*(Laughter)* As we all know, that handful of unscrupulous real estate developers and estate agencies are no shoplifters or lowly lackeys, for they are wealthy, arrogant "big crocodiles". They are rolling in money and they can hire brilliant talents to hatch plans and

plots for them. If they are really taken to Court, I think not even when the CC goes bankrupt can it change their minds or teach them a lesson at all.*(Laughter)*

This handful of people are exerting themselves to make money, so how will they ever remember their social responsibility and business ethics? To put it plainly, they cheat whenever possible and after they have cheated, they will even argue vehemently in defence of their actions, as we can see on the television. So, the Government must set up a special and dedicated department to keep them under watch. Instead of advising members of the ordinary public to measure the size of flats, it would be better to establish a department of floor area measurement for property developments, *(Laughter)* and similar to what traffic wardens do, "penalty tickets" can be issued and photographs can be taken on the street. Only in this way can we put an end to the situation where people find out only after buying the flats that they have bought "shrunken flats" which cannot even accommodate a bed but have nowhere to turn to for lodging complaints. This dedicated department also has to upload onto the Internet all the information, including details of transactions, the size of flats, prices, as well as the gross floor area, saleable area and the number of bay windows for public consideration, so that the public can access clear information when buying a property.

Moreover, we all know that many advertisements of property developments are actually misleading. While a development is obviously located opposite to factories or landfills, it is advertised to be situated against a vista of the blue sea meeting the azure sky, *(Laughter)* and while the development has just an insular view on the sea, it is said to be commanding a panoramic view of the Victoria Harbour; *(Laughter)* and Members must have seen a lot of these advertisements. So, the Government should impose legislative regulation on those advertisements or publicity materials to ensure that they are true and accurate, just as what it has done in regulating advertisements on financial services. To deal with this group — and I stress, this small group of unscrupulous real estate developers, the Government must ensure that the strength of its measures must be resolute and powerful. It cannot just aim to advise them or appeal to them or remind them to exercise self-discipline and to be compliant, for this is actually just a waste of breath and a waste of time, which is of no help at all. Particularly, many people now see that those real estate developers are arbitrarily asking for sky-high prices but the Government seems to be not knowing how to handle this, not knowing what to do about them. This can easily make the public mistake this for collusion between the Government and business. So, if the Government does

not wish to be made a scapegoat, and if it wishes to rebuild public confidence in the Government, it must stamp out these unscrupulous practices. It is downright unrealistic to expect them to exercise self-discipline.

It has been 13 years since the reunification. What does the Central Government most wish to see? It would like to see prosperity and stability in society and that there can be less bickering, less grievances and less conflicts, and that everybody can live in peace and work in contentment. This is why every time the Government takes actions, it works in this direction with the objective of achieving stability and harmony. However, this group of real estate developers are straining every nerve to make profits by employing all kinds of unscrupulous practices which include, as LEE Cheuk-yan said earlier, inflating the size of flats, putting up for sale flats with inflated floor area, skipping the floor numbers, and providing untrue saleable area, thus resulting in widespread public discontent and seething public anger.

Hong Kong people are actually very sensible. Never have they expected real estate developers to be philanthropic. All they wish is that they can buy a property at clearly marked prices and their transactions will be *bona fide* transactions conducted in an honest and fair manner. President, property prices in Hong Kong have reached a level beyond the affordability of the grassroots. Even the middle-class people cannot quite cope with them, as they do not have much money to spare or to enjoy life after meeting their mortgage payments, let alone thinking about retirement. Worse still, many of them who may very much treasure filial piety do not have the means to support the living of their parents. Tell me, would there be grievances in society? Certainly yes. I think the policies and measures of the Government must produce a deterrent effect, and they must be punitive in nature. Severe punishment must be used in turbulent times. The Government must pull no punches. Otherwise, further delays in taking actions would not only render more people victims, but also worsen the image of the Government, making administration all the more difficult.

Some Members said earlier that "TSANG's nine strokes" are verbal coercion, as he said that legislation would be introduced if real estate developers do not exercise self-discipline. Why does he have to adopt a courteous means before resorting to force? Is this not too lenient and too indulgent? If things go on like this, we would only see more people being cheated and this would also be

unfair to those self-disciplined, compliant real estate developers. Besides, I do not know what criteria the Secretary or the Government has adopted for ascertaining whether or not they have exercised self-discipline in the meantime. If three real estate developers have exercised self-discipline and two have not, would it be necessary to introduce legislation? I really have no idea about the Government's standard. Legislation is currently in place to regulate the quality of even a packet of medicine or a box of drink sold to customers but as LEE Cheuk-yan said earlier, there is nevertheless no legislative regulation on property investment which can impact most significantly on the life of people. The Government's claim can hardly hold water. I, therefore, suggest that the Government should immediate enact legislation to protect the rights and interest of consumers.

From another angle, however, this also boils down to a problem with the Government, in that the Government has put too much emphasis on the financial services industry and the real estate sector to the neglect of industries. In this connection, I hope that the Government can be more pragmatic, that it can change its mind by making greater efforts to promote the development of industries and assist enterprises in upgrading and restructuring and also in opening up the market of domestic consumption. In particular, an inter-departmental study should be conducted to look into how section 39E of the Inland Revenue Ordinance can be amended to facilitate the upgrading and restructuring of enterprises and hence facilitate the development of industries. In this way, all the people can be enabled to live in peace and work in contentment, thus realizing accountability to the public.

President, I so submit.*(Members tapped on the bench)*

MR FRED LI (in Cantonese): President, among all Members of functional constituencies, I believe Dr LAM Tai-fai is most capable of lifting our spirits in his speech earlier on. I even thought that he was going to run in the Chief Executive election. Recently, as you may know, a certain man has ridiculed the Secretary and the real estate developers, saying that they were living on Mars when he commented on the housing policy. His line appeared to be different from that of the Government, and of course, this man is thinking about running in the Chief Executive election! I trust that the Honourable Dr LAM Tai-fai was helping other people to run in the Chief Executive election, rather than contesting the election himself. Dr LAM Tai-fai's speech just now is thought-provoking.

What he has said should more often come from pan-democratic Members but today, hearing this from Dr LAM is a lift to our spirits and so, we have to tap on the bench to express our support and commendation.

President, I am a Member of the Consumer Council (CC). Frankly speaking, and with much regret, Dr LAM Tai-fai has said most accurately that we indeed do not have too much power. Speaking of uncompleted residential properties, the CC has received a lot of complaints. Many people have lodged a lot of complaints about the residential properties they have bought. They are in great distress and yet, the CC can do nothing to help them. On the one hand, the CC is not given any statutory power to conduct investigations and on the other, the Trade Descriptions Ordinance (the Ordinance) does not cover uncompleted residential properties. With regard to the after-sale services for dried seafood, gold and electronic products that Ms Audrey EU mentioned earlier, amendments have been made to the relevant legislation to rectify the situation, and there has been a case recently in which a dried seafood retailer was prosecuted successfully and convicted for cheating customers by tampering with the unit price of goods. From this we can see that the Ordinance has started to have its "teeth" growing to bite unscrupulous retailers.

But in respect of the sales of uncompleted residential properties, the Secretary has proposed the "nine proposals, 12 requirements" which have been discussed by us here for a long time. Some 15 years ago, Secretary, the Law Reform Commission already made a host of recommendations, while the Government also introduced a White Bill to propose regulation of the descriptions of uncompleted residential properties on sale but in the end, the proposal disappeared into obscurity. I think this is like carrying a sword on one's waist and not unsheathing it for as long as 15 years and now, it is said that the sword may perhaps be drawn but it has already rusted and broken. If no action is taken to unsheathe the sword and no measure is implemented, it would be nothing more than bluffing, giving people the impression that the Government and real estate developers are transferring benefits to each other behind closed doors. The Government has openly called for the exercise of self-discipline in the sector and despite some improvements made on the surface, the real estate developers will act wantonly after a while when the situation becomes less tense. This is how things have been dragging on for 15 years.

The public will ask: Will the real estate developers be punished if they do not comply with the guidelines and do not act in accordance with the Consent Scheme? Will the Lands Department withdraw the consent for the pre-sale of uncompleted flats midway? If the developers have sold all the flats in one go or if the flats are put up for sale as completed flats, what punitive measures can be taken by the Lands Department? The object of the existing Ordinance is to prohibit the goods supplier from giving false descriptions of the goods or providing false and misleading or incomplete information or making false marks and misstatements in respect of goods provided in the course of trade. It also requires that the relevant information or descriptions of the goods be clearly marked on or attached to the goods. The Customs and Excise Department is responsible for enforcement. But as the Ordinance does not apply to uncompleted residential properties, the Customs and Excise Department will not entertain these complaints for they are not within its scope of regulation, and as the CC has not the power to do anything, so we have this problem nowadays.

When we talk about buying a flat, we mean buying a new flat. I wonder where else we can find new flats costing less than $2 million. I do not know if we can still find these flats in Yuen Long and Tuen Mun. I think it is very difficult to find new, first-hand properties below $2 million anywhere, still less in the urban areas. Even in Kowloon East — the grassroots community served by me …… I have forgotten the name of that housing estate situated at Fei Ngo Shan …… it is called Aria Kowloon Peak, and it costs some $8,000 to $9,000 per square foot. The district is just Wong Tai Sin, and hearing this did come as a great shock to me. So, the level of my constituency has elevated. The most expensive flats used to be those of Galaxia but …… This is impossible. Why have they become so expensive now? The developers could even refuse to allow property buyers to take measurements and photos of the show flats! Now that consumers are allowed to take measurements and photos but the real estate developers are complaining. Why can there be no protection at all for purchase of such big products as residential flats costing some $10 million or millions of dollars? The protection is even less than that for buying dried mushroom and dried seafood.

It really is baffling to us. It has been 15 years and the Government still refuses to introduce legislation. It is still asking real estate developers to exercise self-discipline today, saying that legislation will be introduced only after

their failure to do so. This has been said over and over again, and we have had enough! We hope to bring pressure to bear on the Secretary through this Council and various Honourable colleagues, and to put things back onto the right track by way of legislation. Who would be afraid if cheating does not constitute an offence? What reason is there for them to be afraid of legislation if they do not play tricks to cheat? Those who are most fearful of legislation are those who play tricks to cheat consumers and who do not wish to be put subject to regulation. This is precisely proof that legislation should be introduced. Legislation is introduced not to kill people; nor is it introduced to put people under arrest. The purpose is to assure a fair and transparent system of regulation, which is most important. We do not intend to make arrests; nor do we intend to impose punishments. But in this world, if there is no law for compliance, for example, in the case of food labelling which we have discussed for a long time, people would never bother to label the nutrition information of food so long as legislation is not put in place. They will do it only when legislation is introduced, and the relevant work will be completed in around July. Nobody will do it in the absence of legislation. They will never do it if we simply rely on their voluntary compliance, and this is what the world is like. I hope the Government has heard us.

I so submit.

MR LEE WING-TAT (in Cantonese): President, first of all, I am really glad. If I were to choose the best speech today, it would be the one by Dr LAM Tai-fai. I have not heard such an inspiring speech for quite a while — I do not mean these few days, but only today — I consider his really remarkable.

President, I will only raise one point today because I have long expressed my views to the press. First of all, I would like to tell the Secretary that I strongly disagree with some of her analyses. She said the existing guidelines are effective because these guidelines or the Consent Scheme has given the authorities considerable powers, the greatest of which is a total ban of property sales by property developers, which is a rather heavy penalty.

Theoretically, the Secretary is not wrong in saying that because the heaviest penalty imposed on the sale of uncompleted residential properties is a total sales ban of the entire residential development. However, I wish to tell the

Secretary that over the past five or six years, each time before guidelines were issued, property developers would somehow breach some of the requirements around the time, but over the past six years, we have only seen a couple of cases in which warning letters were issued by the Lands Department (LandsD). Strictly speaking, property developers have not been fined a single cent.

Why is the situation so disappointing that it makes people feel the Bureau will not actually exercise this power? Because first, we can see from past records that basically the LandsD will not exercise this restrictive power; second, the "merit" of the law is that it has provided for different levels of penalty. Where a light penalty is to be imposed, it may be a fine of $50,000 or $100,000. In this way, the Bureau will have the courage to impose the penalty. When the relevant property developer commits the offence again and a heavy penalty is required, a fine of $500,000 or $1 million may be imposed. I agree that a total sales ban on the residential property project is a very heavy penalty, which is also why the LandsD has never dared to exercise this power. Take 39 Conduit Road as an example. All that the LandsD did was to issue a warning letter. The letter was issued over a month ago, and many people have participated in a petition campaign as a result. I have also written a petition to the Director of Lands requesting a reply as she has refused to meet with us. President, I think this is why.

Second, the Secretary would never understand what the public feels. Members of the public may ask why property developers, and property developers alone, are not regulated by law while vendors in general, such as those selling vegetables, barbecue pork and electrical appliances, are. Why is this society so bizarre? The Bureau said property developers should be allowed to exercise self-discipline in accordance with the guidelines. In that case, why has the Bureau not issued a guideline for vegetable vendors? Why is there no guideline for electrical appliance traders? Why are barbecue pork vendors not allowed to exercise self-discipline? Why do property developers, and property developers alone, enjoy all the privileges and the superior status of not being subject to regulation in property sales which involve such huge amounts of money?

President, although I disagree with LEUNG Chun-ying's remark that the Secretary lives on Mars, I really think the Secretary does not understand the

plight of the people and their feelings like we do. Actually, we are already very composed in delivering our speeches. If the Secretary cares to listen to what members of the public say in the community, she would hear them accuse property developers of not only pushing up property prices but also engaging in lies and deceits — to put it vulgarly, for selling flats at exorbitant prices by tampering with their rules. This is not even how people in the community would put it, as they would express it with a full range of expletives to reproach property developers and the Government, which I certainly cannot repeat here.

Despite the situation having developed to such a state, the Government is still saying that it will draw up guidelines and allow property developers to breach them for some more time before introducing legislation. I share Dr LAM Tai-fai's question as to under what circumstances the Bureau will really be prepared to introduce legislation. If Honourable colleagues of this Council, such as Members of the Democratic Party, or members of the press launch covert operations and identify breaches of the guidelines by a developer, will the Government enact legislation at once? Yet, the Secretary has not told us the criteria adopted by her.

President, I have launched numerous covert operations over these years — instead of launching them myself, I asked my secretary to do so for me — and many of the reports have already been submitted to the Secretary. We could detect breaches in almost all the operations, with a probability much higher than winning the Mark Six lottery. While I have never won in the Mark Six lottery, we could detect breaches every time we launched a covert operation in the show flats. It seems the Estate Agents Authority was also able to detect breaches in its covert operation against the Larvotto project.

I do not know why the Government is so kind to property developers that it renders them such preferential treatment. President, I would like to reiterate here that I believe the decision is not made by the Secretary alone. I think we should also ask the Chief Executive whether he has a special fondness for property developers, so much so that he is reluctant to implement all those regulations in curbing property prices and regulating property sales although they are already in place. I am rather doubtful about this.

President, I take issue with two of the items in the regulatory guidelines, and the Secretary has never given any response on them in public. First, the

Secretary said property developers have to put up 50% of the flats for sale in the sale of a residential property project in the future. I have already told the press that I hope the Secretary will give a reply to this, but she has not done so in her opening speech today. Actually, what does this 50% refer to? Does it refer to 50% of the 1 000 flats in the entire project or 50% of the flats in the four blocks which have been granted approval for sale of uncompleted flats, or 50% of each batch of flats put up for sale by property developers? If the third scenario applies, then sorry, Secretary, I think you are too hypocritical and feeble. This is already what is happening now. When property developers put up the flats for sale in batches, the 50% they refer to is always 50 flats. So, what is the big deal about it? Why is it so important that it has to be included in the guidelines?

Finally, I wish to make a suggestion — if the Secretary has the guts to include this in the guidelines, I will definitely treat her to a meal — does she have the guts to prohibit the practice of "confirmor sale"? Actually, as all of us know, property prices have been pushed up to such a high level because of collusion between property developers and confirmors, that is, purchasers who resell the properties concerned before they have completed the purchase with the owner or vendor of the properties. This was what happened with 39 Conduit Road, just that the person concerned is still unable to sell the flats. Originally, he planned to purchase the flats at $70,000 per sq ft and sell them at $80,000 per sq ft, just that there is no one on the receiving end now.

Does the Secretary have the guts to give a reply today as to whether she will propose that all consent schemes shall expressly provide that no "confirmor sale" will be allowed as a measure to curb property prices and curb speculation? This is actually a very effective and vigorous measure. However, the Secretary did not specify it and she said consideration would be given to it. I hope I will be able to get a satisfactory reply today, or I would agree with other Honourable colleagues that all these so-called moves of "drawing the sword" are only bluffing gestures. Thank you, President.

MR CHAN KAM-LAM (in Cantonese): President, since the reunification in 1997, the economy of Hong Kong has been on a roller coaster ride of great fluctuations. It has witnessed a severe downturn especially during the onslaught of the financial turmoil, the burst of the dotcom bubble and the outbreak of SARS in 2003. The plunge in property prices in tandem with the general market trend

has resulted in an unprecedented number of negative equity asset and bankruptcy cases, which has in turn caused severe negative impacts on the economy of Hong Kong.

As seen in the past decade or so, when the property market gradually walked out of the trough, the economy of Hong Kong would also recover gradually, which shows that there is a close and inalienable relationship between the property market and the local economy. This is recognized by society and it is also for this reason that the Government introduced a White Bill in 2000 to regulate the sale of uncompleted residential properties by way of legislation, in the hope of boosting the development of the property market and the economy. Unfortunately, this White Bill came at a bad timing when there was a sustained downturn in the property market and the economy. As property developers were seen to have exercised considerable self-discipline, coupled with the fact that they were under immense pressure, the Government considered that giving the property market with a proper degree of autonomy would facilitate the economic development of Hong Kong. Therefore, the Government decided to shelf the legislative proposal.

However, we notice that as the property market gradually rise from the trough over the past few years, some property developers have been so aggressive in their promotional activities that they have deviated from the established practices, thus reviving the call for regulating property developers by legislation in society. We think the Government has the duty and a need to address the public's demand by regulating the sales practices of property developers in an appropriate manner.

However, we think that in enacting legislation, the authorities should pay attention to the following three aspects:

First, they should ensure that home buyers will receive fair treatment and consumers' confidence in home ownership will be boosted. I believe Secretary Eva CHENG was well aware of this during her inspection of show flats earlier. Property developers have conjured up enormous creativity to turn every flat into a "five-star home", but when the owners take possession of their flats, they will only find that the flats they have purchased with their life savings are nothing like that. Their disappointment and rage are understandable.

Home ownership is a basic wish of the public, and the Government is duty-bound to ensure fairness and protect the rights of the public. Therefore, by enhancing the transparency in the sale of uncompleted residential properties, the Government can boost public confidence in home ownership and facilitate the robust development of the property market at the same time.

The second point that warrants attention is to ensure a certain degree of flexibility in the legislation to cope with the ever-changing market and economy. Maintaining a free, robust and stable property market is vitally important, while excessively onerous and rigid regulations will undoubtedly strangle the creativity of the market and business freedom, thereby stifling the development of the entire real estate market. Therefore, while striving to enable the robust and stable development of the property market by enacting legislation, we must not neglect the crucial element of freedom, or we will have to bear the bad consequences of excessive intervention in the market.

The final point is to give vent to public grievances and change the public's perception that the Government always protects and favours property developers. History has proved that the further development of the property market will surely spur economic growth in Hong Kong. This is beyond doubt, but it seems the Government has been too reliant on property developers, making too many concessions for them. Sometimes, the Government has even been seen to yield to their influence in various aspects of policy enforcement. These have come to the attention of members of the public, with lots of grievances pent up against the Government.

Therefore, in order to change this negative image, the authorities must consider enacting legislation to exercise reasonable regulation over property developers. This will help property developers get back to the right track and adopt proper sales practices on the one hand and help relieve the grievances of society on the other.

Actually, purchases in the market are now regulated by the Trade Descriptions Ordinance to prevent unscrupulous businessmen from adopting deceptive trade practices. It is most unreasonable that home purchase, which is a lifelong investment for many people, is not protected by legislation. Therefore, it is just reasonable for the Government to enact legislation to protect the interests of the public in home purchase. To prevent excessive intervention

in the operation of property developers, which will in turn give public an impression that the Government intervenes in the free market, we propose that the authorities enhance the monitoring role of the Consumer Council, so that the latter can proactively conduct inspections to find out whether property developers have complied with the guidelines, follow up and investigate cases involving unscrupulous sales practices and keep a keen interest in and invoke censure against them. In this way, we believe, the interests of home buyers will be further assured.

President, the property market of Hong Kong can change rapidly. The price of a flat may experience a fluctuation of 30% to 40% within one year, which explains why investors are attracted to engage in speculation indiscriminately. However, this also shows that property developers are under immense pressure to sell the flats in the face of unpredictable market conditions. When the market is sluggish and there are few prospective buyers, property developers have to rack their brains for strategies to promote sales. For example, a couple of years ago, we could see that the purchase of a flat would bring along a free car, free furniture coupons, a full range of free household electrical appliances, offer of interest-free and deferred payment for the first three years and many similar tactics. In recent years, we can even see advertisements shot at overseas locations by famous directors. Recently, some property developers were alleged to have fabricated sales records in a bid to promote sales. All these practices have undoubtedly gone beyond the limits, and, unsurprisingly, infuriated the public. President, we think the Government must deal with the issue on this front and reduce unfairness in the market.

President, I so submit.

MR RONNY TONG (in Cantonese): President, I am very glad today because, sitting here in the Chamber, I find that every Member who has spoken seems to support this motion. All these Members have put up a strong request with sound arguments for the Government to enact legislation, and even Mr CHAN Kam-lam of the DAB has sent a strong message to the Secretary just now. President, this is certainly a good thing, but the enactment of legislation depends on the determination of the SAR Government, in particular, whether the Secretary really has the sincerity to take forward monitoring in this respect.

President, just now Mr CHAN Kam-lam mentioned three principles, and the one which is indisputable is certainly that the Government should not intervene in the so-called free market. Although I believe no one will object to this principle, I must clarify that if the Government were to legislate on monitoring the sales practices of properties — President, I mean the sale of completed residential properties, not uncompleted ones — it should definitely not and would not be seen as intervening in the market.

President, if the Government were to enact legislation to prevent vendors of certain products, services or residential properties from deceiving consumers or concealing material information and to require them to adopt fair practices to consumers, it should definitely not be regarded as intervening in the market. Therefore, what we are talking about now is definitely not market intervention, but consumer protection.

Actually, many Honourable colleagues have cited some apparently very simple examples, yet these examples have made the subject today somewhat surrealistic. As I mentioned in my speech earlier, even in the sales promotion of range hoods, a salesman was prosecuted for exaggerating their spinning speed; besides, dried seafood shops may be charged for displaying unclear tags of price per catty; vegetable vendors who are found tampering with their scales may be prosecuted; supermarkets may also be prosecuted for displaying unclear price tags or providing inaccurate descriptions of their products; and vendors of food, drugs and various other things may also be prosecuted.

President, even stockbrokers may be prosecuted. In buying stocks, people may sometimes buy warrants. In other words, the relevant company is yet to be established and the stocks have not yet been issued. This is actually quite similar to buying uncompleted residential properties. However, the relevant company may be prosecuted for making just a very simple mistake in its prospectus. Very often, when a salesperson promotes a certain product or service with the help of a document before the product or service is launched on the market, and if the information provided is evasive and misleading, such behaviour is generally regulated by law and the vendor has to bear responsibility. The case of prospectus mentioned by me just now is an excellent case in point.

President, it is the same with vehicle purchase. Customers usually have to place an order for a vehicle and wait a couple of months before they can actually get it. At vehicle sales points, customers are usually given a catalogue in which all the specifications including the measurements of the vehicle, the horsepower, the colour and accessories are set out. The information is there complete and clear, and all of it is true. Why can the purchase of residential properties not be the same?

President, the sales brochures of residential properties are getting more and more lavish. Recently, a friend from the media showed me the sales brochure of 39 Conduit Road, which I think is really amazing. With a weight similar to that of a piece of gold ingot, it is extremely lavish. However, President, there is a line in small print at the bottom of each page, stating that the content of the page should not be taken as true. In other words, no matter how nicely printed and lavish the sales brochure is, the content of each page is not true. Frankly speaking, President, these sales brochures have displayed great imagination and extreme lavishness, but as documents, they are extremely unreliable. Now that our society has attained such a high degree of civilization, how can we allow vendors of these expensive products to promote sales with such dishonesty?

President, people may say buyers of residential properties will not fall victims of fraud. Regarding property developers' claim that the flats command a panoramic harbour view, everyone knows very well that it is not true, and the flats may actually offer a mountain view or even a graveyard view. Other people may say buyers of residential properties are prepared to be victims of deceptions because all they want is to buy the particular flats they are interested in, disregarding their sizes or how magnificent the sea view is.

President, I do not agree to these comments at all. Certainly, there is some historical background to them because under our legal system, there is some difference between the sale of residential properties and the sale of vehicles or vegetables. In residential property transactions, there are usually title deeds which, traditionally and historically, never specify the size of the flat in sq ft and its facilities. At most, there may be an appendix outlining the floor and location of the flat to be purchased and marking it in red. The title deeds do not set out the details of the flats in question. However, it does not mean property developers should not be held responsible for any false representation with regard to the details.

President, the Government must also bear a considerable part of the responsibility. Why? Businessmen are bound to focus on making profits from their business. If certain practices are allowed under the law, we cannot blame businessmen for adopting them because they certainly aim at making profits from their business operation. If the practices are not regulated by law, why can they not adopt them? As the Government is indecisive and slow in enacting legislation, it is partly responsible for causing this situation. The Government should be held responsible for the injustice, unfairness and dishonesty on the part of property developers as it allows them to make use of the loopholes in the law. Therefore, President, I think the Government is duty-bound to enact legislation.

Thank you, President.

MR VINCENT FANG (in Cantonese): President, I believe buying a cosy home is everybody's dream, and it is often a major decision and investment made by an individual person and even by the whole family. People are most worried about finding out upon taking possession of the flat inconsistencies between the actual conditions of the flat and their descriptions. So, the propriety of the sales information and procedures is naturally a matter of concern to various sectors of the community.

In recent years, the sales practices of new property developments have been multifarious and rich in variety, so much so that people even find them confusing. To maintain order in the sales of new residential properties and protect the interest of small owners, and to ensure that in the sale process of new property developments, the sales and purchases are all conducted in the open, the transactions are genuine with the flats sold at clearly marked prices, and there is fairness and honesty for all, the Liberal Party supports the Government taking steps to step up regulation. In this connection, with regard to the efforts made separately by the Financial Secretary and the Secretary for Transport and Housing in proposing last Wednesday the "nine proposals, 12 requirements" to regulate the sales of first-hand private properties and the settings of show flats, we basically consider these measures all very appropriate in that they can help facilitate the healthy development of the property market, enhance the transparency of the sales information and strengthen protection for consumers.

However, the Liberal Party has all along considered excessive government intervention in the market unwarranted. If the sector can exercise self-discipline, it should be allowed to regulate itself by all means. As the saying goes, a new law will lead to a new problem. It would indeed create a win-win situation if the same effect of regulation can be achieved without having to introduce legislation. Particularly, what has been proposed this time around is not the simple kind of self-discipline which can be compared to "a toothless tiger", because if the developers fail to comply with the new sales guidelines as consented to by both sides, the Government can prohibit the developers from selling their uncompleted flats. Moreover, the flexibility of revising the guidelines makes things more expedient and easier than introducing legislative amendments.

To gauge the public's view on the "nine proposals, 12 requirements", the Liberal Party has conducted an opinion poll for the purpose, and from last Friday to yesterday, we successfully interviewed over 500 members of the public aged 18 or above. Results show that over 60% of the interviewees consider that the "nine proposals" on the regulation of sales of uncompleted residential properties useful and even very useful to suppressing the speculation of new property developments. Besides, over 80% of the interviewees consider that the "12 requirements" introduced by the Transport and Housing Bureau effective in ensuring the truthfulness of show flats, and even very effective.

The Government has proposed to issue guidelines on the "nine proposals, 12 requirements" to real estate developers in response to the community's concern about the sales arrangement for first-hand residential flats and the dissemination of pricing and transaction information, adding that the possibility of legislating on regulation would not be ruled out if these measures proved to be ineffective. With regard to this proposal, the poll results show that over 75% of the interviewees support it whereas only 12% do not support it. In view of this, the Liberal Party considers that since it has been just one week after the announcement of the new measures, can we wait a little bit longer to allow the new measures to incubate and take effect, rather than acting so hastily as to enact legislation immediately?

However, after repeated consideration, we hold that in order to enhance protection for the interest of small owners and stop people from further using this

as a pretext to attack the Government for being biased in favour of the business sector or to attack functional constituency Members for protecting the interest of consortiums, and to further improve regulation of the sales procedures, the Government can introduce legislative regulation on the sale of uncompleted flats on the basis of the White Bill in 2000, so as to prevent the interest of small owners from being jeopardized by non-compliance with the relevant stipulations.

There is no denying that enhanced regulation will cause inconvenience to developers and undermine the flexibility of the sales of flats. Yet, we consider that making some small sacrifices is still worth it on the premise of upholding public interest, particularly as the developers have been able to comply with the sales guidelines on which they previously agreed with the Government. So, even if the guidelines are made statutory, it would not be difficult for developers in adaptation and compliance.

The Liberal Party has noted that the Government has not yet reached an agreement with the developers on the details of the "nine proposals, 12 requirements". We, therefore, very much hope that the developers can co-operate fully with the Government to enable the expeditious implementation of the new guidelines, such that the rights and interest of small owners can be given greater protection.

As regards Mr WONG Kwok-hing's amendment which proposes to strengthen the regulation on real estate developers and estate agencies for the protection of buyers, the Liberal Party basically supports it. However, the existing Estate Agents Ordinance has already empowered the Estate Agents Authority (EAA) to play a supervisory role. For example, in the incident of "Larvotto" which is widely reported in the press today, the EAA has proactively launched an investigation into cases of suspected acts of non-compliance by estate agents to promote sales. So, if powers are further conferred on the Consumer Council to carry out the same kind of work as suggested in the amendment, would it not lead to duplication of duties? We must think about this carefully.

President, I so submit.

DR SAMSON TAM (in Cantonese): President, when members of the public want to buy properties, many of them may go for uncompleted flats, and they will often rely on the information available in making their decisions. Therefore, I fully support the Government's proposal to issue a new guideline for property developers, requiring them to upload the relevant information onto their websites, so that the public will be provided with more information in an open manner. I consider this proposal worth pursuing.

However, in implementing this proposal, how should we monitor the compliance by property developers with the guideline? This is exactly where the problem lies. To facilitate sales, property developers usually cherry pick the information to be published and may not publish information not favourable to them. Therefore, in enabling the public to obtain more information in a fair manner, I think the Secretary needs to give comprehensive consideration to enforcement on all fronts.

Here I would like to propose that the Government, in particular, the Secretary, examine ways to expose false information. I think we might as well take reference from the mode of Wikipedia on the Internet. Instead of having property developers or individuals publish information, information may be developed in an interactive manner through the collective effort and participation of the public. Therefore, the Government may consider promoting the establishment of an online database on uncompleted residential properties territory-wide. Instead of solely relying on the information provided by property developers, we should develop an integrated database. As the database will not be hosted by property developers, different people will be able to express their views in a more objective way. Apart from the information uploaded by property developers, the database may also contain information on the latest transactions uploaded by estate agents.

As to the question of whether the information in the database is accurate, it depends on whether there is enough participation and monitoring and how the public can be encouraged to upload onto the Internet such information as the difficulties encountered by buyers in obtaining information from estate agents, information obtained through the grapevine and experience or complaints of prospective buyers. What are the merits of posting such information on the Internet? It can enable discussion, because many people, including myself, are

very worried that estate agents will only publish some information but not other information. As most people would not keep browsing the websites in the course of flat buying, it is therefore necessary to create a platform to enable the community to monitor which property developers have published adequate and accurate information, which property developers have failed to publish or concealed part of the information, and which estate agents have failed to provide information honestly. The public can monitor property developers and estate agents through this platform, thereby enhancing the transparency and fairness in the sale of uncompleted residential properties, which will in turn offer better protection to consumers.

Besides proposing that the Government set up this database — the actual work may be carried out by the Consumer Council or voluntary organizations — I also consider that the Government should set a good example by taking the lead to make its property information public, such as by improving the existing property information search mechanism. Many people have complained to me that the online search service of both the Land Registry and the Rating and Valuation Department are not convenient to use. For example, registration is required before use, and the strangest of all, searches are charged. Besides, the fee-charging arrangement is very complicated, with numerous levels of charges, such as $10-odd or $20-odd, and all kinds of charging methods. In the past when photocopies were required, it was reasonable to charge the public for obtaining such information in order to recover the cost, but there is basically no need to recover any cost when the public can obtain the information on the Internet now. However, because of this established concept of the relevant departments, the flow of such information is hampered. I think the Government should definitely allow the public to enquire about or access these public resources on the Internet at liberty.

Members may still recall that the Government made an undertaking more than a decade ago to collect the information available in all the departments to set up a centralized database or platform. However, this has not been taken forward so far. Therefore, I believe the Government needs to conduct a comprehensive review of the policy on the transparency and disclosure of public information as soon as possible.

I support the motion moved by Mr James TO today, and I hope the Government has heard the demands of the public and expeditiously improves the

sales arrangement of uncompleted residential properties, which has caused a lot of complaints.

President, I so submit.

MR IP WAI-MING (in Cantonese): President, regarding the subject under discussion today, as many Honourable colleagues have already spoken much about it, there is no need to elaborate the justifications any further, and it all depends on whether the Government, in particular, the Secretary, is willing to summon her determination to address our demand by implementing the relevant measures.

Many Honourable colleagues have pointed out just now that the sales of various products are subject to stringent regulation. Take range hoods as an example. Vendors who exaggerate their spinning speed will be prosecuted and banned from operation at once, let alone residential property transactions. Many people spend all their life savings to buy a flat. After that, they have to toil tirelessly and tighten their belts for more than two decades to service their mortgages. Therefore, as many Honourable colleagues said, this issue is undoubtedly vitally important insofar as protecting the public is concerned. If property developers abide by the law in their business operation and property sales — "Brother SHEK" is looking at me — without acting against their conscience or the law, why should they be afraid of the introduction of legislative regulation? Many people always talk about the free market. I think if we really uphold the principles of free market, the Government should not have taken certain actions. As it has already taken these actions, why can it not monitor residential property transactions? Therefore, I think the crux of the matter lies in whether the Government has the determination to exercise effective monitoring.

A few days ago, we could see that just the issue of taking measurements alone had already stirred up a row, and property developers did not allow visitors to show flats to take the measurements until the very end. Even press reports today are still criticizing the Government for intervening in the market with the "nine proposals, 12 requirements". We really do not understand why some property developers are so resistant to monitoring. I hope property developers

will understand that we aim to protect the rights of the public rather than deliberately being difficult with them.

President, the subject under discussion is not only about the regulation of the sale of uncompleted residential properties. As mentioned by many Honourable colleagues, the property sector plays a crucial role in the economy of Hong Kong. When the property sector prospers, the economy of Hong Kong will also prosper. However, this is exactly where the biggest problem lies because it seems the economy of Hong Kong relies solely on the property sector. Sometimes, I wonder whether the success of Hong Kong hinges only on the property sector. Now, it seems that one trade is flourishing at the expense of all others, and very often, the development of industries other than the property sector is hindered by exorbitant rentals. Many operators of creative industries would find it unaffordable or unprofitable to operate their business in Hong Kong just when they think about the rentals. Therefore, while regulating property sales, the Government indeed has to consider ways to gradually free the Hong Kong economy from the influence of the property sector and move towards industrial diversification. The Government must give consideration to this because, as pointed out in a recent report on the Mainland, our creativity, economy and competitiveness will definitely deteriorate under these circumstances, which is a great cause of concern to us.

Finally, I think the Government should implement monitoring measures if it has the resolve, so that members of the public will know that it is determined to act in their interests. Actually, I know the Government finds the expression "collusion between business and the Government" offensive. I believe that under the existing system of Hong Kong, collusion between business and the Government does not or can hardly exist, and I also have trust in government officials. However, I always wonder why the general public has this perception, and the Government should also ponder over it. Sometimes, the reality does not matter, but it is public views and perception that matter the most. Why does the public think there is collusion between business and the Government? Is it because the Government has often failed to take certain necessary actions, thus giving people the impression that it is trying to accommodate property developers on many fronts at the expense of public interest? No wonder the general public has formed such a perception. Therefore, despite the Government's continual denial and our trust, is it how the general public sees it? Hence, the Government

must have regard for the feelings and perception of the public, and we do not hope that it will be accused of engaging in collusion with business.

President, I so submit.

MR CHIM PUI-CHUNG (in Cantonese): President, I speak in support of the original motion and the amendment today. I remember that during the Budget debate last week, I said property developers should sell properties on the basis of their saleable areas. After that, I received a note from the Secretary telling me that they were already doing so. In other words, I have failed to keep abreast of the situation.

President, as we all know, the situation of the real estate industry of Hong Kong is weird and exceptional. It is weird and exceptional in the sense that Hong Kong is a blessed land, and so when property prices rise, society will definitely receive economic benefits and experience prosperity in various degrees; on the contrary, if property prices plunge, society will definitely experience a recession. Therefore, the real estate industry and land of Hong Kong is an integral part of our community.

I urge the Government to enact legislation expeditiously. Why? Although there is the separation of powers in the government structure, Hong Kong is basically executive-led. With regard to constitutional affairs, the existence of functional constituencies has aroused disputes in society. I have once asked what we, Members returned by functional constituencies, have done wrong. We have also done our utmost to serve our sectors and society. Similarly, why does the Government not enact legislation to regulate the sale of residential properties and uncompleted properties to avoid bringing property developers into disrepute? Actually, why should property developers need the care of the Government? Over the past few decades, as I said just now, property developers in Hong Kong have greatly benefited from the local and global environment and made huge profits. They would be grateful to the Government if it prohibits the sale of uncompleted residential properties because the later they sell the properties, the more profits they can make. A certain property developer in Hong Kong froze the sale after selling only one flat — you have to guess which developer it is, as I do not want to name it here in this Council, but it is a

fact — in a residential property project in Sha Tin 15 years ago, and the flats are still on the market now. The Government should have a record of this.

Members of society do not wish to see any grave unfairness, but now the Government proposes to introduce new guidelines, and it is even prepared to beseech the trade association into co-operation. Is it not ridiculous? If the trade association has such a great power, why does the Government not introduce legislative regulation? When the Government does not regulate property developers, why does it impose stringent regulation on securities transactions? There were once a lawyer and a financial consultant who were involved in a transaction. They were aware that the major shareholder would pursue a certain development in the future, but as the relevant company had not made any disclosure, they failed to disclose this information on their own initiative out of negligence. In the end, they were put to jail and lost all their professional qualifications. Why is the Government so harsh towards the financial sector while being so lenient towards property developers? It is a major cause of class conflicts and social confrontation which even Premier WEN is not aware of. When the Government is well aware of the blunders and unfairness, why does it not take the lead to make improvement? Why does it stir up divergent views among the public, thereby dividing our society and causing disharmony? Will the Government review this situation?

As I said just now, the approach adopted by the Government has made members of society become hostile to property developers and look at them through tinted glasses. Actually, this is unfair to property developers because they themselves do not want to see this situation. Most property developers abide by the law in their business operation. With their foresight and financial strength, which are unparalleled by other industries, they are qualified for and capable of this achievement. However, the unfair approach adopted by the Government has made people think that they are those callous rich people who have created unfairness and conflicts in society. This is comparable to the unfairness, discrimination and hostility suffered by Members returned by functional constituencies, for which the Government should be held responsible.

President, we also understand that law-abiding property developers in Hong Kong will definitely not make use of flats with the so-called "inflated saleable area" to reap special profits — but I may be wrong here because there are actually many mega property developers which use this trick to make a fortune in

an extraordinary way. They turn public areas, such as lift shaft areas, into saleable areas and make profits out of them. This problem is also caused by inadequate monitoring by the Government.

Therefore, I think the Government should examine the enactment of legislation without delay to enable property developers of Hong Kong to pursue better development in a normal environment. Incidentally, President, I would like to talk about another case of social injustice, which is that many estate agents may make cold calls and adopt hard-sell tactics to solicit business, which causes nuisance to the public. However, are practitioners of other industries allowed to do so? In particular, practitioners of the financial industry are not allowed to do so. In that case, why does the Government create this social conflict? I hope the Government will ponder over it.

MR PAUL CHAN (in Cantonese): President, first of all, I declare my interest as an independent non-executive director of the Wharf (Holdings) Limited, which also invests in the property market and engages in real estate development business.

President, housing has always been one of the major subjects of concern to the people of Hong Kong and the most sensitive livelihood issue. As pointed out by many Honourable colleagues in their speeches, home purchase is the biggest investment made by many people in their lifetime, and the amount involved would often be a few million dollars. When home buyers have bought flats which are unexpectedly found to be vastly different from the show flats due to confusing or even misleading information, apart from suffering from grudges, they also have to use most of their hard-earned salaries each month to make mortgage payments for the "eyesore" flats in the next couple of decades to come. This is indeed distressing for them.

Many Honourable colleagues have mentioned just now that even for vendors of roasted meat, pork, dried seafood, gold or jade articles of jewellery, if they have tampered with their scales or made false or misleading representation, they will be prosecuted by the Customs and Exercise Department under the Weights and Measures Ordinance or the Trade Descriptions Ordinance. Although the amounts involved in these cases are relatively small compared with

those involved in home purchase, legislation is in place to regulate them. Why is the regulation of the sale of properties, and properties alone, so lenient?

Mr CHIM Pui-chung mentioned just now that the regulation on the sale of financial products is very stringent. Coincidentally, I also wish to use this for a comparison. At present, the purchase of financial products in Hong Kong is protected under the Securities and Futures Ordinance and the Companies Ordinance. Products offered by listed companies are even required to comply with the Listing Rules made by the Hong Kong Exchanges and Clearing Limited (HKEx). The legislation and the rules and guidelines issued by the relevant organizations regulate not only listed companies but also the relevant market participants, including shareholders, directors, authorized representatives and senior executives of listed companies, and even the intermediaries involved, such as accountants, lawyers, engineers and sponsors.

Under the relevant ordinances, licensed intermediaries, commonly known as brokers, have to know their clients, conduct product due diligence examination and ensure that front-line staff have adequate knowledge of the products, in order to enable clients to have full knowledge of the products they intend to buy to avoid being misled.

President, the Listing Rules also set out the documents to be submitted by listed companies. The information contained in the documents, including even the cover and the back and the charts and diagrams, must be accurate and complete in all material respects and not be misleading or deceptive. The listed companies must not, among other things, omit material facts of an unfavourable nature or fail to accord them appropriate significance, present favourable possibilities as certain or as more probable than is likely to be the case, or present risk factors in a misleading manner. I believe listed companies will definitely not be allowed to present in their prospectuses the finished look of uncompleted buildings in an enhanced surrounding by using artistic touch-up skills, like those commonly found in sales brochures of residential properties. If listed companies sell their products using these prospectuses, serious consequences will surely arise.

President, the relevant regulation also provides that any person engaging in a dealing in securities which involves market malpractice, such as insider dealing, false trading, price manipulation, market manipulation and disclosure of false or

misleading information to induce the purchase or sale of securities by another person, is liable to civil or even criminal prosecution. On conviction, the person concerned is liable to imprisonment for up to 10 years or a fine of $10 million.

If the HKEx identifies any irregularities in its day-to-day market regulation exercise which indicate possible breaches of the relevant regulations or codes of practice, it will notify the Securities and Futures Commission (SFC). Actually, this has given rise to quite a large number of referral cases over the past few years, and a recent case in point is the Asian Citrus Holdings Limited.

President, I have cited these comparisons to highlight the question of why the regulation of the purchase of stocks and securities is so stringent, while that of property sales is so lenient. Members of the public may choose not to buy stocks and securities and not to make these investments, but for many people, home ownership is the dream of their life, and it is only natural for them to wish to buy a flat for self-occupation. Why is the Government so lenient in monitoring property sales which has such a far-reaching impact on people's livelihood?

Actually, the Sales Descriptions of Uncompleted Residential Properties Bill mentioned in today's motion was discussed by this Council in 2000. Back then, the Government published a consultation paper and intended to take on board the recommendations in the report issued by the Law Reform Commission in 1995. It also set out in the form of a White Bill for public consultation the information to be included in sales brochures or advertisements of residential properties on the public sale of uncompleted residential flats in Hong Kong. However, as mentioned by Honourable colleagues just now, the consultation was discontinued in less than two months, and the Government subsequently set up a monitoring committee and did not pursue the proposal of enacting legislation any further.

Now that a decade has gone by and the sales practices of residential properties have aroused disputes in society again, it is just reasonable to revisit the proposal of enacting legislation, especially when these practices have evolved to such a state that they give people the impression that property developers can do whatever they like without considering the others at all. I think the SAR Government would owe the public a great deal if it does not make concrete responses even under these circumstances. Take legislating a minimum wage as

a reference. Despite being well-intentioned, the Wage Protection Movement was unable to achieve success and the enactment of legislation has to be pursued in the end. Therefore, I implore the authorities concerned to summon their moral courage to say "no" to the unscrupulous sales practices of property developers and enact legislation without delay.

President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): President, housing is the most important and fundamental livelihood need of people. In order to own a home, a family must take out a mortgage loan with a tenure lasting one to two decades, and the monthly instalment often accounts for as much as 50% to 60% of the total household income. People therefore very much hope that the Government can, from the perspective of people's long-term interest and the healthy development of the overall property market, step up its regulation and monitoring of the property market, especially the primary market.

We believe that appropriate legislative control …… In particular, there must be legislative regulation on the advertisements, sales specifications, show flats and conduct of estate agencies relating to first-hand properties and for various types of information about new property developments, so as to prevent property developers form disseminating confusing messages and making use of clever marketing psychology tactics as a means of manipulating prices, fooling ordinary home buyers and creating a market environment totally advantageous to them (property developers) but absolutely disadvantageous to home buyers. I have repeatedly stressed that such regulation is only targeted on unscrupulous property developers. There are scrupulous developers, and we do not intend to level any criticisms at them.

Now, just several days after the Government's announcement of the "nine proposals and 12 requirements", transactions in the market have cooled down abruptly, seeming to show that they have achieved instant effect. However, we believe the effect will be short-lived because home buyers are not quite sure about the effect of these measures, so they just want to defer their home purchase plans until the situation is clear. The new measures are all administrative ones, not any new legislative requirements. "The requirements under the new

measures" are not quite the same in meaning as "statutory requirements that must be complied with". There is actually a very great difference.

The "nine proposals and 12 requirements" are mostly concrete and reasonable requirements on the sale tactics regarding first-hand flats. For example, there must be an "unadorned flat" for presentation. The dimensions of the show flat must comply with the floor plan. The thickness of walls and height of ceiling of the show flat must be the same as the actual flat. And, the show flat must be equipped with doors and frames. It is necessary to legislate such concrete and reasonable requirements for compliance by property developers. When a consumer wants to purchase a pack of 100 g sea salt, a shop must not sell a pack of 80 g table salt to him, because the two are not the same, and there is also a difference in weight as well. A pack of salt does not cost too much. Even if a consumer gets the wrong kind of salt, he may ask for a replacement or simply buy another pack. The impacts will not be substantial. However, in cases people are misled into buying a wrong house or apartment, the resultant mortgage repayment may involve two generations. Family members having to repayment the mortgage loan (Very often, more than one or two persons must bear the burden) may blame one another for buying an unsatisfactory apartment, thus affecting family harmony. A wrong decision may affect an individual and his whole family, and even society as a whole may thus be filled with anger and grievances. The impacts are by no means small. Therefore, I hope that the "nine proposals and 12 requirements" on regulating the sale of "first-hand completed flats" and uncompleted flats can be enacted as law, with a view to clearly showing Hong Kong's determination to eradicate once and for all the problem of home buyers being deceived and bullied in the first-hand property market.

And, I still wish to make other proposals. At present, the districts where property developments are located should be defined in accordance with the delineation of districts adopted by the Government, and the numbering of floors should also follow a logical order. However, there have been some strange cases. For example, why has To Kwa Wan come to be called Ho Man Tin? When has the New Territories become the heart of Hong Kong? How can there be the 88th floor in a building of less than 60 storeys? Are these highly "imaginative" and "creative" practices, which aim to make profit by hook and by crook, the very reasons for Hong Kong's rating as the freest economy in the world over all these years? Hong Kong should not allow such misleading practices. They should be expressly prohibited.

What is more, private sale is likewise marked by many grey areas. Property developers may resort to "commercial secret", "personal privacy" and "internal operations" as excuses for refusing to disclose information. As a matter of fact, the Government should require property developers to disclose all the dates concerning the conduct of private sales, deposit payments and final transactions, because such "commercial secret" and "personal privacy" are used by property developers in times of first-hand property sales to create a heated market atmosphere, confuse the public, manipulate prices and the number of flats for sale and boost prices. People use all their life savings for buying their homes, and two generations must join hands to pay up their mortgages. So, they should deserve reasonable treatment.

President, whenever I see how helpless young people are, how they are worried about not being able to buy any properties amid spiralling prices, how they fear that they may be cheated and thus forced to pay for the mortgage of a flat they regret having bought for the rest of their life, and how desperate they are, I will be very sad and angry. Some people have already made so much profit, so why do they still want to oppress the ordinary masses, forcing them to spend their money with so many grievances?

Property purchase is a major life-long investment of the ordinary masses. Over the years, people have been treated most unfairly when purchasing properties. I believe this is clear to all. This has caused very great grievances among the people. The Government must not turn a blind eye to all this anymore. It is the right time for the Government to enact legislation to establish proper market rules, so that in the course of property purchase, people can make the choices most suitable for them on a well-informed basis. That way, honest property developers will not be encumbered by their unscrupulous counterparts, and the Government can rid itself of the shameful reputation of "colluding with business". This is an all-win solution. I hope the Government can be humble enough to accept it.

With these remarks, I support the original motion and the amendment.

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

PROF PATRICK LAU (in Cantonese): President, first, I must thank my friends in the sector for offering me so much professional advice on the motion today.

Actually, over the years, in order to have a cosy home (as rightly pointed out by many Members already), Hong Kong people must spend all their life savings on buying their own properties. However, Hong Kong is a very special place, in the sense that many people buy properties not for self-occupation but for investment. As a result, there are many forms of property purchase. This is a point Members must note.

The calculation of floor area used to be very confusing. Why? Architects knew very well that the methods of calculation adopted in government planning, and by the Lands Department and Buildings Department were all different. There was no uniform method of calculation among government departments, property developers and professionals. Consequently, many people did not realize that what they had bought was not what they had expected until after they had moved into the flats concerned, thus leading to many unnecessary disputes and grievances in society.

These days, since several years ago when the Legislative Council …… I am very grateful that many Members have proposed various uniform methods of calculating saleable area, thus leading to great improvements in this regard. The net floor area or saleable area that I work out as a professional Authorized Person is now subject to adequate monitoring, and there is now a uniform method of calculation. Therefore, speaking of the purchase of uncompleted flats now, the "nine proposals and 12 requirements" mentioned by the Financial Secretary just now are in fact already in operation.

The important problem now is that the Lands Department has all along been using the method of calculating net floor area (that is, what we call "saleable area") used by the Hong Kong Institute of Surveyors. And, the Property Information Online provided by the Rating and Valuation Department also contains information on the "saleable area" of large numbers of residential properties. That is why property developers must specify the "saleable areas" concerned in the course of property sale. As for "gross floor area", it is the area specified by the Planning Department during planning that can be used by architects for building construction. The two are different concepts. What is more, when purchasing properties, members of the public should have the right to

know how large the common areas are under the deeds of mutual covenant or other management requirements. If so, I believe members of the public will be better informed, and they will not fall into the trap of being made to pay for residents' clubs and other facilities.

However, President, I must point out that many people do not realize that with the new methods of calculating saleable area or net floor area, a residential unit will be smaller, much smaller, in area when compared with those measured with the old method. As a result, in terms of price per square foot, the prices of all properties have risen. A property agent once told me, "Mr LAU, property prices have spiralled. Do you know that?" Actually, it is a bit misleading to say so because the method of calculating floor area now is different from that used in the past. This is where the problem lies. I hope members of the public can realize this point before they purchase any properties. The reason is that the method of calculating floor area has changed, and the price per square foot has thus increased drastically. I hope all can realize this point.

Another problem with the proposals raised by the Government earlier is that there are many complicated technical issues. I have read the White Bill drawn up in 2000. It sets out many technical issues that entail regulation and the divergent views held by various organizations. I therefore hope that attention can be paid to the relevant problems when Members propose statutory regulation.

As for information about new buildings, I think that such information should be accurate. Many people wonder why the advertisement of a property development located in the New Territories should mislead people into thinking that it is situated in the urban areas. The answer, as we have mentioned, is that if one really wants to buy a unit for self-occupation, one will not buy any unit simply by reading the advertisement. The problem is that many property buyers in Hong Kong are investors. They will not bother about the location of properties. But if people want to buy properties for self-occupation, it will be a different story.

In the final analysis, I agree that the most important thing is to establish a uniform method of calculation in Hong Kong, and that all information must be accurate. Show flats must be presented comprehensively and accurately. It is

only in this way that the interests of consumers can be protected. I insist on upholding an open, fair and impartial principle, which is a core value of Hong Kong.

For this reason, my sector and I both support the Government's "nine proposals and 12 requirements" on regulating the sale of residential properties. And, the Hong Kong Institute of Surveyors has even put forward "nine new proposals" which seek to address the aspirations of the public and many in the sector over the years. In particular, the "nine new proposals" require the disclosure of information about private sales and the latest progress of sale and also the inclusion of "Non-Consent Scheme" development projects in the "nine proposals and 12 requirements" for regulation.

However, we must be clear that property buyers in Hong Kong also include investors engaged in the speculation of both completed and uncompleted flats. The measures introduced by the Government and professional bodies on property sale will of course help correct market malpractices and educate the public on consumer rights. But we must bear in mind that price movements of properties are a separate matter. The two must not be mixed up.

Thank you, President.

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

MR ABRAHAM SHEK (in Cantonese): President, I wish to thank Members for offering their precious advice on the practices adopted by property developers to sell uncompleted flats. I am also grateful to them for their criticisms. But if all such criticisms are truthful, Members must report to the police. In the case of the several property developers mentioned by Dr LAM Tai-fai, if he has any information, I very much hope that he can act like a good citizen. In particular, since he is a businessman, there is all the more reason for him to stop such unlawful practices by reporting to the police, rather than staying in this Chamber to win the democratic camp's applause and indulge in the pleasure.

Second, I need not mention Mr LEE Wing-tat because he has made lots of efforts over the past decade. The guidelines under discussion today are largely

his contribution to society. President, we have been conducting negotiations and studies with the Government on the formulation of such guidelines. Since 2001, we have revised these guidelines 16 times, leading to their continuous improvement. I know that he has made immense efforts. Just now, in the Ante-Chamber, I asked him what other revisions he still wanted to make. He could not think of any, saying that the only last step was the enactment of legislation. However, in regard to the fact that the continuous improvements to the regulation of property sales have brought forward transparent and fair sales practices, I did not hear from Mr LEE Wing-tat any recognition of the efforts made by the Government and The Real Estate Developers Association of Hong Kong (REDA).

I am very grateful to Prof Patrick LAU for clarifying the people's misunderstanding. Many Members who spoke just now do not realize that building construction is not free from any regulation. The Government has never offered any special incentives or favourable treatment to property developers. As a matter of fact, the Government has all along imposed various forms of regulation on property developers. We must satisfy all the planning requirements of the Planning Department, and we must also adhere to all the requirements of the Buildings Department. I believe that lawyers know all this very well. All these statutory requirements were endorsed by the Legislative Council. In addition, the Lands Department also imposes many statutory requirements. The "Consent Scheme" under discussion, as mentioned by Mr James TO just now, and even other forms of regulation not written down in black and white, are already included in the "nine proposals and 12 requirements". Therefore, Members must not have any misunderstanding. Property developers do not intend to cheat buyers. This is largely unnecessary. Members should realize that the high property prices these days are not caused by any sales practices. Rather, they are the result of inadequate supply. Speaking of the supply of residential flats, it is not true to say that property developers do not want to construct any residential flats. Rather, it is caused by the Government's failure to do enough to ensure adequate supply, thus leading to spiralling prices. And, many people have come to put the blame on sales practices, which are under discussion today.

President, the real estate sector strongly supports the "nine proposals and 12 requirements" recently put forward by the Government to improve and

monitor property sales practices. I understand that the Government and REDA are holding negotiations on the formulation of new guidelines to tie in with the former's latest proposals and requirements, with a view to reducing disputes and criticisms in society. However, it must be noted that the property market is ever-changing. The situation in 2000 when the White Paper was published is entirely different from the situation nowadays. The situation has greatly improved by now. As rightly pointed out by Prof Patrick LAU, there is now a uniform method of calculating net floor area or saleable area. The "nine proposals and 12 requirements", in particular, can provide clear guidance on how property developers can satisfy the Government's requirements. Therefore, the question is not so much about property developers having any special reasons for cheating anyone. Rather, it must be realized that in a capitalistic society, it is only reasonable for property developers to make profit. But, naturally, while making money, we also have the duty to comply with the laws enacted by the Government. Therefore, President, there are already many laws on monitoring the sale of completed flats even without the help of any further enactment of legislation. Over the past 10 years, property developers and the Government have already made many efforts to regulate the sale of residential flats and sales practices.

Another matter is that, very often, estate agents are not related in any way to property developers. The practices adopted by estate agents are different from those adopted by property developers, and property developers do not approve of such practices. President, in the recent case of Larvotto, for example, estate agents all turned very concerned at seeing a falling trend of the market. Therefore, what estate agents do may not be agreed to by property developers. For this reason, President, I wish to explain to Members here that we will seriously consider their opinions. If the Government decides to regulate and enact legislation on property sales one day, we will also obey the Government's proposals. But all along, we have managed to regulate property sales without the help of any legislation.

Finally, President, I wish to make a declaration of interest. I am the representative of the real estate sector and a non-executive director of several listed companies. I am very glad that Mr Paul CHAN also spoke just now. As a non-executive director of the Wharf (Holdings) Limited, he also agrees to the enactment of legislation. I will reflect all the views to my constituents, and I

will also relay the views of the Legislative Council to REDA. I hope we can work something out with the Government without enacting any legislation. Thank you, President.

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

MR PAUL TSE (in Cantonese): I wish to add several points. First, having listened to Members' remarks on one issue just now, I think I may as well say a few words on it. This issue may not only involve first-hand residential units or property developers. If the actual price per square foot, rather than the "pseudo price", is to be clearly specified at the very beginning, then it may be necessary to carry out a review of the whole property market in Hong Kong, because over all these years, the prices per square foot of second-hand units have been calculated on the basis of the prices per square foot of first-hand flats. I think that when contemplating any reform, the Government must also consider the impacts of this practice, rather than simply targeting on newly completed flats. Doing so may cause significant and great impacts on the whole market.

As pointed out by Members, the problem is related not only to property developers but also estate agents. In this regard, in the context of Hong Kong, residential units are both a consumer good and a tool of speculation. I know many people who are all the time very concerned about prices, whether there is any discount and the best before dates even when buying vegetable or shopping in the supermarket. But when it comes to property purchase, the most they will do is just to cast a glance at the flat and buy it without any further ado. Most people, of course, will not do so. But the practice is undeniably one of the reasons for the morbid phenomenon that has existed for such a long time.

President, when I look at the Trade Description Ordinance, I notice that its scope can in fact be very extensive. But its definition of "goods" is not very clear. It sets out the things regarded as goods. But are residential units goods? It does not specify whether land is regarded as goods, but it also provides that things attached to land may be included. In that case, why have there been no precedent cases, where the Trade Descriptions Ordinance was invoked to

challenge property developers or any property transactions, and to question whether there had been any misleading descriptions?

As a matter of fact, property sales are included in the fair trade laws of some common law jurisdictions. For this reason, the authorities concerned do not need to make any major and deliberate attempt to formulate a law targeting on property developers and the sale of uncompleted flats. It simply needs to consider making amendments to certain definitions in the Trade Descriptions Ordinance. This can already pre-empt many of the problems associated with the sale of new flats and second-hand flats, such as misleading descriptions, and also deal with the related criminal liabilities. The advantage of this is that rather than targeting only on property developers, the property market, first-hand flats and second-hand flats, we will be able to focus on all areas of concern associated with any transactions of goods in Hong Kong, such as the possibility of misrepresentation. This is a direction worth our consideration. This is of course just a rough idea. But we may consider the whole thing in this direction.

As for the property market …… Mr James TO seems to have made this point. It is not clear whether the property market can be divided into the "Number One" market and the "Number Two" market. Mr CHIM Pui-chung seems to think so. He thinks that the "Number Two" stocks market does not enjoy such privileges. Speaking of the tourism industry, it is even the "Number Two" of the "Number Two", because there is so much regulation for just a simple package tour involving merely several hundred or several thousand dollars. The non-compliance with a major requirement, or just a minor omission, may lead to prosecution. Many people will therefore wonder why there is no clearer regulation of the property market, which involves so many huge investments and major projects. I do not intend to speak too much on this because many Members have repeatedly pointed out why we do not have the relevant laws. However, I wish to point out that much as we are concerned about legislative amendments, we must also strike a balance. Some Members talk about imposing severe penalties in times of widespread disorder. This is of course useful sometimes. But we must also be prudent. At this very time when sentiments are running high, we should not disregard the need for striking a balance and irrationally support a certain cause, just to win applause. This is certainly not consistent with the pragmatic and calm attitude with which Hong Kong people have been dealing with problems.

Another argument also worries me a lot. It is argued that the enactment of legislation is alright, and it is equally alright to introduce stern legislation, because one should have no fear if one does not intend to break the law. Very often, a lawyer or other persons applying for an injunction in Court will argue that one needs not fear the imposition of an injunction if one has not stolen anything, done anything wrong, infringed upon any copyright and committed other mistakes. This argument is very horrible because, by the same logic, as many people argue, one needs not fear the enactment of legislation to implement Article 23 of the Basic Law if one does not intend to do anything subversive against Hong Kong. I do not agree to such an argument. I maintain that the existence of any law must be justified by needs and reasonable. And, while seeking to address the specific needs of people and society, all laws must also strike a sensible balance. We must not all swarm to do something simply because it is advocated by some in society. In the long run, this is not the kind of attitude that Hong Kong as a free society should adopt. This is a point I wish to add.

As I have mentioned, while targeting on the practices of property developers, we should also adopt an approach which is not so unitary, not so industry-specific and not so imbalanced. Instead, we should consider how we can revise the existing framework, with a view to giving it more "bite". Or, we should consider how we can introduce more fairness and transparency to the practices of property developers and property transactions (including second-hand property transactions). This will already be enough. I do not think that we should turn high land prices or soaring property prices into excuses for penalizing any specific sectors. The reason is that we are talking about two separate issues — high prices and unfair practices. In regard to unfair practices, we should do something. But there are many reasons for high prices. High prices may be caused by short supply, or by various policies and measures. We should not make it a scapegoat and use "severe penalties for dealing with widespread disorder" as an excuse for penalizing certain businessmen. I do not think that this is fair. Thank you, President.

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

MR ALBERT HO (in Cantonese): I have listened attentively to Members' speeches today. Their speeches were marvellous. I am also very delighted to see that on this topic, there is a consensus that cuts across all political parties and groupings and sectors. I believe the original motion and the amendment will all be passed with a clear majority.

What Mr Abraham SHEK said was honestly within our expectation. He is more than the representative of the sector today. I listened to him very carefully, and I heard that all the time, he said that they in the real estate sector were happy to hear Members' opinions, and that they would consider such views. He virtually identified himself with the real estate sector. He seemed to have forgotten that he is a Legislative Council Member. However, this does not matter. His words are all within our expectation. Since he was elected by constituents in the real estate sector, he will of course speak for the sector.

What the Secretary faces is a situation ……

(Mr Abraham SHEK rose to his feet)

PRESIDENT (in Cantonese): Mr Abraham SHEK, what is your point?

MR ABRAHAM SHEK (in Cantonese): Mr Albert HO said that I had forgotten my status as a Legislative Council Member ……

PRESIDENT (in Cantonese): Mr Abraham SHEK, what is your question?

MR ABRAHAM SHEK (in Cantonese): I speak as a Legislative Council Member, and I am also the representative of the real estate sector.

PRESIDENT (in Cantonese): Mr Abraham SHEK, it is against the rules for you to speak now. Please speak in accordance with the Rules of Procedure. Mr Albert HO, please continue.

MR ALBERT HO (in Cantonese): I am not saying anything bad about him. I only mean to say that he referred repeatedly to "they in the real estate". That caught my attention. However, this does not matter. What he said is well within my expectation.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

What I mean to say is: how is the Secretary going to respond to the Legislative Council's motion? Will she once again tell the whole Legislative Council that even if the motion is passed, it will not have any impacts on the Government because it carries no legislative effect, because this Council is not so much a representative assembly? Is she therefore going to say that the Government will remain intransigent and insist on its present policy? Is she going to say so? I hope the Secretary can think carefully before replying.

Basically, the Secretary has been referring to the "nine proposals and 12 requirements" and the guidelines formulated in the past. According to her, all these can adequately protect the interests of buyers of uncompleted flats. Many people, as can be expected, think that all these guidelines, including the "nine proposals and 12 requirements", have come too late and are inadequate and powerless. They may even think that "while the thunder is loud, the rains are just too light". Why do I say so? If we care to analyse the "nine proposals and 12 requirements", we will see that many of them are about minor issues. Many of them are in fact about codes of practice, such as those relating to ensuring that show flats will not mislead buyers. I am really surprised. The Secretary has so many duties to attend to, and she must formulate many macro-policies. Why does she still want to deal with these minor issues personally? But I have gradually come to realize why the Secretary wants to deal with these minor codes of practice personally. Because the people she is dealing with are property developers, who are most influential and financially powerful. If she does not get personally involved in the fight, I believe property developers will simply ignore the Government.

But this is exactly the problem. The "nine proposals and 12 requirements", including the measure mentioned by Prof Patrick LAU just now, that is, the requirement of setting out net floor area which was just implemented

one or two years ago after our hard struggle, are really nothing when viewed in the light of the Government's macro-policy of facilitating the development of the property market and the profiteering by property developers over the past decade or so.

Let me look at what happened together with Members. In 1999 — in 1996 or 1997 — there was a long-term housing strategy. Dominic WONG was in charge of housing back then. Studies on population growth, family structure, land supply and completion of housing units were conducted, and the role of the Government was also explored. But, as Members all know, the Government subsequently formulated a strategy of ensuring a relatively stable housing supply. Of the 85 000 units, 50 000 were to be public housing units. Then, in 2000, the property market ran into problems. This policy was thus abolished and simply disappeared. Should Hong Kong be completely deprived of any long-term housing strategy? The Government seems to be more than happy to adopt a policy of inaction.

And, there was also the White Bill in 2000. It was a very good bill, it was supported by many. The then Housing Bureau conducted many discussions with us on the bill. However, due to the pressure exerted by The Real Estate Developers Association of Hong Kong, the White Bill similarly vanished without a trace. Then, in 2002, the Government brought a complete halt to a housing policy that had been implemented successfully for some 20 years. Later, it also abolished the rent control for residential units. What else followed? The cessation of regular land auctions. But at the same time, it introduced a further concession, the exemption of environmental facilities from the calculation of gross floor area. Finally, there is the recent enactment on compulsory sale.

All these measures are meant to clear the way for property developers, to enable them to make money and do business. We consumers only want a little bit of protection, but we meet with strong resistance. We have mentioned that many small business operators have been thrown into prison. We have handled many such cases, where people wishing to buy Home Ownership Scheme flats or live in public housing units were prosecuted for furnishing incorrect information. Why do we think that it is necessary to enact legislation? The precise reason is that we find the whole situation unfair. The reason is just so simple.

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

MS STARRY LEE (in Cantonese): Deputy President, having listened to the remarks of Mr Abraham SHEK, I know that those in the real estate sector represented by him, or the property developers as he perceives them, actually do not mind the enactment of legislation by the Government.

Many other Members, whether returned by functional constituency elections or direct elections, all agree that the Government should enact legislation. Secretary, I hope you can consider one point carefully when giving your reply later. I think that if you merely repeat the "nine proposals and 12 requirements", you will only disappoint the public greatly and confirm their perception that the "nine proposals and 12 requirements" are nothing but "feints" rolled out in times of mounting political pressure.

Since the announcement of the proposals and requirements (The Secretary should be aware of the relevant news reports, and Members have also talked about them), most critics have been expressing the view that the measures have come too late. They argue that residential units are so very expensive, questioning why it has taken so long to roll out the measures. And, they also question why property developers are only requested to exercise self-discipline and comply with the measures on a voluntary basis. This is one kind of argument.

Honestly, some of the "nine proposals and 12 requirements" are desirable. But they have gone unnoticed due to the public perception that they have come too late. These measures include the requirement that property developers must announce the quantities and prices of the flats offered. This is a good measure, one which can prevent property developers from selling their flats in small batches.

However, I hope the Secretary can consider this point seriously when giving her reply later. If the Government still refrains from making strong efforts, the administration and popularity of the SAR Government will be affected. Many in society have started to think that certain government policies are biased towards business tycoons or property developers, and that this explains why the Government is reluctant to resume the construction of Home Ownership

Scheme (HOS) flats. Although we do not agree to this viewpoint, we do find it understandable. When it comes to clamping down on unlawful and unscrupulous sales practices, I hope that the Government can really make stronger efforts. I fail to see any reasons for inaction on the part of the Government. We may conduct further discussions on the legislation to be enacted and whether stringent rules should be formulated. But if the Government even refuses to consider whether an extension of the Trade Descriptions Ordinance (as suggested by Mr Paul TSE) or the White Bill mentioned in the original motion is to be adopted, the public will only think that the "nine proposals and 12 requirements" have been rolled out merely in response to political pressure. The public will think that the Government only wants to cope with the political pressure, rather than playing the role of an umpire.

Besides, I hope the Secretary can realize that the introduction of the "nine proposals and 12 requirements" is only the first step. I very much agree with Dr LAM Tai-fai, who wonder whether any inspections and "undercover" operations can be carried out on top of the "nine proposals and 12 requirements". In other words, the Government should not depend only on journalists and Members' personal assistants. In case the Consumer Council or anyone detects any irregularities in the course of such operations, letters should be issued to property developers in a high profile, requiring them to take actions. This is the only way to truly perform the function of enforcement. Failing this, the public will think that even after the introduction of the "nine proposals and 12 requirements", all must still depend on property developers' self-discipline. This is unacceptable to the public.

I also hope that when the Secretary gives her reply later, she can tell us clearly whether any initiatives that can achieve instant effects will be adopted on top of the "nine proposals and 12 requirements", so as to let the public know that this is only the first step, and that the Secretary is concerned about the public, and does not want them to be cheated anymore.

Property developers aside, I also wish to say a few words on the supervision of estate agents. Some Members have mentioned this issue, and I think the Government must also tackle it at the same time. Recently, I have received a case. The person involved in this case was really very miserable. He sought help from various Legislative Council Members. Prof Patrick LAU also interviewed him. This elderly man aged 60 or so said that his wife had

been cheated. An estate agent led her to inspect a show flat, where she was pestered for several hours. She could not resist all the persuasion (She could not deny all responsibility, of course), so she signed a contract, with the other party telling her that a flat would be reserved for her. The greatest problem is that the estate agent even told her that he could lend her some money for paying the deposit. That very day, she signed a temporary sale and purchase agreement. When she returned home, she was naturally chided by her husband, who wanted her to cancel the contract. But then, the estate agent once again cheated her by showing her a faked price list. He told her that she did not need to worry about anything because the prices of such flats would go up by 30% once the whole development project was launched onto the market. He even guaranteed that he could find a buyer for her. In this way, the elderly man's wife was cheated yet again (probably because she was soft-hearted or because she also wanted to make a profit). In the end, she paid some $500,000 more. Her husband tried very hard to seek help from several Legislative Council Members. The case has been referred to the Complaints Division, and I am responsible for handling it.

The strange thing is that when the elderly man sought help from the Estate Agents Authority …… He did not really ask for anything. He understood that her wife was greedy and also partly to blame. He only pointed out that it was utterly wrong for the estate agent to lend her money for paying the deposit and to show her a faked price list. He therefore said that he should not be permitted to act as an estate agent anymore. But still, his request was not accepted. Even now, the case is classified as unsubstantiated. The original judgment is maintained. So, he is very angry. I also think that even the Complaints Division of the Legislative Council may be unable to help him because inside the Estate Agents Authority, insiders are responsible for investigating their peers. Or, the present rules are simply unable to protect consumers.

I hope the Secretary can also tackle this issue at the same time. The public face many difficulties when purchasing properties. Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr James TO, you may now speak on Mr WONG Kwok-hing's amendment. You have up to five minutes.

MR JAMES TO (in Cantonese): Deputy President, I support Mr WONG Kwok-hing's amendment. Like other Members, I also think that it is more important to set up a special organization, rather than giving the task to the Consumer Council, but I am not going to argue over minor details.

Deputy President, we cannot wait to hear the Secretary's reply, because we really want to know whether history is going to be changed today.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I am grateful to Members for offering so much valuable advice on strengthening the sales monitoring of first-hand residential properties and the nine new regulatory measures announced by us. Mr WONG Kwok-hing's amendment specifically proposes to extend the regulation of sales of private residential properties to all first-hand residential properties. One of the nine new regulatory measures proposed by us precisely requires that when selling all uncompleted and completed first-hand private residential properties, property developers must abide by the sales guidelines issued by The Real Estate Developers Association of Hong Kong (REDA). In other words, the scope of the regulatory measures will cover not only uncompleted flats but also all first-hand private residential properties. Therefore, in terms of the scope of regulation, our direction of work is actually the same as the one suggested by Members. In response to Members' other major concerns and views, I shall give a consolidated reply as follows.

Members have made some suggestions on the individual new measures put forward by us. I wish to emphasize that the requirement on issuing sales brochures, price lists and transaction information under the new measures and also the existing measure of requiring property developers to disclose the transaction information about uncompleted flats within five days after the signing of temporary sale and purchase agreements are actually two integrated requirements in a whole package of measures on comprehensively enhancing the sales transparency of first-hand residential properties.

Under these measures, property developers must satisfy a series of requirements when selling first-hand residential properties in the future. For example, they must issue sales brochures seven days before the flats concerned are put on sale, and they must also upload their sales brochures onto their web pages. Property developers must also announce the relevant price lists three days before selling any number of flats to any persons, and the price lists concerned must likewise be uploaded onto their web pages.

As for the issue relating to the number of flats contained in the first price list, we propose that in case of small development projects, the number should be 30, or 30%. In the case of large development projects, at least 50 units or 50% should be offered in each batch, whichever is higher in both cases.

My explanation may be clearer if I can use an actual example. In the case of a large property development project with 2 000 flats, if the developer sells the flats in five batches, with 400 flats offered each time, then the first price list of each batch must contain 200 flats, or 50%. We think this is a more appropriate requirement. We do not rigidly require the developer to offer 50% of all the 2 000 flats, that is, 1 000 units, in one single batch.

Besides, property developers must provide all relevant sale and purchase agreement information on their web pages and at their sales points five days after the signing of temporary sale and purchase agreements. The transaction information should cover any board members of developers and their next of kin.

When compared with the existing measures, which merely require the issuing of sales brochures and the first price list 24 hours before sale, the announcement of the price lists of the remaining flats only before their actual sale, and the sale of only 20 units or 20% of the saleable flats in the first batch, the new measures can take us a step forward in comprehensively enhancing the sales transparency of first-hand private residential properties, further protecting consumer rights, providing a fairer transaction environment and improving the sales culture of the entire first-hand residential property market.

Some Members have asked whether we will relaunch any anti-speculation measures, such as the prohibition of "confirmor sales". In this connection,

please let me cite some objective statistics. In 2009, "confirmor sales" accounted for 3% of all private residential property transactions. In March 2010, "confirmor sales" likewise accounted for 3% of all the private residential property transactions …… (Appendix 1) The first figure should be 2% and the second figure 3%. In other words, it was 2% in 2009, and 3% in March 2010. We will certainly continue to monitor the situation.

As pointed out specifically by the Financial Secretary during the Second Reading debate on the Appropriation Bill 2010, the prohibition of sub-sales in the form of "confirmor sales" is one of the issues currently under our consideration. Should we detect any signs of speculative activities and the forming of a property bubble, this will certainly be one of the measures we will consider.

Some Members have remarked that there is a disclaimer on practically every page of some sales brochures. I wish to point out that under a measure introduced late last year, we have drawn up and put in place a requirement on the separation of sales brochures and advertising information. Some advertising information may still contain disclaimers reminding consumers to be careful, but all material information (such as the absence or otherwise of any landfill) is already unambiguously set out in sales brochures.

Some Members have mentioned the issue of inspections. We have all along entrusted the task of inspection to the Estate Agents Authority (EAA). Inspections connected with the new measures this time around will also be carried out by the EAA on our behalf.

Many Members maintain that we should not depend solely on property developers to enforce the nine new measures, and that we should incorporate all these new measures into the Consent Scheme, which provides for penalties. Or, these Members propose, we should impose regulation by way of legislation.

The sales guidelines of REDA will enable us to implement the new measures in a more flexible and timely manner. Where appropriate, we will also incorporate the new measures into the Consent Scheme.

In the past, some measures were not included in the Consent Scheme. This time around, we will include the new measures in the Consent Scheme

where appropriate. If any property developers violate the relevant measures in the future, the Lands Department will take corresponding actions depending on the seriousness of contravention. In severe cases, the Pre-sale Consent may be suspended or rescinded. In that case, the developer concerned must suspend its sale of uncompleted flats. It is believed that this can produce a huge deterrent effect on property developers.

Some Members have asked whether these measures are mere "feints" or a "toothless tiger". Just take a look at our approach, and they will notice that our approach will be both effective and powerful. Therefore, this time around, we do not rely solely on self-discipline. Rather, we also count on the Consent Scheme as a significant means of regulation.

As a matter of fact, by adopting a multi-pronged approach which comprises the Lands Department's Consent Scheme, REDA's sales guidelines, the EAA's monitoring of the real estate sector and the education and publicity work of the Consumer Council, we will be able to flexibly introduce the new measures to promptly cope with market circumstances and consumer expectations. In the past, through the Consent Scheme and the REDA's guidelines, we were also able to introduce various measures within a short period of time.

Deputy President, as mentioned by the Financial Secretary during the Second Reading debate on the Appropriation Bill 2010, we will closely monitor the effectiveness of the new measures. However, Deputy President, the enhancement of monitoring is a continuous process. We already made many efforts in the past. And, the measures this time around are comprehensive and focused in nature. If we find that the relevant measures cannot achieve the desired effects, or if they cannot be fully and consistently implemented, we do not rule the possibility of introducing legislative control. We understand the concerns of Members and the general public. My staff and I will follow up the whole issue vigorously.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr James TO's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Abraham SHEK rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr Abraham SHEK has claimed a division. The division bell will ring for three minutes.

(THE PRESIDENT resumed the Chair during the ringing of the division bell)

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 displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwong-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mr Abraham SHEK voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 21 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 24 were present and 23 were in favour of the amendment. 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.

PRESIDENT (in Cantonese): Mr James TO, you may now reply and you have three minutes eight seconds.

MR JAMES TO (in Cantonese): President, I hope the Government can hear the voices of this Council because the many Members who have spoken today, irrespective of their sectors and background, have actually requested the Government to introduce legislative control. Even Mr Abraham SHEK, the only Member who may oppose this motion, is also very humble today. He said if the Government really enacts legislation, they will comply with it although they are already required to comply with many requirements in law. For this reason, they question whether it is necessary to enact legislation.

President, if the Government really single-mindedly insists on not enacting legislation in a proactive manner in one year's time after the passage of this

motion, the Democratic Party will probably move a motion on a vote of no confidence in the Secretary.

Second, President, what is actually meant by not achieving satisfactory results? Secretary, you may recall — I have counted the number of instances — that the various former Secretaries have said so for 11 times. The Government has said on 11 occasions that legislation would be introduced if satisfactory results could not be achieved. However, the Government always had to discuss and debate with property developers, and later it would indicate again that the results were not satisfactory; which would be followed by another round of discussion and another comment that satisfactory results could not be achieved.

Secretary, if the former Secretary in office over a decade ago had introduced legislation, we would not have to conduct this debate today, and the legislation could have been amended by the Director of Housing through subsidiary legislation on the schedule. It is a very flexible arrangement that can readily tie in with monitoring by society. If the Government even fails to adopt this arrangement and will only enact legislation when satisfactory results cannot be achieved, the situation is like the one described in a movie starred by Alan TAM I mentioned just now, with these lines: "Do not do that again. Do not push me anymore or I will beat you up. Do not push me anymore, if you do, I will beat you up. Do not come near me or I will beat you up." This is just a joke, a comedy.

President, many reporters gathered outside a certain residential property development to get a better look at the implementation of the so-called "nine proposals and 12 requirements" for the first day. Later, we found that many of them actually conducted covert operations there, but they could hardly take photographs and measurements of the show flats. However, when one asks whether property developers have adopted such a hard-line position even on the very first day because the flats offered for sale are completed ones, the Government will surely reply in the negative, saying that it regulates the sale of first-hand residential properties even if they are not uncompleted ones.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

However, Secretary, someone has already given you a slap on the face on the very first day by completely ignoring the Government's guidelines. If you continue to refuse to enact legislation and introduce legislative control, the entire society will become the butt of a joke and doubt, as many Members do, whether the Government is "chickening out" and a "toothless tiger". Or should I point out that this is after all collusion between business and the Government?

Mr CHIM Pui-chung said we should not put property developers into misery. I do not know why it is so, but if property developers are really in misery, it is the Government which is to blame.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TO, as amended by Mr WONG Kwok-hing, be passed.

DEPUTY PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

DEPUTY PRESIDENT (in Cantonese): Will Members please press the "present" button and then proceed to vote by pressing one of the three buttons to indicate their positions on the issue, that is, whether they are for or against it or will abstain on this vote.

DEPUTY PRESIDENT (in Cantonese): Before I announce the voting result, do Members have any questions? If there are no questions, the result will now be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion as amended.

Mr Abraham SHEK voted against the motion as amended.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mrs Regina IP voted for the motion as amended.

THE DEPUTY PRESIDENT, Mr Fred LI, did not cast any vote.

THE DEPUTY PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 21 were in favour of the motion as amended and one against it; while among the Members returned by geographical constituencies through direct elections, 23 were present and 22 were in favour of the motion as amended. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion as amended was passed.

DEPUTY PRESIDENT (in Cantonese): Second motion: Eradicating plutocratic monopoly and promoting social harmony.

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

I now call upon Mr LEE Cheuk-yan to speak and move his motion.

ERADICATING PLUTOCRATIC MONOPOLY AND PROMOTING SOCIAL HARMONY

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

The arrangement for the debate today is most desirable. To start with, we have Mr James TO bringing up the problem of property prices. It is then followed by my discussion on the problems of disparity between the rich and the poor, social conflicts, collusion between the business sector and the Government and plutocratic monopoly. All related issues are discussed at one go uninterrupted. All along, we have been discussing the most significant deep-rooted conflict in society, that is, the public cannot share of the fruits of economic prosperity.

Deputy President, Members all know that the opinion poll conducted by The Chinese University of Hong Kong (CUHK) on the harmony of society is the main factor prompting me to put forth this motion. The seven indexes set out in the opinion poll of the CUHK all indicate that the situation is deteriorating. Among all, the conflict between the rich and poor is most serious; the index has increased from 61% in 2006 to around 64% at present. Another major conflict is between the public and large consortia, the index has increased from 50.3% to 56.8%. Followed by it is the conflict between the public and Government, with the index increased from 34.6% to 56%. After hearing this, Members may notice that the indexes on these conflicts keep increasing. The increase is significant. The situation has deteriorated and we all see the aggravation of

public grievance. Moreover, there are reports in newspaper saying that "Hong Kong is on the brink of a riot". But will a riot really break out? No one knows. For a single spark can start a prairie fire. No one can tell when we have reached the brink of a riot. This is unknown. However, the current responses of the Government really make us so sick as to get our blood up. Why are people so mad at the Government's response? For the Government has given no thought to the causes of disharmony in society, the solutions to the problems, the causes for the current public outrage, as well as the reasons for the building up of public grievances?

What is the response of the Government? What was the greatest concern of LAU Siu-kai when he came forward to respond to the issue? Obviously, the most significant reason for LAU Siu-kai to come forward was to dispute that Hong Kong was now on the brink of a riot and to urge the public not to exaggerate the situation. Honestly, should they not be more concerned about the ineffectiveness of their governance and their failure to solve problems, instead of the press reports? Indeed, the most important thing we should do now is to find out what has happened in society. Yet, the Government did not do so. What it cares is the saying that Hong Kong is on the brink of a riot, and thus clarification is made that Hong Kong has not reached the brink of a riot. But what is ludicrous is that after making the clarification, LAU Siu-kai said that people were trapped in a state of worries. Upon hearing this remark, I too want to say that this is exactly the prevailing situation in Hong Kong. The people in Hong Kong are indeed sad and they are definitely trapped in a state of worries. I think LAU Siu-kai is shameless in that he is a member of Donald TSANG's governing team in possession of public power, since the team is indeed the Government, responsible for governance and policies implementation, how dare he have the nerve to cause people being trapped in a state of worries. When he came forward to respond, he gave us the impression that he was telling the public, "You may just remain in that state of worries." Should he not take any blame for the present situation? Does he feel relieved when he sees people being trapped in a state of worries? In my view, how can the Government remarks that, "Right, the public are now trapped in a state of worries", as if it does not regard this as a matter of great concern. Is LAU Siu-kai not terribly shameless? He neither had the intension to apologize, nor did he reflect on what he had done. He did

nothing other than saying that people were trapped in a state of worries. He laid the blame on others, saying that people were trapped in a state of worries because there were many controversies in society, and consequently, no consensus could be reached over a long time.

In my view, if a government only lays the blame on others without thinking whether it is because of its incapability and lack of leadership that fail to lead the community to make any achievements, it will back off and dare not do anything whenever there are disputes. There are times that even a consensus has been reached in society on certain issues, yet the Government is reluctant to put it into implementation. For instance, the Council as a whole has reached a consensus that transport allowance should be provided for low-income earners, but the Government takes no action. Regarding the provision of transport allowance for low-income earners, although a consensus has been reached among Members, the Government is unwilling to implement the proposal. I wonder if there are objection against the ideology of this proposal within the Government, or if there are other internal problems. Today let me make another forecast. If today we pass the proposal of introducing legislation to regulate the sale of uncompleted residential properties and a consensus has been reached, will the Government implement the proposal? Perhaps at that time, the Government will say that the proposal cannot be implemented for a consensus has not been reached in society. However, has a consensus already been reached in this civilized legislature? No, the Government will not agree to this view. For a Member in this Council, the most important person indeed, has not given his consent, and he is Abraham SHEK, representative of the estate developer sector. When a consensus between estate developers and the public has not been reached, definitely, the policy cannot be implemented.

Deputy President and Secretaries of Departments, if consensus is the pre-requisite for the implementation of any proposal, nothing can be done. If we were to implement an anarchist government, we need to reach a consensus, because by then, we do not need any governments. When we have to reach a consensus on everything we do, what is the point of having a government? The function of a government is to reconcile conflicts and promote measures that benefit the public. This is the obligation of the Government. The Government should not simply wait for a consensus before taking any actions. Besides, as in

the case I mentioned earlier, the Government is unwilling to implement the proposal even when there is a consensus. Actually, the Government is sowing seeds of discord by "promoting one camp and stifling the other camp". How can it do that?

Today, I put forth this motion, hoping that the Government would think about the causes of the prevailing problems in society. Whenever the question of disparity between the rich and the poor is brought up, the Government will definitely say that places around the world also face the same problem. But we should examine why the problem of disparity between the rich and the poor in Hong Kong will provoke public outrage. The reason is simple: Some rich people are heartless and create injustice in society, and the public is particularly outraged by this.

Examples of rich people acting heartlessly are abundant. Let me cite the Lehman Brother case as the first example. Members probably still recall that the banks cheated the elderly out of their pension. The second example is the cross-the-board pay cuts and lay offs in times of economic recession over the past decade or so. Workers are always the first to bear the brunt in times of recession. But when the economy picks up, estate developers will the first to ask for rental increase. Owners of enterprises will then tell workers, "Sorry, due to the rental increase imposed by estate developer, I can hardly make ends meet, so I cannot give you a pay rise." For this reason, the salaries of wage earners are decreasing, while estate developers are reaping increasing profits. As for owners of enterprises sandwiched between workers and estate developers, they too are having hard times in running their business. The heartless acts of the rich have created social conflicts. Estate developers and large consortia have gobbled up all the profits, leaving nothing decent to workers. Yesterday, a group of workers convened a press conference. Three workers coincidentally said the same thing, that is, in the past, employers would not be so hard-hearted and would let them have a decent life. But nowadays, employers are different. Since 1997, employers would take every penny of the profits. They did not know why employers had become so hard-hearted. I think this is not a problem unique to individual employer, this is a structural problem. Since estate developers have to take every penny of the profits, employers too want to reap maximum profit.

The third blatant example of the heartless acts of the rich is the Link REIT incident. After the Government allowed the Link REIT to be listed, Members should have noticed that it had considered reducing the working hours of workers from 18 hours to 12 hours. Then, there was the problem of rental increase. Last time, the person-in-charge of the Link REIT dared to tell us in this Chamber that they would impose "only some 20%" increase in rent. Is the 20% rental increase during the financial tsunami not aim at wiping out the tenants? Hence, the Link REIT is also acting heartlessly despite being rich.

The fourth example is the popular incident of "20-dollar CHEUNG", later changed to "24-dollar CHEUNG". When Mr Tommy CHEUNG gave such a remark, many people considered him unkind despite being rich. Why does he have to exploit workers? Even if the wage is set at $24 per hour, a worker will earn less than $5,000 a month. But Tommy CHEUNG even went further and asked workers to be prepared for a more undesirable working condition, saying that pantry helpers might have to take up dish-washing in future. After hearing this, I think his remark has gone too far, for it seems to be kind of blackmail, suggesting that once minimum wage is set in future, pantry helpers will have to take up the additional dish-washing work. Does he think that pantry helpers work leisurely and have the time to wash the dishes? At present, pantry helpers are already worn out by the work of delivering dishes, how will they have the time to wash the dishes? It is really mean for him to say so. This is another example of being rich but heartless.

What has the Government done in this respect? It takes the lead to outsource the work, and the whole market follows suit. What does outsourcing imply? It implies that the lowest bid price gets the job. How to make the lowest bid? At the end of day, workers will be exploited and suffer pay cuts. Actually, outsourcing does not only cover outsourcing of services, but outsourcing of responsibilities and conscience as well. It anything happens after the service is outsourced, it will have nothing to do with the outsourcing company, and the contractor will be the one to blame for the mistakes. The Government has a role to play in causing the prevailing problem, the "big market, small government" approach has created these problems. Due to the many examples of being rich but heartless, conflicts in society have become more and more intense.

Here, today, I do not only intend to point an accusing finger at anyone, for the most important problem we have to deal with now is to find a way out. We do not wish to see people being trapped in a state of worries, but where is the way out? There is presently a structural problem. Why do we have many cases of people being rich but heartless? This should be attributed to the collusion between the business sector and the Government. As the Government is biased towards consortia, all issues are handled according to the likes and dislikes of consortia. Measures dislike by consortia will not be pursued and the Government will, in turn suppress the aspirations of the public. This is the case at present. Hence, voices of grievances are heard everywhere.

How does the collusion between the business sector and the Government arise? Just look at the structure of the Government. The Government is formed by a coterie election, comprising members mostly elected from the business sector. In the Legislative Council, there are Members from functional constituencies (FCs) who protect the interests of the business sector. The business sector does not only gain economic monopoly, but also monopolizes the political powers to secure their monopoly status in economy. Hence, politics and economy are basically inseparable. With political monopoly, the business sector may gain monopoly in economy. This is of course attributable to the existence of FCs. For this reason, I point out in my motion that FCs must be abolished in order to solve the problems.

(THE PRESIDENT resumed the Chair)

Recently, I have read an article in the *South China Morning Post* written by Jake VAN DER KAMP on FCs. This is a good article. I will read it out in English: "The result is a form of corruption quite different from anything that comes under the nose of the ICAC. It differs in costing us much more than anything the ICAC has ever tried to stop." He makes a good point. This kind of corruption under the collusion between the business sector and the Government hampers the interests of the public; the extent of damage will be greater than the individual corruption cases under the investigation of the Independent Commission Against Corruption (ICAC). All along, FCs have

been defending the interests of their own sectors. I have to make it clear that FCs are not contributing their professionalism or functions, they are the privileged sectors. They only protect the special interests and privileges they now enjoy but not contribute their professionalism. This point must be clarified. Hence, our opposition to FCs cannot be translated as our opposition against the contribution of professionalism. We are only against people who falsely claim that they are making professional contribution but are indeed protecting the special privileges of their sectors or coteries. We oppose such acts. I thus ask Members to support my motion and support our continual fight for the abolition of FCs.

Lastly, I would like to make another point. Though the abolition of FCs may be a relatively long-term task, I put forth the motion today hoping that the Government will overhaul the system. May I ask whether the Government has reflected on this? Will the Government remain neutral and impartial to restore the confidence of the public? The Government should not be biased towards consortia. It should introduce suitable policies to deal with every issue and assume a leading role, so that the public will believe that the Government will transact business and offer assistance to them. Thank you, President.

Mr LEE Cheuk-yan moved the following motion: (Translation)

"That the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong has earlier published the findings of an opinion poll, confirming that Hong Kong is not a harmonious society and estimating that there are 1.5 million people in favour of resorting to radical means to press the Government to respond to their demands, which tolls the death bell for the Government's credibility of its governance; this Council considers that the fundamental reasons contributing to social disharmony in Hong Kong are the plutocratic monopoly of political and economic powers and the Government's implementation of policies which are biased towards the interests of people who are powerful and wealthy, resulting in the aggravation of class conflicts and the worsening of confrontation between the Government and the people; in this connection, this Council urges that the Government should not continue to disregard social crises and leave the people to be

trapped in a state of worries, and must change its course to make fundamental reforms, including abolishing the political privileges of functional bodies and formulating measures to narrow the gap between the rich and the poor, maintain social mobility and ensure fair competition, thereby alleviating the deep-rooted conflicts in Hong Kong and promoting social harmony."

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

Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will call upon Mr Ronny TONG to speak first, to be followed by Mr Emily LAU; but no amendments are to be moved at this stage.

MR RONNY TONG (in Cantonese): President, the motion put forth by Mr LEE Cheuk-yan today does not only mention the governance problem in Hong Kong, but also the deep-rooted conflicts in politics, economy and society of Hong Kong. President, for a question with such an extensive coverage and great importance, I believe that the Chief Executive, the three Secretaries of Departments and the 13 Directors of Bureaux should at least attend the meeting to listen to the debates of Members and give proper responses. Regrettably, only three officials attend the meeting today.

President, Hong Kong has been plagued by this problem for more than a decade since the reunification. The situation can be described by a line in general, and allow me to borrow a line from the late horse racing commentator, Mr Bill TUNG: "To gain without hard work is unreasonable; but to gain nothing despite hard work is injustice." Regrettably, President, many people in Hong Kong now consider that their hard work goes unrewarded, that the effort they made is not in proportion with the reward they received. As such, they dare not hope that their hard work will be rewarded by moving up the social ladder.

President, Members will understand the situation by simply looking at certain striking figures. Between 2004 and 2008, despite the continuous economic growth in Hong Kong, the problem of disparity between the rich and the poor has been worsening. The Gini Coefficient now stands at 0.533, well above the alarm line acknowledged universally. As announced by the University of Hong Kong (HKU) last month, the income of graduates reached a record low. The latest median income earned by graduates is some $12,500, $2,000 lower than the 2008 level, a decrease of 14%. The Public Opinion Programme of the HKU conducted a telephone interview at the release of the Budget this year, and one of the questions was: "Do you think the distribution of wealth in Hong Kong is reasonable or unreasonable?" The number of respondents considering the distribution unreasonable increased every year, from 46.6% in 2008 to 60.5% in 2009. The situation is more serious this year, with 65% of the respondents considering the distribution of wealth unreasonable. As I mentioned earlier, it is unjust. These figures show clearly that there is growing grievances among the people of Hong Kong, and many people have laid the blame of the wealth disparity and the uneven distribution of wealth on the Government and the business sector.

President, the deep-rooted conflicts under discussion today are indeed the conflicts among the Government, the business sector and the people. Let me talk about the conflicts between the business sector and the public first. President, businessmen are dubbed "unscrupulous businessmen" by the Chinese. It is actually a fundamental problem of conflict of interest. As I mentioned earlier, running a business is for making profits and to the general public, making profit leads to a fundamental conflict of interest. Though there are conflicts, theoretically, the conflict will seldom turn white-hot in society to the extent we experience today. But unfortunately, as I pointed out earlier, many people in Hong Kong consider that their hard work goes unrewarded, and they thus lay the blame on the business sector. Honestly, I somehow sympathize with the business sector, for I definitely believe that members of the business sector are no demons, and they are not people without conscience. However, their basic means of survival is to make profit, and the money must come from the general public. More often than not, when this fundamental conflict of interest arouses dissatisfaction in society, people will take it out on the group closest to the conflict, and in this case the business sector. Actually, the anti-business and anti-rich emotions are presently running extremely high in Hong Kong. Though

the rich has not come under savage attack by everybody, these big businessmen, large consortia or estate developers can hardly earn the respect of the people of Hong Kong.

President, another reason why Hong Kong people hold strong prejudice against the business sector is the political factor. Politically, and in particular in this Council, the performance of functional constituencies (FCs) over the past decade or so has really been unacceptable. Surely, President, I mean that the system itself is unacceptable. Certain Members returned from FCs have been extremely responsible. However, on the whole, the people of Hong Kong do not accept this approach. According to a recent opinion poll, the support rate of the Legislative Council has even dropped to 49%, which is an alarming rate. The grievance against FCs will have a bearing, significant or not, on the business sector, for a majority of Members returned from FCs are representing the business sector in debating and speaking in the legislature. So the public's dissatisfaction with the FCs will naturally be directed against the business sector as well.

President, let us put aside the governance problem of the Government for the time being, for that is a serious social problem that we must face squarely. Unfortunately, apart from the serious conflict between the public and the business sector, there is another serious conflict between the Government and the public. Actually, the Government and the public should not be in conflict, for the fundamental responsibility of the Government is to "deliver people-based governance and protect the well-being of the public". The existence of the government is not to increase tax to swell its coffer, but make use of social resources to ensure to the greatest extent that the fruits of society are shared by the greatest number of people in community. However, at a certain point, if the conflict does not only involve economic conflicts, but also social and political conflicts, it implies that the situation has exceeded the warning line. The Government is obliged to reconcile social conflicts. As I mentioned earlier, it must face squarely and address the conflicts between the business sector and the public. Regrettably, the Government does not only fail to address and face squarely the conflicts between the business sector and the public, worse still, it gives people the impression that it sides with the business sector. The Government should not blame the public for having this impression, nor can it

say that the public is wrong, for the behaviour of the Government has caused the public to have such grievances and impression.

Recently, it seems that the Government has implemented many measures against the business sector, which has created another kind of conflict, that is the superficial conflict between the Government and the business sector. But this is only an illusion. For the series of measures introduced by the Government recently can only be regarded as gentle and superficial smacks to the business sector, which fail to address the problem squarely in a focused manner. The Employment (Amendment) Ordinance 2009 passed today by this Council is a case in point. Take minimum wage as another example, which we have been fighting for many years. The Government at last submits the relevant legislation, but behind the legislation, the Government still makes every attempt to look for opportunity and room to protect the interests of the business sector. The law on fair competition has been discussed for many years. The Government indicated as early as a year and a half ago that the legislation would be submitted to the Legislative Council, but by now, we see no trace of it. Even worse is the property problem we discussed earlier. The Government has only introduced "nine new proposals and 12 requirements", but refused to introduce legislation to protect the fundamental interests of the public. All these measures fails to tackle the problems at root, which can in no way help to address the deep-rooted conflicts among the Government, the business sector and the public mentioned earlier. To address the conflicts of the Government, the business sector and the public as well as reconcile these deep-rooted conflicts, the Government must make fundamental reforms as proposed in the motion. The fundamental reforms I am referring to must after all ensure that the political system in Hong Kong is seen to be fair. The abolition of FCs and the selection of the Chief Executive by universal suffrage should and must be implemented immediately.

President, I so submit.

MS EMILY LAU (in Cantonese): President, in moving this motion, Mr LEE Cheuk-yan is, I believe, reflecting the anger of many people. President, the said topic has been debated many times, the most recent occasion being the budget debate. However, that is all right. There should be further discussions if so

required. If the Government is unwilling to listen, it will still plug its ears, but it had better try to do the best.

Mr LEE Cheuk-yan again brought up the survey conducted by the Hong Kong Chinese University (CUHK). President, as I already spoken about it last time, I am not going to repeat. However, President, the conflicts between the poor and the rich are still very sharp, so are the conflicts between the poor and the consortia. Surely, people still find the disputes over the constitutional system most serious. So, we call upon you all to join the rally this Sunday. I have already obtained the notice of no objection. I am now in a proper position to call upon you all to take part in a rally to which not even the police has objection.

President, there is one thing not covered by me last time, namely, the conflicts between employees and employers. In 2006, 32% of the respondents found that the conflict was serious, but by 2010, the figure has, President, gone down to 28%. However, there are sharp conflicts among common people, the consortia and the rich. How should we treat these figures? President, in fact you also know that in Hong Kong most members of the business sector are small and medium enterprises hiring several or more than ten employees. Those employers (as Mr Vincent FANG also knows) are hard pressed by plutocrats and estate developers.

President, thus I have to read out again the names of the several richest families in Hong Kong. Which families? Who are they, President? They are all real estate developers. Every year Forbes publishes a list of the richest people in the world. Among the top 100 rich people, three are from Hong Kong. People in the rank of 106 and 129 are also from Hong Kong. No. 14 on Forbes' list and ranking first in Hong Kong is LI Ka-shing of Cheung Kong Holdings, with a net asset of $163.8 billion. No. 22 on Forbes' list and ranking second in Hong Kong is LEE Shau-kee of Henderson Land Development. He has $144.3 billion. No. 28 on Forbes' list and ranking third in Hong Kong is the KWOK family of Sun Hung Kai Properties. They have $132.6 billion. No. 106 on Forbes' list and ranking fourth in Hong Kong is CHENG Yu-tung's family of The New World Development. They have $53 billion. No. 129 on Forbes' list and ranking fifth in Hong Kong is Joseph LAU of Chinese Estate Holdings. He has $45.2 billion. President, the above rich people are all real estate developers. You must have heard from both your voters and my voters

that people of this generation have to work for these few real estate developers; so did our previous generation and most likely, so will our next generation.

Young people complain that even they have worked for 10, 20 or even 30 years after graduation, they still cannot buy their own property because they cannot pay the down payment. Nowadays parents have to buy properties for their children aged 20-30 or even 30-40 as they still cannot buy their own homes. President, is it too much hoping to own a home? Why are we, Hong Kong people, so "degraded"? Speaking about our money — our GDP at the time of the transfer of the sovereignty stood at $1,113.8 billion. Last year (2009), it was $1,606.1 billion, that is, having nearly a 50% increase. However, most of the money has been pocketed by estate developers. At present, some 1.2 million to 1.3 million of our people are living in extreme misery. This is why people are furious.

LAU Siu-kai talked about being trapped in a state of worries. I specially looked up *Sing Tao Daily* for his unedited article. He says he is aware of the situation, and many studies have reviewed the situation. First, people's dissatisfaction with society is growing, but the number of people feeling satisfied is slightly higher than those feeling dissatisfied; more people still consider Hong Kong to be a fair society, but an increasing number of people consider Hong Kong not a fair society. According to him, more and more people think that social conflicts in Hong Kong are on the increase, especially class conflicts and political conflicts. As pointed out by him, social discontent is due to a widening wealth gap and a sense of collusion between the Government and the business sector. Members of the public feel very concerned about the future of Hong Kong, and are unhappy with the governance and style of work of the Government. Members of the middle class are unstable and worried. There is discontent with the development of the political system. President, he knows it all. All have been reviewed. This is why people are furious.

Hence, President, he even says …… Why do I mention LAU Siu-kai? It is because he is the chief adviser on the Central Policy Unit. He is the Government's think-tank. He analyses every situation. President, according to him, a lot of proposals have in fact been raised by different sectors over the years for dealing with the conflicts. These include reforming the taxation system,

increasing the progressive tax rates, introducing capital gains tax, imposing heavier taxes on the rich, revising the policies on land and housing — such as resuming land sales, resuming the building of HOS estates, building more public housing estates, speeding up the progress of democratization, improving the governance and style of work, increasing social welfare and services. All have been proposed.

However, just as stated by Mr LEE Cheuk-yan earlier on, why has nothing been done? According to LAU Siu-kai, that is due to the absence of a consensus in the community. Without a consensus, people are being trapped in a state of worries. Since people are trapped in a state of worries, he says that the Government has an urgent need to conduct extensive discussions on certain major social issues, so as to jointly work for solutions to alleviate social conflicts. Alas, President, this is awful! We pay tens of thousands of dollars to this man who says things which every member of the public knows, which are being debated in this Council every day, and he even proposes to launch discussions. What sort of government is this? It is the Government's responsibility to solve problems and work for a consensus through discussions.

What's more, his claim that there is no consensus among the people is wrong. President, Members of this Council had come to an agreement on several occasions. However, the Government took no action for matters agreed upon while claiming no consensus for matters not agreed upon. All in all, nothing needs to be done. I consider such a government irresponsible. It indeed makes the people very agitated. So, according to CUHK, at present 25.9% of the people find it necessary to address problems by resorting to violence or very radical means. We can see that. However, I think the outcome won't be good if the Government remains so. We ought to engage in discussions peacefully, sensibly and without violence, instead of resorting to expressing in abusive language. However, the Government refuses a toast only to drink a forfeit. Hence I appeal to the people to dress in white this Sunday and go to Victoria Park of Causeway Bay at 3 pm to join the rally. The Government saw such a scene in 2003 when we were dressed in black. At that time LAU Siu-kai expected to see just tens of thousands of people. To his surprise, 700 000 to 800 000 people turned up.

This morning when I walked past a bank, a lady got hold of me and said there must be universal suffrage. At present many people have the feeling that

the SAR Government will not strive for us a universal suffrage. Also, no promise has been made. Although it is aware of so many problems, all it says is "people are trapped in a state of worries". We pay high salaries to a lot of officials, but we only get these words in return. Hong Kong is being driven to the brink of being ungovernable. These states of affairs are being clearly seen by many people, both in Hong Kong and in the Mainland. We hope that people would come out and really teach the Government a lesson. A lot of things are related to the people's tolerance. Although LAU Siu-kai says that more people feel satisfied than those who don't, I think there are still many people feeling dissatisfied. If it is expressed in percentage, I think the figure will make the Government tremble.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, Hong Kong is a modernized metropolis. We, on the whole, endorse certain basic values that give expression to human civilization, such as a diversified society, safeguard for freedom of expression, freedom of assembly, freedom of the press, and a quest for democracy and equality. Upholding these values inevitably leads to different voices in society, and subsequently the formation of various channels for expression of ideas, even the emergence of totally opposite views and opinions. So, it is even more difficult to strive for a consensus. More time and greater efforts are needed to achieve a consensus.

Economically, Hong Kong has gone through decades of rapid development and is now gradually getting into the phase of mature development. The pace of economic growth is going to slow down. The economic structure and pattern of development will have to go through a restructuring phase too, there being a need to look for new points of growth. This is an adjustment process not without labour pains. Thus all sorts of social conflicts may emerge which will naturally become more focused and intensified.

On the other hand, over the last 30 years, the Mainland has undergone reform and opening up, leading to vigorous economic development. Over these 30 years, the economic ties between Hong Kong and the Mainland have been getting closer and closer. The course of economic growth has thus gone through very apparent rounds of paradigm. Challenges and opportunities co-exist, giving rise to many problems requiring integration and rationalization.

Also, as society progresses, we must address the rising civic awareness and changes in value that come with it. Here are some more obvious examples. In the past, we experienced a pattern of development that gave top priority to economic efficiency. It is being gradually transformed into one of balanced development that also takes into consideration environment protection and conservation. There has been a move from emphasis on economic development in the past to aspiration for a more equitable and caring social system today. There has been a shift from emphasis on government decisions and efficiency of implementation in the past to what is now a public desire to have a greater role in making decisions and supervising the course of implementation.

We may say that conflicts are the products of social development. The appearance of conflicts is due to the different views as well as conflict of interests in society. The Government has to keep in balance every sector's views and interests, playing the roles of umpire and coordinator. We must make every effort to be open, fair and just. We will not side with any particular party. At the same time, we are also obliged to take into consideration factors of justice and care and give assistance to the disadvantaged social groups. The core values of a diversified society are to be accommodating, to be receptive and open to different ideas and aspirations, and to be committed to giving every idea and aspiration the right and opportunity to be made known.

These days, the CUHK opinion poll findings mentioned in the motion are being extensively quoted and interpreted. According to the poll, 25.9% of the interviewees support or strongly support the statement that "only the use of radical means can make the government respond to your aspirations". However, we should not ignore the point that mainstream opinion shown by the same poll indicates that the people of Hong Kong value and support harmony. According to two of the findings of the poll, "public opinion supports taking social harmony as a direction for social development" and "the main stream of the public opinion in Hong Kong endorses the concept of harmony calling for efforts to strive for consensus while tolerating differences". These two findings clearly show that most members of the public, like the Government, support taking the establishment of a harmonious society as a direction for social development. A harmonious society is made up of harmonious human ties, harmonious families, harmonious neighbours, harmonious labour relations, harmonious community

ties, and harmonious government-and-people relations. A harmonious society is for every person to share; it is also every person's responsibility. The ways to promote social harmony ought to be the target of common efforts by the Government, all the people, enterprises and organizations.

President, these are my words for the time being. With regard to specific points in both the motion and its amendments, I will respond in the summing up after listening to Members' speeches. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, I believe that everybody is aware that the turmoil in Thailand which has lasted more than one month has not only caused much public anxiety, but also greatly affect the consumer market, exports, tourism and the manufacturing industry. The government even admits that it is not possible to keep the economic growth target this year. This well illustrates that a stable and harmonious society is essential for economic development and maintenance of people's livelihood.

However, as revealed by a recent survey by the Hong Kong Institute of Asia-Pacific Studies of CUHK, only 26% of the interviewees said they found Hong Kong a harmonious society, which verifies that our society is becoming more and more disharmonious. The Liberal Party believes that this really tolls an alarm bell that introspection is needed and we must find ways to resolve the conflicts.

However, while the original motion and the amendments advocate the promotion of social harmony, a highly dramatized slogan of eradicating plutocratic monopoly is also raised. The Liberal Party believes that this is likely to be more of a hindrance than a help, leading to more conflicts and greater disharmony in society.

On the contrary, the Liberal Party believes that we should suit the remedy to the case by making every effort to build a harmonious society. Just as indicated by the CUHK poll, of all the factors having impact on social harmony, wealth gap is the gravest. The Liberal Party is also aware of this trend, and has raised various proposals for inclusion in the budget, which include enhancing the

support to low-skill workers for skill upgrading and encouraging the public to get better equipped, so as to improve upward social mobility in society as a whole.

We also advocate that the Government should put in more efforts to promote the six quality industries and the four traditional industries, so as to enlarge the fish pond of our economy to have more room to keep better fish. It is, however, a pity that measures taken by the Government invariably give people the impression of lacking in strength. The CUHK poll also points out that the satisfaction rate of people with regard to "economic development and job creation" by the Government drops sharply down from 52.4% two years ago to 38.7% this year. It seems that the performance of the Government in this respect is barely passable. More vigour is needed for further improvement.

In dealing with issues on which the community has long reached a consensus, for example, the extension of the inter-district Transport Support Scheme, the Government ought to be more decisive in effecting the governance concept of "think in the way the people think, sense the urgency that they sense". This probably can help resolve the conflicts between the Government and the people.

President, another conflict of concern to the people is political discord, especially the so-called referendum movement recently launched by some Members. In name as well as in reality, this movement harms others but brings no benefit to oneself.

Just as indicated by the recent poll of the Public Opinion Program of the University of Hong Kong, the approval rating of the Legislative Council drops due to discord over political reform and the resignation en masse of Members returned from five geographical constituencies. The disapproval rate of 49% represents an all-time high over the past five years. Apparently, people expect this Council to reach a consensus on political reform through rational discussions instead of endless squabbles.

The Liberal Party considers it unfair to abolish functional constituencies (FCs) "out and out" and demonize Members returned from FCs on the ground that

the electorate bases are too small. In the Legislative Council, Members returned by FCs and Members returned by geographical constituencies through direct elections are like the two sides of a coin. They play different roles, giving full play to their strong points and performing their own functions respectively. Take the year 2008-2009 as an example. Of the 30 motions moved by Members returned from geographical constituencies, less than one quarter touched on the overall development of Hong Kong. On the contrary, of the 22 motions moved by FC Members, 13 dealt with our economic development. It is obvious that we place our emphasis on different areas, and can make up for each other's deficiencies.

Also, if FCs were abolished, Members who are experts in certain matters but cannot get extensive support in district direct elections may lose their seats. This will deprive the Council of people with expertise to handle a broad range of social issues.

Furthermore, whether it is necessary to abolish FCs across-the-board is still doubtful. In recent months, the pan-democrats have been clamouring for the abolition of FCs. However, according to a recent opinion poll conducted by the Liberal Party from 9th to 14th of this month, of the 619 people successfully interviewed, 53.8% thought that FCs were worth or very worth retaining if the election method was revised to be more popular and fair, that is the representative was nominated by the sector but elected by universal suffrage. The support rate doubles the objection rate of 26.3%.

According to a survey conducted last December by the Hong Kong Institute of Asia-Pacific Studies of CUHK, although close to 50% of the respondents supported the abolition of FCs, 44.6% agreed to retain FCs with the change of the election method. Those insisted on abolishing FCs went down to 37%. This matches with the findings of the Liberal Party.

Hence, the Liberal Party again urges the Government to make use of the chance of 2012 political reform to gradually enlarge the electorate bases of FCs so as to make up for their congenital defect of poor representativeness, and move on in the direction of general election, the ultimate goal set by the Basic Law.

Just as pointed out in the recommendations of the CUHK survey on harmonious society, the Government, political parties and stakeholders in politics should "compromise, seek consensus and tolerate differences" so as to let the political reform make one step forward and resolve the factors attributing to internal friction in society.

President, I so submit.

MS LI FUNG-YING (in Cantonese): President, during the budget debate over the past two weeks, quite a few colleagues quoted from an opinion survey conducted by the Hong Kong Institute of Asia-Pacific Studies of CUHK on whether or not Hong Kong is a harmonious society. These colleagues pointed out that social mobility was stagnant, the disparity between the rich and the poor was widening and the economy was monopolized by plutocrats. They commented that measures proposed in the budget failed to target the deep-rooted conflicts in our society. In response to Members' comments, Secretaries and Directors in the Administration gave their replies last week.

Basically, I find the Government's responses disappointing. I am disappointed because the Government, in the face of "aggravation of class conflicts and the worsening of the confrontation between the government and the people", as stated in today's motion, has not conducted a comprehensive review on its governance, and still claims that current policies are effective. Here I am going to cite words spoken by the Secretaries and Directors last week to point out that to ease social conflicts or confrontation and to promote social harmony, it is necessary to make fundamental changes to government policies.

President, whether or not our real estate market can develop healthily is the key factor of social harmony. At the budget debate, I criticized the Financial Secretary's policies as merely fancy poses and not conductive to curbing property prices. I suggested imposing capital gains tax on properties to curb speculative activities in the real estate market. In his reply last week, the Financial Secretary evaded the issue of introducing a capital gains tax on properties and only stressed that the Inland Revenue Department (IRD) would closely follow up

all cases involving speculators profiting from property speculation. The Financial Secretary also cited the year 2008-2009 as an example, and said that some 4 000 cases, after being reviewed by IRD officers, required further follow-up action. However, the IRD will only recover profits from the persons or companies concerned if it is proved that the 4000 odd cases involve speculation.

The Financial Secretary spoke with eloquence. However, as I went through the data on real estate transactions in 2008-2009, I found that there were more than 115 000 sales and purchase agreements in real estates, inclusive of both new as well as second-hand housing units. The some 4 000 cases to be followed up by the IRD constitute only 3.5% of the total sales and purchase agreements. In other words, unless we agree that in the year 2008-2009, speculative activities in real estate only represented a very small portion of real estate transactions, otherwise the figures cited by the Financial Secretary only serve to show that it is feeble and ineffective to curb speculative activities in real estate by relying on IRD to do the screening and taking follow-up actions.

President, the gap between the rich and the poor has always been a hidden threat to the prosperity, stability and harmony of our society. At the budget debate, I also criticized the Financial Secretary for trying to solve the poverty problem by merely developing the economy. In his reply, the Financial Secretary denied and stressed that in addition to developing the economy, there were also investments in education and provision of safety net. However, a newspaper article by Dr CHOW Wing-sun last week precisely pointed out that the fragmentation of our education system hinders social mobility and reinforces inequality. As for safety net, it can never be the solution to the problem of poverty in society. Safety net only allows the poor to live in poverty.

At the budget debate, I pointed out that the problem of Hong Kong is not just about economic development. More important still is the distribution of wealth. In his reply, the Secretary for Labour and Welfare stated that the wealth generated by the existing taxation policies and measures to transfer social benefits were ideal and did serve their purpose. The Secretary for Labour and Welfare then elaborated the additional income received by the grassroots each month and

the reduction in income of the rich families following the redistribution of wealth. The facts are that our economy is dominated by a few plutocrats, that wealth is highly concentrated, and that the grassroots are struggling for survival. The 30% of the lowest income groups are earning less and less and they cannot share the fruits of economic growth. The problem concerning the redistribution of wealth is not whether wealth is redistributed or not, but whether there is a reasonable redistribution of wealth. How are we to measure power and justice? This is the key point. To which side should the weights of the scale go?

President, according to a report on the competitiveness of Chinese cities recently released by the Chinese Academy of Social Sciences, the gap between Hong Kong and other cities like Shenzhen, Shanghai and Beijing is narrowing gradually. Our advantages are becoming less obvious. It can be said that Hong Kong is at the crossroads of internal and external troubles. The community is very restless. More and more people think that only by radical means can they force the Government to respond to their aspirations. Externally, our advantages are fading, the gap between us and other neighbouring cities are getting more and more blurred. The Government's policies must change, and so must our society, otherwise Hong Kong will gradually fall low in the face of internal unrest and external competition. Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, I have recently learnt from a report published by the Tsinghua University that despite governments at various levels in the Mainland have kept investing abundant resources, including manpower and money, in maintaining social stability, social conflicts and social clashes are increasing instead of decreasing, resulting in a scenario where "the more stability you want, the less you get".

Why has this happened? According to the analysis of the report, this is because various local governments have attempted to create a false image of harmony and stability through the suppression of speech in society. In the end, not only has it failed to solve the problem, it has harmed social justice and build up greater social conflicts. We should have a rough idea when we see the constant government crackdown on right activists in the Mainland. The report has also indicated that to resolve social conflicts, the core issues are to rectify the

serious imbalance of interests in society and to provide channels in the system for the release of discontent in society.

At present, the conflicts in Hong Kong have been increasingly acute. The disparity between the rich and the poor, the collusion between the Government and the business sector, the sky-high property price, coupled with the constitutional shortcomings have fuelled public resentment despite a seemingly upturn in the economy. According to the analysis of the Hong Kong Council of Social Service, the income gap between the poorest and the richest strata has kept widening. The average income of the richest 10% is a good 51.75 times of that of the poorest 10%.

Regrettably, the Government has not given any thoughts of solving this problem. Instead, it has followed the practice of the Mainland by playing down the social conflicts on the one hand, and resorting to suppression on the other. First, it has placed charges on demonstrators on a political basis to restrict the scope of protest for organizations in the community. It has also employed the white terror tactics by paying nighttime visits to family members of anti-express-rail protestors in an attempt to create a chilling effect to threaten those took part in the protest. In terms of politics, the Government has also resorted to various means to directly or indirectly suppress the by-elections in the five constituencies to undermine the publicity effect of the "*de facto* referendum". Will society be really in harmony after opposing voices are swept under the rug? When conflicts going deep-rooted are not ironed out, the problems will only keep worsening, making them more difficult to be solved. Besides, it cannot rule out that people will rise to protest by resorting to radical means. Hong Kong society will then be caught in a scenario where "the more stability you want, the less you get", as I mentioned at the beginning of my speech.

We are really indignant at Secretary Matthew CHEUNG's speech at the Legislative Council last week. He said, "The average cash income of the lowest 10% household in Hong Kong, that is, the first category, was $2,800 per month in 2008. After taking into account the transfer of benefits in the form of public services such as education, health care and housing provided by the Government, the average monthly income of this group will double to $5,600. However, the 10th group, that is the richest 10% in Hong Kong, after deducting tax and the transfer of social benefits, its monthly income will reduce from $102,900 by 8.7%

to $94,000. The effect of redistribution of wealth after tax and transfer of social benefits can thus be seen."

Such a speech well illustrates that the Government has practically turned a blind eye to the serious extent of the deteriorating wealth gap, which is both distressing and worrying. It is distressing because government officials do not understand the sufferings of the people. They only hide in the ivory tower to observe data, alienating themselves from reality. It is worrying because the escalating resentment and dire poverty among the people may rock our society.

What is more disgusting is that the Government has always protected the interests of the super rich tycoons, big enterprises and big consortia. In the Lehman Brothers incident alone, we can see that while a large number of small investors were cheated by banks of their lifelong savings, surprisingly, not a single top-level banking executive has been held responsible so far. What is more ridiculous is that in the wake of the financial tsunami, these top-level banking executives have "pocketed" tens of millions of bonuses again. How about the real estate developers? Their methods to sell uncompleted flats have attracted much criticism. "Inflated flats" and deceptive show flats are still everywhere. As Mr LEE Wing-tat said, "cheating on the weight" is punished by imprisonment while "cheating on floor area" is rewarded by easy money.

Without people, how can there be a government? A government should serve the people and act for the well-being of the people. It should not protect the selfish privileges of a small group of influential officials and powerful rich. Regrettably, our Chief Executive is returned by coterie elections, and half of the Legislative Council Members are returned by functional constituency elections — including myself. How can such an unfair political system not be resentful?

Hong Kong has always been a civilized and peaceful city. Few people are in favour of protest through violent means. Even though over 500 000 people took to the streets in 2003, they were very peaceful, calm and restrained. However, we do notice the heating up of sentiment of the protestors recently. Apart from resorting to suppression in an attempt to cover up the problem, has the Government considered any ways to effect a permanent cure?

Conflicts inevitably exist in every society. A government should play a regulatory role to reconcile and balance the interests of various parties, so that genuine social harmony can be achieved. I hope that we do not have to wait until the arrival of universal suffrage in Hong Kong before our Chief Executive and principal officials under the accountability system exercise self-reflection in an effort to "like what the people like and dislike what the people dislike".

President, I so submit.

MR WONG SING-CHI (in Cantonese): President, regarding the motion on "Eradicating plutocratic monopoly and promoting social harmony" proposed by Mr LEE Cheuk-yan, I would like to make a few points on behalf of the Democratic Party. The findings of an opinion poll conducted by the Hong Kong Institute of Asia-Pacific Studies of CUHK have indicated that Hong Kong is not a harmonious society and a large number of respondents are in favour of resorting to radical means to press the Government to respond to their demands.

In fact, this precisely reflects the public discontent with the current situation. I believe the wealth gap at present is obvious to all. As mentioned by a number of colleagues, the Gini Coefficient has reached 0.533, which actually stands at a very high level. It is crystal clear that the problem of wealth gap cannot be dismissed. However, in the meantime, 25 tycoons in Hong Kong have entered the Forbes Rich List 2010. It is also mentioned in *The Economist* that the annual increase rate of property price in Hong Kong was as high as 27.7% last year, with a jump of over 30% — but the increase in wages lagged far behind. Recently, the soaring property price recorded the biggest rate of increase among major countries and regions in the world. While we have rich tycoons and big consortia, and a sharp rise in our property prices, our Gini Coefficient still stands at 0.533 and our poor people remain poor. If the presence of conflicts is denied, how can this problem be solved? Conflicts definitely exist. Politically, this group of consortia actually has substantive influence as many of the functional constituencies (FCs) are representatives of such consortia in the Council. It is hardly convincing to say that plutocratic monopoly does not exist. Members returned by FCs bring the views of their individual sectors into the Council, exercising the power given to them by coterie elections to exert their influence on issues and decisions related to people's livelihood. Of course, the Members

themselves may be good people. However, a demonic system has turned them into demons once they join it. It is not like what Tommy CHEUNG has said that we have demonized Members returned by FCs. This is not the case. Rather, a demonized FC system has turned every participant into a demon — except LAM Tai-fai. He has expressed some decent views just now and deserves our appreciation.

President, I would like to cite some examples here. On 16 November 2005, the Legislative Council held a debate on the formulation of a "fair competition law". The motion was passed by Members returned by geographical constituencies through direct elections but voted down by Members returned by FCs. As a result, the motion was negatived. Why? It was because many big consortia were afraid that their competitiveness would be undermined. How could this happen? How could the competitiveness of big consortia be possibly undermined? Only small consortia and small enterprises should be concerned about this issue. Another example is the motion on "Facilitating the integration of people with disabilities into society" proposed on 13 October 2004. Representatives of many big consortia and FC Members worried that employing a large number of people with disabilities would increase their cost. The motion was then negatived as well, again by FC Members. Also, a motion on "Setting up a fund to meet the needs of the ageing population and help the poor" was proposed on 9 January 2008. Perhaps some big consortia were concerned that with the implementation of such a long-term welfare policy, they had to make some commitments, thus reducing their chance of earning money. Again, a motion vanished because Members returned by FCs voted against it. The motion on "Assisting grassroots workers in counteracting economic adversities" proposed on 4 February 2009 suffered the same fate. We can see that many motions which are for the interests of the lower stratum and the grassroots are voted down by FC Members. On tackling the problems of wealth gap and social clashes, is this not a monopoly? FC has indeed played a very active role in escalating social clashes.

Therefore, apparently, we in the Democratic Party definitely support the motion on "Eradicating plutocratic monopoly and promoting social harmony" proposed by Mr LEE Cheuk-yan.

Class conflicts can be reduced by maintaining social mobility and ensuring fair competition. We can still recall the motion on "Adding impetus for promoting upward social mobility" proposed by Mrs Sophie LEUNG in March. The original motion is good, hoping that the grassroots can have a chance of upward mobility. However, when speaking on the motion, many FC Members opined people failed to move upward because they were not willing to put in their thoughts and efforts. Actually, this is not the core of the problem. The problem lies in the lack of a good and fair system in the entire society to allow genuine upward mobility. After a person earns some money, he starts "working" for the real estate developer when he buys a flat. In many enterprises, workers are not provided with any protection in the end. If the system does not give rise to a monopoly, how come there are so many problems, leading to countless conflicts? However, it seems that the Government has not tackled them so far. The problem of wealth gap is very serious but the Government has yet to actively devise any long-term solutions.

The Democratic Party has all along requested that a mechanism should be put in place to assist CSSA recipients to shake off poverty or leave the CSSA net. This is a very humble request, only asking for leaving the CSSA net, but not getting rich. Still, the Government has ignored our request. Many single mums, especially those from the Mainland, are required to reside in Hong Kong for seven years before they can receive CSSA. Some of these women may be divorcees, abandoned wives or even widows. While they are taking care of their children in Hong Kong, they cannot get the livelihood support they are entitled to. Regarding all these problems, the Government still refuses to face them. Therefore, the Democratic Party this time hopes that the Government will resolutely set up a longer-term mechanism for poverty alleviation. Of course, ultimately we have to admit that in this Council, FC is a major obstacle to maintaining a fair society. If FC is to be retained, I believe it would be impossible to resolve social conflicts, nor would it be easy to solve the problem of wealth gap.

President, I so submit.

MR JEFFREY LAM (in Cantonese): President, "the story of half a glass of water" is often told. When one looks at half a glass of water, a pessimist would sigh that the glass is half empty and worry about the remaining half a glass of water, while an optimist is pleased and content that the glass is half full. Different people hold different views on the same half a glass of water.

A recent poll conducted by The Chinese University of Hong Kong (CUHK) has inferred that 1.5 million people in Hong Kong are in favour of resorting to radical means to press the Government to respond to their demands. I think the number of people holding a pessimistic view on "half a glass of water" is on the increase, which is an issue that deserves due attention in society.

However, will any society has no divergent views at all? Will any governments never be challenged by divergent views? Whenever there are divergent views, be they ridiculous or not, apart from urging people "not to panic, not to act recklessly, not to give up", I think we should think positive. We should use more positive energy to actively find a solution, instead of resorting to radical means. It may be easy to attract attention by using radical means to express dissatisfaction but it is absolutely neither the right thing to do, nor something we should do, support and even follow.

We should not overlook another figure. The poll of CUHK has found that 56% of the people do not agree to resort to radical means, and almost 60% of the people still support the target of "a harmonious society" as the direction for social development. Therefore, I firmly believe that the fervent hope of the public for a stable and harmonious society remains completely unchanged. They absolutely do not support and tolerate violent conduct, whether in action or in speech. Arguments that intensify social conflicts and views that deliberately stir up class confrontation are completely of no help to promote social harmony. President, I wish to stress that it is more the case of radical conduct aggravating social conflicts rather than social conflicts giving impetus to radical conduct.

It is already 12 years since Hong Kong reunified with China. It is the people's wish to participate in the building of a home of our own, a harmonious and integrated Hong Kong. When there are problems such as the disparity between the rich and the poor, and the difficulty in upward mobility, everyone should have the mindset of striving for consensus while tolerating differences. I

also think that the Government should enhance transparency and broaden the channel for collecting public opinion. Apart from conventional consultation channels such as District Councils, consultation forums, resident meetings and so on, online platforms can also collect different views and keep the Government in touch with a broader spectrum of people. The Government should make good use of this channel to listen to a wide range of opinion, and speed up its response to people's demands.

President, whenever the subject of "supporting enterprises and preserving employment" is raised in the Legislative Council, there is lively, useful and constructive exchange of ideas. During the past economic crises, Members returned by functional constituencies (FCs) always actively offered advices and suggestions. A number of their proposals were accepted and adopted by the Government, and had succeeded in reviving the Hong Kong economy. Take the CEPA launched in 2004 as an example. As suggested by FC Members, its scope has been expanding over the years. Another example is the Special Loan Guarantee Scheme introduced during the financial tsunami. It is the result of the active pursue of Members of the Economic Synergy and those of the industrial and commercial sectors. The Financial Secretary's decision last week to extend the Special Loan Guarantee Scheme for half a year is also the result of the repeated efforts of mine and other Members of the industrial and commercial sectors. These are vital to supporting the small and medium enterprises of Hong Kong, as well as protecting the employment of the general public. All these proposals are in the interests of the Hong Kong economy as a whole.

As long as views are expressed in a rational and communicative manner, the Government will give positive responses. At the same time, as FC Members are familiar with the economy and the situation of various sectors, they have, undoubtedly, all along put forward many proposals that balance the interests of society as a whole. As almost 40% of the Hong Kong people opine that FCs should be retained, I think more rational and interactive discussions should be held, so that constitutional development can be progressed steadily to reach a consensus, instead of resorting to means of expressing negative sentiment. If one reproves others for their faults but keeps silence on his wrong-doings; if one refuses to praise others for their merits but boasts how "smart" he is, this is not a

good way of communication. We should have the mindset of "taking one step backward for a brighter prospect", and make progress forward for the people, the economy and the overall interests of Hong Kong.

As the saying goes, "Along with every risk comes opportunity". I think that as long as all of us "are happy as the glass is half full", we can join hands to build a better Hong Kong. We can then look for better turns amid social conflicts and hold opportunities tight in our own hands.

President, I so submit.

MR WONG YUNG-KAN (in Cantonese): President, as the saying goes, "The ducks know first when the river becomes warm in spring." I believe we do not need an opinion poll to tell us that Hong Kong is in disharmony. That is the talk of the town. Other people may not know about this, but the 55 Members of this Council and those ex-Members who have just resigned and participated in the so-called "*de facto* referendum" which costs the public coffers $150 million cannot claim their ignorance about it. This is because social disharmony has long been demonstrated in the rude behaviour such as "throwing bananas" and using coarse language in this Council. The motion proposed by Mr LEE Cheuk-yan today stirs up a fire for social disharmony for no reason at all. The amendments proposed by Mr Ronny TONG and Ms Emily LAU respectively are like pouring two barrels of fuel over the fire, fanning it further. The society has become increasingly disharmonized. From Mr LEE's motion, we can see that in his view, abolishing the political privileges of FCs is one of the best ways to eliminate social disharmony in Hong Kong. Let us look at the parliaments in our neighbouring countries and regions, all members are returned by direct elections, yet they throw cigarettes or eggs in the parliamentary chamber. Why can they not act like that? Members returned by direct elections can do so. Therefore, I wish to make a response in this regard. We do not want to see in this Council, or in other districts that people will "kick in other's groin". Should this be the behaviour of FCs? Should this be the behaviour of this Council? Or will this Council sink so low in the future?

First, exactly what political privileges do FCs enjoy? I wish Mr LEE Cheuk-yan can bring up facts and evidences for my information as I am the Member representing the agriculture and fisheries constituency. Being a FC Member, I enjoy the same political rights stipulated in the Basic Law as the other people of Hong Kong. I have often organized marches and petitions for fellow members of the agriculture and fisheries sector to fight for their rights and interests. Mr LEE and all the so-called pan-democratic Members can do the same. They can do more and better than me. The rights of Members returned by FCs in this Council are the same as those of Members returned by geographical constituencies through direct elections, including Mr LEE. There are no political privileges whatsoever. We all have to abide by the same set of Rules of Procedure.

Regarding the claim that the agriculture and fisheries constituency enjoys political privileges, is Mr LEE aware that I, being the representative of the industry, have to make appointments with government officials in advance for exchanging views? I cannot meet them any time I want. Also, we have to notify the police in accordance with law before staging a procession, unlike those who demand for abolition of FCs, they just march to the Government Headquarters and take to the streets at will. If FC Members enjoy the privilege of being exempted from criminal charges for "throwing bananas" and using coarse language in this Council, I sincerely invite Mr LEE to immediately revoke such a privilege of mine.

When Mr LEE said that FCs enjoyed political privileges, he merely accused Members returned by FCs of acting for their own sectors and ignore people's livelihood. In this regard, I dare say that since I was a Member returned by FC 12 years ago, other than acting for my sector, I have all along concerned about the issue of food safety. Who brought up the subject of food safety in this Council? We in the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) have done so. We have also advocated the promotion of eco-tourism. This is promoted by the DAB for public health. Regarding public health, the DAB has also brought up issues related to the restructuring of the industry for discussion. We have also raised various demands, such as stepping up the random checking of food, combating against meat smuggling, as

well as proposing the establishment of the centre for food safety. Such efforts are there for all to see. They are not only for the benefit of the industry, but also for the benefit of all people in Hong Kong. Furthermore, I have proposed in this Council the development of ecotourism and cross-border angling industry, so as to boost the economic development of Hong Kong, create job opportunities, provide the public with leisure and entertainment, as well as contribute to the education and protection of ecological environment. It is quite a surprise that this FC that I represent has committed such a monstrous crime that it takes a Member of this Council to propose a motion to have it eradicated!

The society of Hong Kong is getting less and less harmonious over the last decade or so. Every single constitutional reform package that is originally beneficial to the development of a democratic system, even the launch of works project such as the Guangzhou-Shenzhen-Hong Kong Express Rail that is beneficial to the economic development, has been delayed because Members of the opposition camp have tried their utmost to stall over the funding both inside and outside the Council while objectors have organized radical activities outside the Council. Regarding this incident, I wish to point out that children of many of my good friends have actually told us to experience the so-called anti-express-rail activities this time. If this is the case, that means even students are led to object …… even cannot see the social development of Hong Kong.

I would like to make another point. Under the same circumstance, I believe the Member who feels most deeply is not FC Member Mr CHIM Pui-chung or Dr Raymond HO, but Ronny TONG, a colleague returned by geographical constituencies through direct elections. Mr TONG has been attacked ruthlessly recently. He has even received death threats, and has to report to the police. What is ironic is that these people are in the same camp as he, they also advocate the abolition of FCs. It is a pity that he proposes an amendment today that even reinforces Mr LEE's wordings.

Honourable Members, it can be said that the political privileges of FCs …… *(The buzzer sounded)* …… I so submit.

MR CHAN KIN-POR (in Cantonese): President, on today's motion subject, I wish to make an analysis at two levels. On the one hand, I agree that Hong Kong does have social problems such as the disparity between the rich and the poor and the considerable loss of opportunity for upward mobility. These are problems that need immediate solutions. However, on the other hand, I do not agree to what the motion suggests, that conflicts can be resolved by simply abolishing functional constituencies (FCs). On the contrary, should FCs be abolished in a rush, our society will only tip more to one side and lose its due balance, and more social conflicts will emerge.

An opinion poll conducted by the Hong Kong Institute of Asia-Pacific Studies of CUHK has found that an increasing number of people are in favour of resorting to radical means to press the Government to respond to their demands. This reflects the intensifying public grievances. At the same time, it is worrying that this radical thinking will bring our society to an impasse and radical behaviours will not solve any problems at all. In fact, the issue of public grievances has been a frequent subject of discussion in the Legislative Council. I always believe that the disparity between the rich and the poor, the considerable loss of opportunity for upward mobility, the inadequate retirement protection, the imbalance in the population policy, and so on are the core of public grievances. The soaring property price over the past year acts as a catalyst for intensifying public grievances.

I personally agree that the Government cannot turn a blind eye to social conflicts. Instead, it should invest more resources in poverty alleviation and try its utmost to do a better job. This is also our top priority. Besides, I also support improving problems such as upward mobility and inadequate retirement protection in our society. We must tackle these problems. However, the above-mentioned problems are just phenomenon on the surface. The source of social conflicts actually stem from the serious imbalance in economic development. The financial industry has developed in high speed while the other industries have experienced gradual decline. As a result, the disparity between the rich and the poor has naturally widened and social grievances have become more intense. The permanent cure is the development of diversified industries, so that a wider range of jobs will be provided to all walks of life in Hong Kong, enabling the lower stratum to earn a more reasonable income. As long as people are living and working happily, social grievances will vanish into thin air.

However, what is worrying us is that the competitiveness of Hong Kong is at a standstill. The 2010 Blue Book on Urban Competitiveness released earlier by the Chinese Academy of Social Sciences has shown that Hong Kong still ranks first in overall competitiveness in the nation, but it is losing its lead over such cities as Shenzhen, Shanghai and Beijing, and its advantages are becoming less and less distinct. If this goes on, the economic development of Hong Kong will definitely be dealt a further blow, widening the disparity between the rich and the poor and aggravating social conflicts. Thus, what Hong Kong needs most now is to try its best to boost its competitiveness and to let the seven million people have a better life. Having a fight is definitely not on the agenda.

It is inappropriate for the original motion to target the problem at FCs. In fact, FC exactly plays a balancing role in the Council, preventing the Council from tipping to radical thinking. Members returned by direct elections in Hong Kong have many strengths such as understanding people's sufferings, well-versed in district affairs, upholding the rule of law, and monitoring the Government will all their might. They really have my admiration.

However, the political ecology of Hong Kong has made the vision of Members returned by direct elections limited. The majority of these Members do not have the experience in handling economic affairs, and even fewer of them have the actual experience in operating business or managing big enterprises. They also may not have any deep understanding of the experience of Hong Kong. Mr LEE Cheuk-yan must note that my comment is "may not", which means just some of these Members. I am not "knocking all down at one stroke". When compared with other countries, the political parties of Members returned by direct elections, whether they are ruling parties or opposition parties, usually have a comprehensive economic policy and platform formulated, and possess the experience and ability to handle economic affairs. They can be involved in working at financial and economic issues at any time. I believe the major political parties in Hong Kong have to spend more time and make more efforts before they can reach the level of political parties in overseas countries.

For this reason, should FCs be abolished in a rush, it is like shutting a large number of Members well-versed in economic affairs out of the Legislative Council, in a way making the Council lose a lot of valuable experiences in the

professional and financial areas. As a result, the Legislative Council will be turned into a forum that tips to populist thinking and lose its due balance.

As I said earlier, the greatest crisis Hong Kong is facing is its declining competitiveness. We cannot let the Hong Kong economy keep sinking. Apart from urging the Government to resolve the disparity between the rich and the poor and other livelihood problems, I hope Members will make concerted efforts to promote the development of the six major industries and the China-Hong Kong economic integration, with the aim of creating a better future for the people of Hong Kong and resolving the conflicts of Hong Kong. We should not blame the conflicts of Hong Kong on political issues.

Today's motion on "Strengthening the regulation of the sale of residential properties" is a very good example. The Member representing the real estate industry actually had the responsibility to explain to the Council the views of the industry. However, when the motion was put to vote, Members returned by FCs casted their votes only on the basis of facts. In fact, everyone witnessed today that FCs voted for the motion as well. It is because all of us understand the crux of the problem. We will not object just because a FC Member objects and we must follow suit.

Another good example is the commonly-known "incident of $20". In this incident, a number of Members returned by FCs severed the tie and declared their objection to this motion. Therefore, Members should understand that, regarding FCs, it is absolutely inappropriate to "knock them all down at one stroke". Among FC Members, many of them have done their utmost to serve the Council, and many of them have sacrificed their income, time and even family time to serve the Council.

Regarding Members returned by direct elections, we will not exaggerate or blow up your shortcomings and weaknesses. At the same time, I earnestly hope that you will respect many of us …… Although a few of us are not doing a good job, I hope you will understand that the vast majority of Members returned by FCs are doing their utmost to serve society. In fact, in my view, other than some political issues, we share almost the same stance with you on many of the other issues. For instance, we are very concerned about issues such as the disparity

between the rich and the poor and the retirement pension. We are even more concerned about economic issues than you are. In fact, I have proposed a motion urging Members to attach importance to Hong Kong being an international financial centre. Unexpectedly, the motion was voted down by some political parties, which saddened me a lot. Why? It is because I see that they really have very limited understanding of the economy; and I also see a fact that Members returned by FCs should absolutely not be demonized any further. We should make concerted effort to work for Hong Kong.

President, I so submit.

MR WONG TING-KWONG (in Cantonese): President, Mr LEE Cheuk-yan's motion topic today does manifest the righteousness of heaven and earth. However, the content of his speech deviates greatly from the topic, which can be described as not to the point.

President, the findings of a recent opinion poll have revealed Hong Kong is not a harmonious society. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is of the view that the Government should actively respond to and resolve the problem of social disharmony. However, the original motion and the amendments alike blame the disharmony of Hong Kong on the Government's bias towards the business sector and the sole concern of FC Members over the interests of their own sectors. I really do not understand, nor do I agree to these views. In fact, whenever there are controversies in society, the pan-democratic camp always puts the blame on the existence of FCs and demonizes them. I think such an attitude cannot help solve the problem at all. Instead, it will only stir up confrontation between Members returned by direct elections and those by FCs, aggravating conflicts in our society.

President, there are many reasons that cause social disharmony. According to the above-mentioned opinion poll, almost 60% of the respondents consider political disputes in Hong Kong serious and very serious, over 20% higher than that in a similar opinion poll conducted two years ago. Why have political disputes become so serious in just two short years? The reasons

include: Members using coarse language and "throwing bananas" in the Council; constitutional reforms are in limbo; political parties ignore people's wish and interests and stage a farce called "*de facto* referendum". I think FC Members and Members returned by direct elections should jointly be held responsible for the acute political disputes in Hong Kong. A recent opinion poll conducted by the University of Hong Kong has indicated an almost 50% dissatisfaction rate of the performance of Members of the Legislative Council. Some critics have this related to the dispute over the constitutional reform and the resignation en masse in the five geographic constituencies. I do not know exactly how many people are dissatisfied with the performance of Members returned by FCs, but I am sure many of them are dissatisfied with the farce of "*de facto* referendum" initiated by some of the Members returned by direct elections. Why have some Members or political parties refused to reflect on their deeds? Instead, they have demonized Members returned by FCs time and again.

Recently, I have often heard some Legislative Council colleagues comment that FC Members are "having political free lunch". In my view, such a comment has totally denied the work and effort of FC Members in this Council, which is very unfair to them. There are altogether 60 Members in the Legislative Council. Does it mean only 30 Members returned by direct elections have put in efforts while the remaining 30 FC Members have not worked hard for the Legislative Council? In fact, many FC Members have their own jobs but the majority of them have put a lot of their time into the work of the Legislative Council. The time they have spent is absolutely no less than that of Members returned by direct elections. Take me as an example. After joining the Legislative Council, I have rarely looked after the company business. Basically, I have spent every minute handling the business of the member's office. So I can be called a full-time Legislative Council Member. I think comments such as "political free lunch" are very disrespectful and misleading. On the contrary, I believe every Member of this Council has put in efforts regardless of the reward. All of us act on the principle of serving the people. I really do not wish to hear anymore disrespectful comments from colleagues.

In the near future, I think there are at least three major ways to promote social harmony: First, to address the situation of the long-standing high property

price, so as to solve the difficulty in buying a property; second, to introduce more policies by the Government to reduce the disparity between the rich and the poor; and third, to pass the constitutional reform package to resolve the biggest-ever political dispute since the reunification of Hong Kong. Regarding the former two ways, I notice that the Government has responded to the public opinion. For instance, the Financial Secretary has introduced earlier the so-called "nine proposals of TSANG's" to suppress the property market. Secretary Matthew CHEUNG also indicated repeatedly the wish to legislate on the minimum wage in this legislative session. However, I think these measures are still not enough. The Government should introduce more policies to respond to the public demand. It can no longer dodge the problems as public sentiment is running high at present. Besides, there is still the issue of constitutional reform. The Government released earlier The Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012, but the vast majority of the pan-democratic Members seem to refuse to give their support to this package. As the saying goes, it is always difficult to get things started. If we are able to take the first step in the constitutional development of Hong Kong, it will be a lot easier to move forward in the future. If not, Hong Kong's road to democracy will be much more difficult and the deep-rooted conflicts in political development will be even harder to be resolved. For this reason, should the constitutional reform package be voted down this time, the people of Hong Kong are the losers. I earnestly hope that the pan-democratic Members will support and vote for this constitutional reform package, so that the deep-rooted conflicts of Hong Kong will be alleviated and social harmony be promoted.

Lastly, I think the Government and all the Legislative Council Members have the responsibility to improve social disharmony. However, I do not agree that the existence of FCs should be blamed for all the problems. For this reason, I oppose the original motion and the amendments. I so submit.

PROF PATRICK LAU (in Cantonese): President, Hong Kong has always adopted the economic mode of capitalism and a free market. Businessmen with stronger competitiveness naturally have the edge. The relocation of the manufacturing industry northwards has made it difficult for the lower stratum to

have an opportunity for development or share the fruit of development in society, thus widening the wealth gap. As the Government often uses the excuse of "avoiding to affect market operation", and has not yet devised any long-term policies, the public naturally queries that the Government has biased towards the interests of the business sector. I think the Government should not follow blindly the mode of market operation. When the market mechanism fails, it is necessary for the Government to take appropriate action to solve the problems for the overall well-being of the people of Hong Kong.

The business sector is the biggest beneficiary in a free economy. Therefore, given its handsome profits, it should discharge social responsibilities and return benefits to society. However, in paragraph 171 of this year's Budget, as far as I understand, the Government only expects the business sector to fulfil their social responsibilities, which is not enough. The Government should formulate concrete policies, such as optimizing the mechanism for tax deduction to increase the revenue of non-governmental organizations, promoting social development, requiring the business sector to create more job opportunities to improve the living of the needy.

The Government should also promote the development of social enterprises by the business sector and tap the resources of the business sector to establish social enterprises. Social enterprises are vital to social development because profit-making is not the sole target of such organizations. Rather, the profits they earn are used for social purpose to achieve the specific social objective of the organization. Besides, social enterprises can provide job opportunities, especially for the disadvantaged groups, so that they can equip themselves through their jobs and integrate into society, which is very meaningful indeed.

To promote social harmony, the key is to let people have a home. In 1972, the Government introduced the Ten-year Housing Programme with the objective of building a sufficient number of public housing units for the 1.8 million people in 10 years. The policy boosted the supply of public housing in the 1980s, which met the housing need of a lot of Hong Kong people, as well as resolved the social instability arising from a crowded living environment. I very much support the Programme as it provided accommodation for a large number of the people in need of help. It was the best policy at that time.

Public housing serves as a revolving door for poverty alleviation. In the past, through government subsidies, the grassroots could rent a place at a low

rate, and their children could even receive university education. In the past, many of my students came from such a background. They could then get a good job and a decent income, thereby shaking off poverty. I believe the Government should expedite land planning and allocate more land to public housing. This is vital to address the housing need of the needy, thereby alleviating poverty.

A number of Members have quoted the findings of several opinion polls posted on the opinion poll website of the University of Hong Kong. The number of people dissatisfied with the overall performance of the Legislative Council Members and the performance of the SAR Government exceed those who are satisfied. Among the various areas, they are most dissatisfied with the Government's performance in improving people's livelihood. Therefore, it is necessary for us to face squarely the issue of people's livelihood.

I very much support today's motion which touches on improving people's livelihood and promoting social harmony. However, I do not understand why the motion has to add the phrase "abolishing the political privileges of functional bodies". This phrase gives people an impression that functional constituencies (FCs) seem to be the culprit for all problems relating to people's livelihood, thus completely wiping out the effort and achievement of FC Members. I, of course, do not agree to this view.

In fact, the timetable for universal suffrage has been confirmed. Members returned by FCs raise no objections and are prepared to discuss in a harmonious manner the arrangements to achieve universal suffrage. I do not quite understand why some Members are still so aggressive, trampling on FCs whenever they speak. They talk of FC Members as if they were all bad elements who did every evil deed and lacked any merits. Actually, no matter whether Members are returned by geographical or FCs, they share the same objective of urging the Government to formulate policies to improve people's livelihood and conduct more harmonious discussions in society.

Lastly, feeling strong, I would like to share CAO Zhi's *Quatrain of Seven Steps* with my colleagues in the Legislative Council. In particular, the last two lines that even children know pretty well, "We are born of the same root and why do we hurt each other so mercilessly?" I hope that Members will let go personal

interests and genuinely hold discussions in a harmonious and rational manner, so as to examine ways from different levels and angles of society to solve people's livelihood problems.

I so submit. Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): President, the motion today is about the disparity between the rich and the poor in Hong Kong. Looking at the original motion proposed by LEE Cheuk-yan, I found that he has put across some important messages in the first half of the motion, which we should take note of. However, problems have risen in the concluding part of the motion, which compels me to speak out.

It is certainly true that the problem of wealth gap exists in Hong Kong. In spite of many criticisms, the international community still uses the generally accepted Gini Coefficient to measure the severity of the disparity between the rich and the poor. According to the information collected from my research, I found that the Gini Coefficient of Hong Kong is indeed very high when compared to other developed countries and regions. For instance, according to the statistics two or three years ago, the Gini Coefficient of Hong Kong already reached 0.533. Compared to the figure of the United States which stood at about 0.47, and Britain at about 0.38, the figure of Hong Kong was very high.

Some people may say that the reason for wealth gap is that the rich is getting richer and richer; or the incomes of some people have increased while the incomes of some people have not. After studying some statistics, the Hong Kong Federation of Trade Unions has found that, for the 10% wage earners with the lowest income in society, their income is decreasing over the past decade or so. It is this scenario which makes us particularly worried. Although the society of Hong Kong has experienced peaks and troughs over the past decade or so, and has encountered economic contractions, the society should become richer on the whole, as reflected in the continuous increase in our Gross Domestic Product per capita. Under this circumstance, why are some of our workers earning less and less? This is something that merits our concern.

Some people, like LEE Cheuk-yan, will conclude that factors such as plutocratic monopoly, collusion between the business sector and the Government, the domineering manner of functional bodies have contributed to this. However, I would like to point out that such phenomena can also be found in other regions, particularly the more advanced economies. The pace may not be comparable to that of Hong Kong, but they certainly have similar problems. For instance, in the United States — the relevant figure may not be absolutely accurate, because there may be some discrepancies in reading charts of different places, but the figure is something like this — the Gini Coefficient had risen from about 0.43 in 1990 to 0.47 in 2004, which was a substantial rise. In Britain, the Gini Coefficient had risen from about 0.31 in 1990 to 0.38 in 2000. Thus, they also have the phenomenon of the polarization of society into the rich and the poor. Why is there such a phenomenon? Have these countries not tackled these problems as well? Is there also collusion between the business sector and the government? I will attempt to analyse this problem later. But I do not think we should judge others in this manner. They are also very concerned about the issue of wealth disparity. I believe the major reason for this problem lies in the global restructuring of industries. As a result of changes in the global economic landscape, many jobs, particularly the traditional low-skilled jobs, have been relocated to developing regions and countries. For instance, many jobs have been relocated to the Mainland. Under this circumstance, the skills of many people have lost their market value. The market is unable to provide a reasonable and dignified reward to workers. When the market fails to work, low-skilled workers will earn less and less.

The solution of the problem does not lie in putting blames on those who are not responsible for it. For instance, when there is thunder, a mother says to her son, "My son, the heaven is punishing you with thunder because you are not a good boy." Is this reasonable? It is not. This is not a scientific approach. Even if we beat the bad boy to death, the thunder will not cease. It is imperative for the society to understand the problem thoroughly. I believe the findings of the survey conducted by CUHK have certainly sounded a wakeup call to us, warning us the problem must be addressed. To resolve the problem, concerted efforts in formulating the minimum wage must be made. The community must also be more concerned about the income and livelihood of the grassroots. It is also necessary to enhance their education and working ability. Only through these means will we be able to resolve the problem.

Some people, like Mr LEE Cheuk-yan, will say that this circumstance is brought about by functional constituencies (FCs). In my opinion, FCs are equivalent to the crying boy I have just mentioned. The problem will still be unresolved even if we beat him to death. In addition, many colleagues have pointed out, and I, being a Member returned by FC, can give a fair comment as we all know that according to the stance of the Hong Kong Federation of Trade Unions, we can only be a Member for just one term of office. I can see the colleagues sitting next to me who are returned by FCs and those returned by geographical constituencies through direct election are working just as hard, and are devoting just the same amount of efforts. It is inaccurate if we say that colleagues returned by FCs have done nothing. It has been clearly demonstrated by the voting result of the last motion just now. Just one vote stood out among all. Every colleague returned by FCs opined that both the original motion and the amendment are justifiable. So they voted in favour of them. Only one Member who represents the related sector, Mr Abraham SHEK, voted against them; and it was only because he had to be accountable to his own sector. Since this is the case, how can we say that Members returned by FCs are devils? When I return home and look at the mirror, I do not see any devil in the reflection. Other FC Members who are present here are so diligent. It is simply impossible for me to refer them as devils because my conscience will not allow me to do that. Thus, I think all of us should assess FC Members with a fair attitude. I so submit.

PRESIDENT (in Cantonese): Dr PAN, your speaking time is up.

MR PAUL CHAN (in Cantonese): President, the original motion proposed by Mr LEE Cheuk-yan has cited the findings of the Public Survey on Social Harmony conducted by the Hong Kong Institute of Asia-Pacific Studies of CUHK. I read the findings of the survey carefully and have a considerable understanding of the contents. If we just quote a part of the survey and confirm that Hong Kong is not a harmonious society, and that an estimate of 1.5 million people in Hong Kong are in favour of resorting to radical means to press the

Government to respond to the demands put forward in the original motion and the amendments, we have overlooked other findings of the same survey. Over 80% and 70% of the respondents respectively agree to the approach of "giving way to seek common ground while reserving differences" in fighting for the interests of an individual and the public. If we do not read the findings of the survey in a comprehensive manner, it will inevitably lead to over-generalization.

President, the original motion and the amendments proposed by the three colleagues have attributed social disharmony in Hong Kong to FCs. However, have they overlooked that political dispute is only one of the seven factors for assessment adopted in the survey? Furthermore, according to the response of the respondents, the percentage of social disharmony caused by conflicts between the rich and the poor is much higher than that of political disputes. If the colleagues keep painting the FCs as devils, that does no help in reaching a consensus or identifying means to address the causes of social disharmony. This is also an unfair approach. Some Members have cited previous voting results of various motions in an attempt to state that colleagues from the FCs vote blindly and obstruct social justice. Mr CHAN Kin-por and Dr PAN Pey-chyou have cited some examples just now. I am not going to repeat.

I clearly remember I voted against the motion on the universal retirement protection because the entire society could not afford the kind of universal retirement protection as proposed in the motion. I believed that in proposing the package, the consequences had not been prudently considered.

President, I reiterate that I support the abolition of FCs in one go in 2020. In fact, there is not much difference between my stance and the demand as requested by the Alliance for Universal Suffrage (the Alliance) of which Mr LEE, Mr TONG and Ms LAU are members. Since colleagues of the Alliance have put forward their views, have negotiated with other colleagues of the Council and officials of the SAR Government, and have expressed the wish to establish a dialogue with the Central Government in order to achieve the objective of universal suffrage, why then do they have to propose a motion at this stage to create unnecessary dispute regarding the abolition or otherwise of FCs? Such an

act will only aggravate the conflicts and mistrust among each other. Do these colleagues genuinely wish to communicate with other colleagues of the Council with a view to reaching the maximum consensus, and making efforts to achieve full implementation of universal suffrage in the constitutional development of Hong Kong, or do they actually have other ideas?

President, for the past and current terms, there have been a number of colleagues who joined this Council through direct election of geographical constituencies. A number of colleagues stood for election of FCs and were elected, subsequently they also stood for direct election. There are some colleagues of the pan-democratic camp who continue to stand for election of FCs in order to serve the public. With respect to the individual performance of these Members, I believe the public will make their judgment. I can only speak for myself.

President, when we were debating on a motion regarding the roadmap of universal suffrage at the end of last year, I said that being a Member of the Accountancy Functional Constituency, while I was very much concerned about the business and developments of my sector, I had, in handling the work of the Legislative Council, devoted most of my energy and time in territory-wide affairs and put in all efforts to work in a "righteous, caring, humble, and serving" manner. From my observation, many other colleagues returned by FCs are dedicated and committed to the work of the Council.

President, in respect of the original motion, I agree to the proposal of formulating measures to narrow the gap between the rich and the poor, maintaining social mobility and ensuring fair competition, with a view to alleviating the deep-rooted conflicts in Hong Kong and promoting social harmony. According to the proposals put forward by the Hong Kong Institute of Asia-Pacific Studies of CUHK when it released the findings of the survey, the Government should formulate practical social policies to address the problem of the disparity between the rich and the poor, such as enact a fair competition law and provide income subsidies for lower classes.

Two weeks ago when we were holding a debate on the Appropriation Bill 2010 in this Council, I pointed out that given the huge fiscal surplus, the

Government should not be hesitant in assisting the disadvantaged groups of society. Hong Kong is fully capable of lending a helping hand to those in need with greater determination and bold vision, so that the general public will also be able to share the fruit of prosperity.

President, in respect of maintaining social mobility, I have mentioned more than once in motion debates that apart from education, we can and should start tackling the problem of housing, including building more public housing estates, providing more land for the construction of small-and medium-sized buildings with limited floor areas. Meanwhile, the Government should consider granting tax deduction for mortgage interests to purchasers of flats with a value of $5 million or less, and re-launching the Home Starter Loan Scheme.

President, I so submit.

MS CYD HO (in Cantonese): President, today's debate is actually the extension of last week's debate on the budget. So I would like to voice the views that I did not have time to express last week.

The Government always says that it is very important for an individual to work hard. Very often, when the problem of wealth disparity is mentioned, people, including the Chief Executive and the Director of the Social Welfare Department, will say that "Comprehensive Social Security Assistance makes people lazy". Since this remark has drawn more and more criticisms recently, they have stopped saying so. The Chief Executive is one of the elites. He has climbed up the ladder from the grassroots level. He believes that as he can achieve this, everyone should be able to do the same. However, the Chief Executive has forgotten his father was a civil servant. During those days, a job like this was able to secure a very steady income for the family. He was more fortunate than many people. A lot of people in this society have also been working very hard, but due to various external factors and bad fortune, their efforts may not necessarily make them free from poverty.

Among the daily expenses of the grassroots, let us look at the amount that will go into the pockets of the monopolistic consortia. When the grassroots wake up in the morning, their flats they are living in are built by developers.

Even if they live in public housing estates, the cement used to build the estates come from Green Island Cement Company Limited, which is owned by Mr LI. When they switch on the light, as we all know, the electricity is supplied by the two power companies. Residents on Hong Kong Island are less fortunate because they have to pay an extra 40% of electricity tariff. The fixed-lined telephone service is provided by PCCW Limited. To cook a breakfast, they have to use electricity and gas, which are also monopolistic. Liquefied petroleum gas companies can increase prices whenever they like and so can Town Gas. When you go out, public transport companies, MTR Corporation Limited, and bus companies have guaranteed profit of return. The fast food shops where the grassroots have breakfast or lunch are under the same consortium, though they may have different names. Under a different name, the shop charges $10 more for a meal. Many people have to buy food in supermarkets because by the time they are off duty, the markets are closed. Wellcome or PARKnSHOP are also monopolistic. Some housewives go to the markets during daytime to buy food. These markets, once managed by the Urban Council are now monopolized by the Link Management Limited, which has increased rents of the market stalls. Meanwhile, over the past 30 years, the Food and Environmental Hygiene Department has made a lot of efforts to relocate markets and open-air hawker bazaars to the former municipal markets.

So we can see that from the time we wake up every morning, most of our daily living expenses are channeled into the pockets of the monopolistic consortia. No matter how hard the grassroots work, these living expenses are fixed expenses, but not their wages — we ask for a minimum wage to provide people with a reasonable livelihood, but up till now, our requests are to no avail. Thus, there are grounds and basis for public grievances, because no matter how hard they work, they cannot free themselves from poverty. They can only be exploited by government policies and monopolistic consortia.

However, Mr LAU Siu-kai only said that they were only "trapped in a state of worries", and the situation has not reached a very dangerous level. As a matter of fact, the public surveys conducted by Mr LAU Siu-kai were not uninformative. In 2003, before the July 1 rally, according to the findings of a survey conducted by him, 18% of the public would take to the streets. He reported in the Executive Council — President, I forget whether you were a Member of the Executive Council back then — but "Uncle Kai" said nobody in

the Executive Council took any notice of him. This time, he came out to defend and said the public were only "trapped in a state of worries". The public are trapped in an economically enclosed city. Those who are inside cannot go out while those outside do not wish to go in.

People found that living in Hong Kong has become increasingly difficult. But the day before yesterday, Mr LAU Siu-kai expressed some views which further infuriated members of the public. He said that the referendum was a failure even before it was held. He listed several reasons for its failure. According to him, the political parties that plan the referendum have three objectives. First, put pressure on the Government. Second, expand the power of the democratic camp. Third, unify the democratic camp. Now they have failed to achieve these objectives. I am very disappointed with Mr LAU. As the chief researcher of the Central Policy Unit, his job is not to dispute with political parties. Whether political parties are able to achieve their objectives should not be his primary concern. Instead, he should try to understand why the public wish to take part in the *de facto* referendum? Does he understand that the public wish to express their grievances by taking part in the *de facto* referendum, so as to work together for a democratic political system which will bring fairness to the society? If he only engages himself in disputes with political parties, he is only belittling the political parties that plan this referendum instead of addressing these deep-rooted problems. In fact, he is failing in his duty. Of course, Mr LAU had taken part in devising the functional constituencies; it is only natural that he has a sentiment for the baby impregnated by him.

President, the survey conducted by the CUHK deduces that 1.5 million people wish to take to the streets or are in favour of resorting to radical means. In fact, Hong Kong people take part in the *de facto* referendum as the most peaceful and rational means to voice their demands and grievances. Is voicing out demands and grievances forbidden and must be suppressed? Is voting not permitted? What kind of a government is this? As a matter of fact, addressing public grievances is similar to preventing floods. Blocking does not work. Presently, public grievances have reached a dangerous level of flooding, and the Government can no longer turn a blind eye. The only way the Government can

vent the rage is to give Hong Kong people freedom and equal rights, so that the "water" will become a force for building Hong Kong. Thus, I urge the people of Hong Kong to fight for all opportunities to publicly express your own stance and voice out your aspiration on the constitutional reform. I urge all of you to take part in the rallies held on 1 and 2 May and support the referendum on 16 May.

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

DR PHILIP WONG (in Cantonese): President, in this world, speaking with a loud voice and a fierce look do not mean you have a reason. Over the years, the pan-democratic camp has deliberately misled the public in believing that the Government's implementation of policies are biased towards the interests of people who are powerful and wealthy, that political privileges are given to functional bodies, and that functional constituencies (FCs) and universal suffrage cannot co-exist, and so on. In my opinion, the reality is not like that at all.

It was my honour to take part in the work of the Basic Law Consultative Committee. After extensive discussion for a long period of time, the Basic Law was eventually endorsed. During the in-depth discussion back then, if someone had put forward that FCs and separate voting might have to be abolished in the future, specific provisions in this regard would certainly have been stipulated in the Basic Law in view of their importance.

There is no stipulation of this in the Basic Law, which reflects that a majority of the members of the Drafting Committee and the Consultative Committee as well as the public are of the view that to maintain long-term stability and prosperity in Hong Kong, there must be a balanced participation in the Legislature. How can a balanced participation be realized? Based on thorough consideration back then, it was accepted that the representatives of respective sectors should be those who knew the sector well. How can a person who knows nothing about business operation represent the commercial sector? How can a person with no legal knowledge and not yet legally qualified represent the legal sector? Even if they have many votes, they are not suitable to be representatives. In principle, representatives of different sectors must be recognized by members of their sector and are well acquainted with the operation

of the sector. They should also have the abilities, qualification, commitment and influence to speak in the Legislature on behalf of the sector. Various sectors should have their voices in the Legislature. At that time, this was the greatest consensus reached by members of the Drafting Committee of the Basic Law in respect of a balanced participation. In addition, we all agreed that apart from representatives of various sectors, there should be Members elected directly from geographical constituencies to represent the general public in the Council, so as to achieve the objective of maintaining a balanced participation. At that time, an equal number of Members from functional and geographical constituencies was regarded as the most justifiable and reasonable option.

Apart from maintaining a balanced participation, FCs have another important role of being a gatekeeper. At that time, various sectors of the society worried that in case all seats of the Legislature were returned by geographical constituencies, Hong Kong might become a welfare society. Thus, members of the Drafting Committee and the Consultative Committee had devised the format of separate voting back then. Up until now, this mechanism is still playing an important role. When Members propose motions or amendments not conducive to the long-term economic development, social stability and prosperity of Hong Kong, FCs have played an effective role as a gatekeeper. Take the investment of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) as a recent example. From the perspective of long-term investment, XRL is absolutely beneficial to the economic development of Hong Kong. During the debate of the construction of XRL, since pan-democratic camp had proposed tens of dozens of amendments, it had taken a very long time on deliberation. If the mechanism of FC and separate voting had not performed the function of gatekeeping, the future economy of Hong Kong might have been marginalized. In the event of this, how can the industrial and commercial sectors survive and develop?

Talking about the industrial and commercial sectors, all of us understand that Hong Kong is a small territory deficient of natural resources. The livelihood of seven million people depends on the employment opportunities offered by the industrial and commercial sectors, which have enabled tens of thousands of families to live and work in peace and contentment. Over the years, without the dedicated efforts and the far-sighted investments of the industrial and commercial sectors, Hong Kong would not have achieved the

present prosperity. The dampening of investment sentiments of the industrial and commercial sectors will only result in a loss of jobs, a rise in unemployment rate, and a heavier burden for the Government. So what is the benefit of dealing a deliberate blow to the industrial and commercial sectors?

In my opinion, we should look at the problem of the gap between the rich and the poor from an accurate perspective and properly address the issue, with a view to ensuring fair competition and promoting social harmony. However, it cannot be denied that some people really hate the rich and loathe the poor. They incite hatred towards the commercial sector, the tycoons, the Government, and even the Central Government. As a matter of fact, such a mentality may not necessarily be shared by people of insight.

I would like to respond to a Member's recent remark that the phenomenon that of all world-class tycoons in Hong Kong are real estate developers clearly illustrates that the Government has biased towards them. She does not know that the group of people she refers to has gone from rags to riches. They did not come from wealthy families. They have successfully built their huge empires with hard work, intelligence, and sometimes, luck. Hong Kong is a place that provides opportunities for people to build something from nothing, to develop huge enterprises from small ones. And in terms of population, the percentage of rich people in Hong Kong ranks amongst the top at the international level. I am not speaking for the property developers mentioned by that Member. But I am of the view that instances of building huge empires in Hong Kong through dedicated efforts and hard work should be treasured by us all. In this regard, I would also like to point out that there are cases that businesses of many former heavy-weight property developers had gone from huge enterprises to small ones, from something to nothing. Examples of closing down and going bankrupt are too numerous to enumerate. These serve to demonstrate the accusation of the Government being biased is groundless.

Returning to FCs, the facts are clear, there is no provision in the Basic Law that stipulates that FCs, which play the role of maintaining a balanced participation, should be abolished. Similarly, there is no provision in the Basic Law that stipulates the abolition of the mechanism of separate voting. The issue of FCs is not whether they should exist but how they can be returned by a broader electorate base. Until now, a satisfactory answer to this question has not been

identified. However, given time, I believe we can identify a means which will be endorsed by both the public and the industrial and commercial sectors. Thank you.

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

DR LAM TAI-FAI (in Cantonese): President, there is a Chinese saying, "Everything goes well in harmonious families but problematic families are caught in endless quarrels." At present, while there are many grievances among members of the public in Hong Kong, social conflicts and confrontation are becoming increasingly serious. People with different political views are attacking each other. Many people have developed complexes of "hate the rich" and "hate government officials". Frankly speaking, even if I have not read the report of the survey published by the Asia-Pacific Studies of CUHK, I can feel that the society of Hong Kong is becoming increasingly disharmonious.

As I had mentioned last time, a stable and prosperous Hong Kong is what the Central Government most wishes to see after the reunification. Frankly speaking, this small island of Hong Kong has certainly become more prosperous now, but we fail to see stability in society. A series of social problems, such as the disparity between the rich and the poor, unaffordable high properties prices and reduced opportunities for upward mobility, have made the public feel increasingly frustrated. Members of the public may find that they are unable to share the fruit of prosperity. Thus, the Central Government cannot help but say that the deep-rooted conflicts are still unresolved.

President, if grievances and conflicts among the public cannot be effectively mitigated and addressed, we will not be able to maintain prosperity, stability and harmony in the long run, which will have negative impacts on the economic development. Based on the report of the CUHK survey, Mr LEE Cheuk-yan has proposed a motion today in the hope of urging the Government to formulate measures to narrow the gap between the rich and the poor, maintain social mobility, ensure fair competition, and not to continue disregarding social crises. I think all of us agree to the above sentences mentioned above. In fact,

it is not our wish to see the situation of plutonic monopoly of political and economic powers. If such a situation really exists, I believe the Government will seriously consider how to address the issue. It is not the wish of the Government to find such a situation in Hong Kong.

However, I do not understand why Mr LEE Cheuk-yan has added a sentence not even mentioned in the report of the CUHK survey, and that is the demand of "abolishing the political privileges of functional bodies". President, I really cannot fully understand what political privileges he is referring to. President, frankly speaking, as a new Member returned by functional constituencies (FC), I have often heard colleagues of the pro-democratic camp talking about the shortcomings of FC Members, and attributing all the social problems to them. I really feel very confused, and I think this is unfair. I would like to advise them, if they continue to be irrational, slapping labels and radically attacking FCs, a situation of "the black dog stole but the white dog took the blame" will emerge, allowing the one who should be responsible go scot-free, while FCs become the scapegoat. This will bring disharmony to the Council as well as the society.

A thought always come to my mind, since FCs have existed for many years, straddling the British Hong Kong era and after the reunification, are they really meritless, having no value of existence? Are FC Members, just as he said, unpardonable beyond forgiveness; or are they devils and monsters that have no contribution at all to society?

For instance, during the financial tsunami, FCs incessantly urged the Government to implement policies and measures that "support enterprises and secure employment". Surely we did not only fight for the profits of companies and employers without taking into account the employment opportunities and survival of wage earners. We had taken wage earners into account. Some people criticize the unsatisfactory performances of certain FC Members, saying that they only care about protecting the interests of the sectors without being accountable to the society. Even LEUNG Chun-ying has pointed out that individual FC Members should make a self-criticism. Of course, I do not know which Members he is referring to. However, even if the performances of individual Members are unsatisfactory to the extent that they have not reached the

standard demanded by Members of the pan-democratic camp and LEUNG Chun-ying, it does not mean that they are worthless, or there is no value of existence for FCs.

It is proposed in the motion that political privileges of functional bodies should be abolished on the grounds that bias has been shown towards the interests of people who are powerful and wealthy. President, I can definitely say that people of the industrial sector are certainly not powerful and wealthy. This is because the Government has never shown any bias towards the industrial sector. The industrial sector has never been mentioned in either the Policy Address or the Budget. The Government is indifferent to the sector, leaving it to run its natural course without proposing any measures for the development of industries. Thus, if Mr LEE Cheuk-yan has based on this reason to accuse the Government of being biased towards people who are powerful and wealthy, he is certainly not referring to the industrial sector because the Government has never shown any bias towards the industrial sector. I would also like to take this opportunity to point out that, in fact, the Government attaches too much importance to the financial sector and the real estate sector, and has overlooked the aspirations of the industrial sector, such as upgrading and restructuring, amending section 39E, and granting depreciation allowances. It has completely paid no attention to our views. Neither has it shown any bias for us, nor has it granted the same status in taxation for processing with imported materials and processing with supplied materials. The Government has no intention to help us enhance competitiveness and productivity. Members have mentioned that people were "trapped in a state of worries" just now. In fact, the industrial sector is also "trapped in a state of worries", suffering the same pains. Thus, please do not say the Government is biased towards FCs any more.

As I have mentioned just now, many FC Members do not wish only to serve their sectors. It is our genuine wish and intention to work for all members of the public. I am not going to talk about other Members. I take myself as an example. Apart from joining the Panel related to my sector in the Council, I have also joined the Panel on Education and the Panel on Home Affairs. I have always attended meetings of these Panels, putting forward views as much as possible. Mr CHEUNG Man-kwong is present at the moment. Let me talk about education. Mr CHEUNG Man-kwong is an experienced FC Member. In

terms of professional knowledge, I lag far behind him. But I share his enthusiasm in doing something for education. I am a Council member of the Hong Kong Polytechnic University (PolyU). Apart from helping in the administrative work of PolyU, I also take part in school administrative work of Lam Tai Fai College and many other education-related affairs. Honestly, what I wish to say is that, as a Member of the industrial sector, apart from fighting for the interests of the industrial sector, I certainly wish to serve the entire society of Hong Kong. I wish I have the ability to serve all people of the territory.

Returning to the subject of FCs, I agree that there are inadequacies in the existing electorate base and electoral arrangements. I will be pleased to discuss with Members as to how we can improve and review this system. However, is it not too arbitrary if we accuse the system of being garbage and abolish it overnight before holding any discussions or reaching a consensus? Is this not too dangerous and irresponsible?

Thus, I very much agree to the views put forward by Mr LEE Cheuk-yan. But I disagree to abolishing FCs or abolishing the political privileges of the FCs. I do not believe by doing this, all the conflicts and grievances of the society will be addressed.

President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, in the motion put forth by Mr LEE Cheuk-yan today, he cites an opinion poll conducted by the Hong Kong Institute of Asia-Pacific Studies of CUHK, pointing out that 1.5 million people are in favour of resorting to radical means to press the Government to respond to their demands. Many colleagues criticize LEE Cheuk-yan for making one-sided comments and failing to quote the content of the report on the opinion poll in a comprehensive manner. They point out that the report also includes other results with great reference value. For instance, some respondents agree that individual interests and interests of society should be considered together, but not separately on their own.

President, I hope Members would understand that the report of the opinion poll surely contains many issues worth discussing, but we have never got such an important and striking survey result, that is 1.5 million people are in favour of resorting to radical means to press the Government to respond to their demands. We have never come across such results in opinion polls. Mr LEE Cheuk-yan highlights this point deliberately to draw the attention of Members, not Members alone, but the Government in particular. I think no Member would want to see this problem actually come up. As Dr LAM Tai-fai has said, not only the Government, every citizen in Hong Kong wishes to live in a stable society. If this is the actual aspiration, how can it be realized? I understand why he has brought up this issue, for this is a cause of concern to all of us. Since we all fear that the problem will actually come up, he purposely brings up the issue, not for making one-sided comments, but hoping earnestly that the Government would show concern and solve the problem.

Mr LEE Cheuk-yan has also mentioned the causes of these problems. He says that the disparity between the rich and the poor has brought about unfair competition, giving rise to deep-rooted conflicts in society. I am very glad that Dr LAM Tai-fai totally agrees that such problems exist. But regrettably, the Government does not agree that we have these problems. The fact that we agree such problems exist does not mean that the Government also accepts this fact. Hence, we must point out again the problems. If no practical actions are taken to address these problems, we worry that the scenario reported in the opinion poll may come true. Hence, I think the Government should attach importance to this phenomenon, identify the causes of the problems and devise options to solve the problems. I think this is the most important direction of the discussion today.

Mr LEE Cheuk-yan mentions that one of the causes is the political privilege enjoyed by functional constituencies (FCs). Though I do not know Mr LEE Cheuk-yan very well, I have never heard him referring FC Members as demons or monsters over the years. I wonder why everyone here today blames him for referring FC Members as demons. If Mr LEE Cheuk-yan has the opportunity to speak later, please clarify whether he has ever said so. I think he has never said that those people are demons and monsters, nor has he ever said

that FC Members are not hardworking and inactive. He has never talked about these questions. He has only brought forth an objective question, that is, FC is unjust and unfair in nature, and the system is politically unjust and unfair. Members all know the electorate base of FCs and I need not say no more. Members know how many votes these people have and how many votes the members of the public have. This is exactly what he means by political privilege. Members of the public only have one vote, but electors of functional constituencies have two. Is it fair? Is it not a kind of privilege? If it is not a privilege, what is it? His intention is to highlight the injustice, unfairness and unreasonableness of the situation.

I too agree that many colleagues from FCs are very hard working, and they attend every meeting. But what we are now discussing is not just the rights and interests of FCs, many other areas are involved as well. I agree with this view. Otherwise, it will be meaningless to participate in the discussions in this Council. If we only study one single issue, why not just join a panel. If colleagues from FCs are so concerned about the general problems of society, President, I wonder why they do not take part in the direct election of geographic constituencies. Members returned by geographical constituencies through direct election may also fight for the interests of certain sectors. Take myself as an example. I do not only strive for the interests of workers, I also strive for the interests of the education sector, Chinese medicine practitioners, students with learning difficulties, as well as members of other sectors. People standing for direct election of geographical constituencies can serve other sectors as well. Why is this not possible? Since Members returned by geographical constituencies through direct election may look into an extensive range of issues, the principles and nature involved are more extensive than that of FCs; hence I think that is a better option. One important point is: What are the demerits of FCS that it should be abolished? President, according to the Basic Law, universal suffrage will eventually be implemented. This is a provision under the Basic Law. It is according to this logic that functional constituencies should be abolished. Otherwise, we do not have to say so. If there is democracy at present, it is unnecessary to call for the ultimate implementation of democracy. Hence, it is stipulated unequivocally in the Basic Law that functional constituencies should be

abolished, and we do not make this up. President, this is stated unequivocally in the constitution. Why do we have to discuss this further? Since we all understand this point, the greatest compromise I can accept is that the existence of FCs is only a transitional arrangement, which have to be abolished ultimately. We must accept this reality. Why Members cannot accept this reality? The timing of the abolition may be open to further discussion, but the abolition is a must.

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR PAUL TSE (in Cantonese): Members should have heard of the story of the blind men and an elephant, each touches a different part of the elephant and they each come up with a different answer. Some people point out that the image of the existing legislature is poor, and the satisfactory rating of we Members are very low. They are using all kinds of tactics to get what they desire. Before 16 May, it is only natural that people will try by all means to attack functional constituencies (FCs), for this is one of the methods to canvass for votes. On the contrary, some people may say that the legislature should remain civilized, where political violence should be reduced. This is the other side of comments. It is not a problem to say so. This time around, Members will make voices to achieve their purpose. I believe the pressure will ease upon the completion of the election, but will become more intense during the discussion of the constitutional reform. Actually, Members know that the public is already tired of the litany of remarks from Members, which seems endless, not knowing when such discussion will eventually come to an end. Surely, if Members do not discuss this issue, what else can they discuss?

In my views, before the establishment of a mature system on party politics, I am afraid FCs can hardly be abolished. Why? First, some colleagues comment that certain Members returned by direct election actually lack the commercial or business background, or the so-called sophistication. Under a mature political system, a political party may get involved in many interests, many different scopes and even different professions. We need not worry that we cannot elect someone who is concerned about the tourism industry, surely

some people will be interested. Political parties in Hong Kong have been operating for many years. But how many members do they have? Actually, if party politics has developed well, there should at least be 1% to 5% of people joining political parties. Have political parties in Hong Kong reached that stage? No matter which camp the political parties belong to, they only have 300 or several hundreds of members, and many of the political parties are one-man party. Against this background, how can the people of Hong Kong believe that a mature system has been established in Hong Kong, that the implementation of genuine direct election is practicable and the interests of the public may be entrusted to political parties?

Hence, if this problem cannot be solved, I think repeated discussions on the abolition or otherwise of FCs will only be futile. President, certain colleagues will naturally feel unhappy when they are demonized. Though individual Members have not been referred as demons, anyone who is part of the system will naturally be defamed or demonized, or said to be representing certain large consortia. Sometimes, when I look at the mirror, I ask myself whether I have been demonized. Which consortia am I representing? Am I representing Hong Thai, Wing On or Cathay Pacific or any hotel group? It seems that I am not protecting the interests of any of them. On the contrary, they often criticize me for failing to represent them and fight for their interests. After all, we cannot avoid making systematic and justified analysis, for it will be meaningless to present general and one-side views. When a society or dynasty is at a critical stage of life and death, some people may put forth suggestions like blaming the Jews and demonizing them for the sake of winning more votes. For instance, they may blame people with different skin colours and demonize them, or they may attack big landlords and make them kneel on broken glasses, or just blame the migrants, for these actions will win them some support. No matter how, they will always lay the blame on others. But will these actions address the crux of the problem? If we look at each incident in depth, we will understand that these incidents should never be interpreted from a one-sided perspective. Nothing is just black or white, grey areas do exist. There are pros and cons of each incident. Hong Kong is now facing many problems.

With regard to the motion today, I give my full support to many proposals on policies, including narrowing the gap between the rich and the poor, maintaining the mobility of society and fair competition. I consider all these

proposals adequate. Even on the abolition of certain political privilege of functional constituencies, I think it is something we should do. This measure will be implemented sooner or later. The point is that we should not adopt a broad-brush approach, thinking that certain statement will become the truth if it is repeated 10 times, or if 100 times is not enough, we may repeat it 10 000 times. We cannot solve problem this way, it will further intensify the conflicts.

More often than not, it is difficult to differentiate the cause from the result. Some people may say that had bananas not been thrown, how would the Chief Executive have changed his mind. As I said earlier, this is the greatest fallacy. The two incidents are totally unrelated. It was just a coincidence of timing that incident B happened after incident A. Some people thus grasped the opportunity to escalate the incident and claimed credits successfully. For instance, if some people say that owing to certain incidents in the legislature, some people throw acid bombs in the street. Are there any causal links between the incidents? The two incidents may not be related, but some people may believe this. All these are meaningless. We should act pragmatically. If the policy is right, we should support it. Two hours ago, Members put aside their disputes on FCs and geographical constituencies and almost (with the exception of the representative of real estate sector who has his own stand) unanimously agreed to amending the legislation to change the practice regarding the selling of uncompleted residential flats. Actually, this is a good deed.

Though I have only been a Member of the Legislative Council for a short time, I do not feel that FC Members have blatantly acted against their conscience by voting for or against certain questions deliberately. More often than not, it is because they view the questions from different perspectives and standpoints, or that they have a different set of values. Some people may be a bit conservative and prudent, while some other may incline more towards the business sector, or oppose making swift changes. The situation is just normal. They do not deliberately stop doing things that they know for sure is good for Hong Kong, nor do they insist on doing things harmful to Hong Kong. There is no question of this situation. I stand to be corrected. If Members think that I have cast the wrong vote or that I am acting against my conscience for the interest of the tourism sector, please point out my fault. I just hope that we will not take one-sided views and without thinking deeply, simply shift the blame of all the problems to those who can easily be used as scapegoats. This approach can in

no way help us deal with the numerous problems surrounding us in a pragmatic and fair manner.

Everyone has to work hard to solve the current problems in Hong Kong. War of words is no solution to the problems. I hope Members, including myself, will refrain from involving in disputes just on certain concepts. We should seriously consider the positive aspects of each incident and come up with decisions that are relatively rational, impartial, pragmatic and practicable. I think we should move in this direction. Thank you, President.

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

MR ALBERT HO (in Cantonese): President, the motion proposed by Mr LEE Cheuk-yan has drawn strong responses. But having heard the speeches of many Members, I notice that their views are common in many aspects.

I will start with these common aspects first. We all notice that Hong Kong is now facing a difficult situation that people are trapped in a state of worries. First, as Members mentioned earlier, there are problems of disparity between the rich and the poor, grass-root poverty, the lack of opportunity for upward mobility. Young people think that they have no hope and prospect. Many people agree that these problems have aroused much grievances. However, there are different views regarding how these problems should be handled and how the causes of these problems should be analysed. This is a very important issue, and involves a concept of values as mentioned by Mr Paul TSE earlier. Nonetheless, issues relating to concept of values are indeed structural problems, and I will discuss this later.

Let us first discuss the solution to these problems. Obviously, Members and the Government have different views about this. It seems that the Government has failed to think of any specific solutions. It only says that this is the natural consequence of economic transformation. The Government simply follows the established policies, which focus on care, kindness, fairness, impartiality and selflessness, and continue its governance, as if there are no problems at all. It just adopts the same policies, without sensing any crisis. Just now, I hear Michael SUEN speak. The way he speaks and the content of

his speech are likened to "a glass of water", indifferent and lack of substance, as if he does not have any sense of crisis, or he does not think that certain problems have to be dealt with.

But our colleagues, be they from FCs or returned by direct election, have similar views. We all consider that the problems exist, but as to how the Government should solve the problems, we have different views. Surely, we have criticized FCs for their small electorate base and that they often put the interest of their sectors first. After all, these Members are returned by election, and they are different from those officials appointed by the Chief Executive. Those officials, with only figures in mind, sit in air-conditioned rooms and just follow the established practice. It is evident that our mindsets are very often determined by the origins of power, that is how Members are elected to the legislature and how they are empowered. More often than not, our values are also formed by these methods. The logic is simple. Since Members are representing their electors and their interests, Members have to be accountable to them.

Why are FC Members and Members of geographical constituencies different? We know this very well. We have known Mr LEE Cheuk-yan for a long time, and we know that he does not like directing against other people. Actually, some Members of the pan-democratic camp are from FCs and they are core members of the camp. Are we directing against these Members then? Definitely not. On the contrary, we appreciate the competence and enthusiasm of certain FC Members, who are not in the pan-democratic camp but in the so-called pro-establishment camp.

However, the problem lies in two aspects. First, to be fair, certain FC Members actually do not attend meetings regularly, we all notice that. They seldom do their work, and even if they attend meetings, they do not know what is going on nor do they know what they should say. When these Members are asked about certain procedures of meetings, you can tell that they know nothing about it. But these Members will get elected without any difficulties, some even get elected uncontested. If I tell you there is more than one such Member, do you think there is a problem? To be fair, is this a problem?

Second, FC Members of functional constituencies are in fact affected by their constituencies, and they know this themselves, for they are delegated by their constituencies. Definitely, we are also delegated and the authority comes from a social group. We represent the intrigued interests of a social group, which includes the upper, middle and lower classes who have to face problems in transport, education and medical care. Our electors include people with conservative or progressive thinking, and with other thinking as well. We, as Members elected by the public, have to understand their views. We will consolidate the different views and attempt to come up with a solution we consider reasonable. What are the difficulties faced by FC Members? If the Member comes from the chambers of commerce or a certain sector, he will represent the interests of that single sector rather than a group of people representing a cross-section of society, which involves integrated but diversified interests. So, the difficulty is, do they have much choice? Representatives of chambers of commerce will have little choice. If a Member represents a specific sector and if the sector requests him to act in a certain way, it will be really difficult for the Member to position himself. Honestly, sometimes, even FC Members in the pan-democratic camp will have to face many difficulties. We have to know what our ultimate and core ideologies are in order to overcome these difficulties. This is not a easy task.

The problems with FC Members, as mentioned by Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung earlier, is the small electorate base of their constituencies. The public will consider this arrangement unfair. Since these Members represent specific interests, and under the existing structure, these specific interests tend to bias towards a conservative government, conservative interests and established policies. We call this the structural bias. This is the crux of the problem. The question is not on the performance of individual Members. Actually, we notice that many colleagues are extremely competent, and if they come forward to stand for election, they will surely win. They will perform better than those so-called directly-elected Members, but why do they not choose to participate through a fair method? This is the greatest problem

Insofar as maintaining harmony is concerned, some people like to use this as a shield. But may I remind them one point: If we lack common core values and targets to strive for as the ultimate direction for social development, how can

harmony be established? They should not use harmony as a means to stifle expression of opinions, oppositions and demonstrations, if so, this is not fostering harmony but being "harmonized" *(The buzzer sounded)* …… that is to tie up political dissidents.

PRESIDENT (in Cantonese): Mr HO, your speaking time is up.

DR MARGARET NG (in Cantonese): President, sometimes in hearing Members who are newcomers to the Legislative Council speak, I have the impression that they would wonder why some very important matters have never been raised. In fact, these issues have been raised, together with many good suggestions. However, the departments concerned have all along turned a deaf ear. Consequently, many academics and people who care about these matters felt discouraged and they did not bother to make any suggestions again.

Mr Paul TSE said just now that the development of political parties was very important to democratization and the absence of well-developed and mature political parties would really pose a major problem. In fact, we have already listened to the views of many academics on this matter many years ago in the meetings of the Panel on Constitutional Affairs of the Legislative Council. One of these academics was Prof KUAN Hsin-chi. He said that the development of political parties was very important to democratization in Hong Kong but the existence of functional constituencies posed a major and fundamental stumbling block to the development of political parties.

The reason that the development of political parties is possible in other places is due to the implementation of universal suffrage. In implementing universal suffrage of "one person, one vote", it is definitely necessary to rely on the organization by political parties in places covering a large area. This is the first point. Therefore, without the organization by political parties, it will be difficult to hold elections. We can see that this point has been proven in the history of Hong Kong. Direct elections were introduced in 1991. Before 1991, when direct elections were about to be introduced, as soon as the Government announced that direct elections would be held soon, political parties such as the

Democratic Party and the DAB were formed. We all know if we wanted to run in elections, we would stand a chance of winning only with the organization by political parties. Moreover, it is also necessary to have an organized political party to help carry out planning on election campaign expenditure. Therefore, political participation is dependent on political parties and they are essential.

However, this is not the case for functional constituencies (FCs). If several organizations group together, they can select a Member through a FC and it not even necessary to cast any votes. Even though direct elections are held in some sectors, the numbers of voters are very small and the expenditures required are also very little, so of course, the candidates do not have to rely on political parties. This is the first point. Second, the existence of functional constituencies leads to the fragmentation of interests. By this I do not mean that all sectors are working for their own interests. In fact, initially, all of us firmly believed that the Member returned by each sector, particularly Members returned by the professional FCs, would only play a transitional role and that we were using our expertise to make contribution to society. However, this is no longer the case nowadays. All people expect the representative of their sector to speak for their interests first and foremost, so it is inevitable that sectoral interests have become fragmented. Take Mr Abraham SHEK as an example, I always think that Mr Abraham SHEK is a very reasonable person and we are on very good speaking terms. However, whenever voting is carried out, he will say, "Sorry, I must represent the property sector" and sectoral interests definitely influence the way he votes. Not only does this happen to Mr Abraham SHEK, it also happens to many other Members, so this attests to the fragmentation of interests. Not only is wealth disparity in society getting more pronounced, from the present legislative exercise on a minimum wage, we can also see the conflicts of interests between employees and employers, so FCs pose a great obstacle to the organization by political parties.

Why is it necessary to have political parties? In fact, this is precisely one of the functions of political parties. Since a political party does not just represent a single FC, when an election for an entire area is held, it has to balance the interests of various sectors, so as to formulate a holistic policy rather than simply taking care of certain interests. Moreover, its policies must be mutually

compatible. It has to set priorities at various points of time and determine which policy is the most important one and which one requires urgent attention. It will then be necessary to convince other party members and supporters by explaining to them why they have to swallow the bitter pill and why priority has to be accorded to certain matters.

Second, political parties have to make long-term commitments. This is because a Member is an individual. He may be a Member representing a certain FC at present but in the next Legislative Council, there is no knowing who will represent the sector concerned. However, a political party is not just an individual. It has to uphold its long-term reputation, secure widespread support, groom talents as well as design and study policies. Only a political party comprising various sectors, that is, a cross-sector party, is capable of carrying out these tasks. For this reason, the existence of FCs has hindered the development of political parties. With the existence of FCs, it is not possible for political parties to reach a consensus internally. For example, if one Member represents the property sector and another Member represents the retail sector, how are they going to deal with certain issues? Political parties are very important but the concurrent existence of FCs makes it impossible for political parties to develop.

Another reason that makes the development of political parties impossible and even makes political parties absent from the political scene, leaving only FCs in it, thus making it difficult for the Hong Kong Government to govern, is the reliance of the Government on FCs for their support for many policies under the separate voting system. The Government dares not make any change because if there is any change, the interests of various sectors would be at stake. For example, whenever we discuss matters relating to tobacco control, Mr Tommy CHEUNG always have a lot of opinions because he thinks that the catering sector and groups represented by him have a lot to say. For this reason, it is inevitable that this kind of transfer of benefit will occur. With this kind of transfer of benefit, the Government has to rely on FCs and *vice versa*, so it is neither possible for us to break this stalemate nor can we abolish the FCs. As a result, it is not possible for us to develop truly full-fledged political parties.

Just now, Dr Philip WONG queried why the Basic Law did not stipulate the abolition of FCs. This is very simple. Because it never occurred to anyone that FC would be included in universal suffrage. It was not until 2007, when the NPCSC made an interpretation of the Basic Law, that it began to say that FCs may be included in universal suffrage.*(The buzzer sounded)* This is the reason why we want to organize a referendum. Thank you.

PRESIDENT (in Cantonese): Dr Margaret NG, your speaking time is up.

MR CHAN KAM-LAM (in Cantonese): President, it is undeniable that there are many problems in Hong Kong. Among them, issues such as the wealth disparity and under-employment among the grassroots frequently attract attention in the course of Hong Kong's development. However, we have to examine the causes of these problems by carrying out a more in-depth analysis. Hong Kong is now at a stage at which its mode of economic development is changing. Ever since the reunification more than a decade ago, the economy has experienced several ups and downs and the mode of economic development has also experienced significant changes. Conventional industries such as the manufacturing industry are on the wane and economic development in Hong Kong has changed to that driven by the financial industry and a knowledge-based economy. As a result, there are less elementary jobs requiring low skills. The employment opportunities of elementary workers have decreased drastically and so has the reward for their labour. Not only does a knowledge-based economy require a higher level of education attainment among workers, the competition in the labour market is also greater than that in the era of conventional industries. Moreover, what we are facing is not just competition in the local market but also increasingly keen international competition.

The change in Hong Kong's mode of development is arguably a major trend in line with the global economic development. Enterprises all have to face this economic restructuring regardless of their scale. In fact, in order to cope with the changes in the economic environment, enterprises are also carrying out reforms all the time and the process is quite arduous, with difficulties and hardships that outsiders know little about.

The financial power of an economy is one of the criteria adopted in assessing its strength, speed as well as scope for development. The number of world-class consortia in an economy is also one of the indicators. For this reason, the governments of various places all spare no effort in attracting world-class consortia to establish their headquarters within their jurisdictions. Hong Kong and its neighbouring regions, such as Singapore, Korea and even cities on the Mainland, often vie with each other for companies among the World Top 100 or 500 to establish their headquarters in their place or country, so as to showcase their strength in economic development and the investors' confidence in the local economy. This underscores the fact that consortia play an important role in the economic development of these places.

At present, globalization is taking place and the investment environment is fully open. The flow of capital is extremely rapid. To maintain an attractive and free-wheeling business environment is the primary condition in maintaining Hong Kong's position as a financial and logistics centre. According to a survey report on the competitiveness of Mainland cities published recently, the overall competitiveness of Hong Kong is still the highest throughout the country. However, as cities on the Mainland develop continually, the advantages that Hong Kong possesses are becoming less and less distinct and its differences with such cities as Shenzhen, Shanghai and Beijing are also narrowing, so it can be said that the competition facing Hong Kong is becoming greater. If Hong Kong is bent on its own way and obdurately considers consortia to be the perpetrators of social contradictions, this will only make world-class consortia abandon the Hong Kong market and run away by moving their businesses to other places. I believe that ultimately, it is ordinary members of the public who will stand to lose.

I am not speaking for the consortia in Hong Kong. In fact, Hong Kong is a typical capitalist society, with consortia as well as small and medium enterprises. This is only natural. If we blame the wealth disparity on the monopolization by consortia and regard functional constituencies (FCs) as the extension of the influence of consortia in society and the financial sector, it can be said that we are seizing upon some pretext and make a fuss. In the Legislative Council, FC Members do not represent the plutocrats in the political and financial sectors, they are the representatives of various trades and industries

in Hong Kong. The existence of FCs is a reasonable arrangement, made in accordance with the principle of balanced participation. It is the final consensus reached after many rounds of discussion by society in the course of drafting the Basic Law. At present, FC Members in the Legislative Council come from 30 different social segments and strictly speaking, Members who really represent consortia are perhaps just those in the financial services, commercial, and real estate and construction functional constituencies. Their number accounts for less than one sixth of all FC Members. However, other FCs, such as the medical, social welfare, labour, education and even the insurance, accountancy, and agriculture and fisheries are all closely related to public living and the interests of their sectors are in line with those of the great majority of the public.

In fact, we can see that for many years, the performance of FC Members has been quite outstanding. It seems that Mr Albert HO wants to assume a more moderate tone. Although the performance of individual FC Members may be a cause for criticism, yet similarly, some directly-elected Members also threw bananas, swept things off the table and resigned for no good reason. May I ask is the public happy to see this kind of behavior?

We can see that in this legislature, FC Members can actually meet the needs of Hong Kong as a pluralistic society, so that the interests of various sectors can be balanced in the legislative process. For this reason, we should have rational discussions on constitutional reform. We should be bold in pioneering for the future on the one hand and should have regard to historical developments on the other. We cannot categorically rule out the value of FC Members. We should comply with the stipulations of the Basic Law and carry out reforms in a gradual and orderly manner. Thank you, President.

PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up. Does any other Member wish to speak?

MR FREDERICK FUNG (in Cantonese): President, the Hong Kong Institute of Asia-Pacific Studies of CUHK published a public opinion survey on the views of

the public on a harmonious society. Here, I have some basic information that I want to share with Members.

According to the survey, the great majority of Hong Kong people support the direction of developing a harmonious society. In 2010, the proportion stands at 58.8%. Those indicating support for economic development account for 21.3% and those indicating support for democracy and freedom account for 17.3%. Compared with the last survey, which showed rates of 60.2%, 25.8% and 11.1% respectively, it can be seen that among these three items, the rate indicating support for democracy and freedom has increased the most.

In addition, among the three surveys conducted so far, it is the first time we have an average figure of 2.98, that is, a figure below 3 in this survey. In other words, the majority of people begin to feel that Hong Kong is not a harmonious society. What are the factors leading to an inharmonious society? The survey sets out seven factors affecting social harmony, the figures of all these seven factors have also deteriorated compared to those two years ago, particularly those relating to political disputes and the conflicts between the Government and the public. 59.2 % of the respondents believe that political disputes are the most serious or a very serious problem, up 20% and 10% from 38.5% in 2008 and 49.2% in 2006 respectively. Overall, this figure ranks the highest in seriousness among all social contradictions and also represents the contradiction between the poor and the rich.

Just now, many Honourable colleagues have talked about the political issues, so I do not wish to comment on them any more. Instead, I want to talk about the poor and the rich, or the present problems with the economy. President, the ideology of the SAR Government has all along been "big market, small government", believing that Hong Kong is a free market with which the Government should not interfere. Is this the reality? According to academic theories of the past, capitalism and free market are twin brothers. If there is capitalism, there will be a free market. Basically, capitalism allows everyone to compete and through the process of free competition in the market, everyone can reap benefits. Precisely because everyone has his benefits as the foremost consideration, the Government has to monitor the market and when someone breaks the rules of the game, it will come out to stop him, so that these people dare not cause any mischief.

However, when capitalism gets into the free market, in fact, capital will aggregate, expand and grow. At such a time, capital will lead to monopolization and the free-market will be stymied by capital. In a highly capitalistic society, the free market may disappear altogether and this is exactly the present situation in Hong Kong. For this reason, I believe no economist would say that the present market in Hong Kong is moving towards a sound and ideal free market. If we still talk about "big market, small government" now, in fact, we are actually talking about "big monopolistic capital having the greatest scope in the market". This is unreasonable.

The second figure that I want to tell the Government is that if we adopt the internationally-recognized theory that people earning less than half the median wage can be considered poor people, we have presently 1.23 million poor people in Hong Kong. If a singleton earns $4,500 or a household earns a total of $9,500 a month, they are described by us as poor, that is, relatively speaking, they are poor. In these circumstances, what has the Government actually done to help them? These people work for eight or 12 hours daily but they can only earn $4,500 or $5,300. Even if they work as security guards, they can only earn $7,000 at the most. With this wage of some $4,000 to $7,000, they have difficulty even in supporting their own living and it is practically impossible for them to support their family. Can the free market support the living of workers? Is the free market incapable of supporting the living of this group of people? This is not so. Secretary, in 2009, the per capita income in Hong Kong was US$30,000. In other words, if converted into Hong Kong dollars, each member of the public earned $20,000 a month. Actually, based on the average of three persons per household in Hong Kong, the monthly household income should amount to $60,000. However, at present, the whole family can only earn $7,000 and some of them can only earn a mere $4,000, so how can they not feel angry? They have devoted all their physical and mental energy and their youth to their employers but in the end, they cannot even support their family. Why is the situation like this?

Today, I have just had a chat with some high-ranking staff members of property developers. They said, "Ah Ki, you must not blame us. In fact, this is due to the high land price policy adopted by the Government. If we acquire a piece of land in the rural area worth only $500 per sq ft, we have to pay a regrant premium of $3,000 per sq ft before we can tear down the houses and develop the

site, so the cost is already $3,000 per sq ft. The regrant premium and the construction cost already add up to $6,500, so if we want to make a profit of $2,500 per sq ft, the price has to be $9,000 per sq ft. Moreover, they are not really luxury properties at all.". It turns out that due to the desire of the Government and property developers to earn the maximum amount, a vicious circle has been created.

In fact, we do not want to crash the market, instead we hope that we can invigorate it. President, to invigorate the market, we cannot show favour to just one party. Rather, it is necessary to show favour to more parties. I once used the sale of land as an example. To build a small house, a site with an area of 700 sq ft is needed. If 1 000 sites with an area of 700 sq ft each is put up for auction, I think each Honourable colleague here can buy a piece of land to build a small house of three-storey high. However, if a site with an area of 7 000 sq ft is put on sale, I believe at least one third of the people here are unable to bid for it. What about a site with an area of 70 000 sq ft? It would take at least a small property developer to bid for it. As regards a site with an area of 700 000 sq ft, only four property developers in Hong Kong can bid for it. Is this not showing favour to a particular party? How a piece of land is put up for sale shows how much favouritism has been shown.

My remaining speaking time is not really enough but I still have a lot to say. Let me give an example. We all like to watch the English Premier League. How are the players in the matches actually chosen? The way is to buy all the players with good soccer skills with money. For this reason, we find that the soccer teams playing in the Premier League are always the same ones, numbering three or four in total. The strength of the fifth team is already some 10 to 20 points less and it is practically incapable of vying for a place among the top four. How are the players in the American NBA selected? The teams at the bottom of the list are the first ones to choose the best players in universities and the players are picked in this reverse order, with the teams having the highest scores picking their players the last. In this way, all the teams will get an opportunity. Although a team may have ranked last on the last occasion, since it has picked the best player to join the team, it can have the chance to win the game next time. In both cases, both are free markets. One is monopolistic, the other is market competition. One is American style and the other, British. The

approaches adopted by these two types of teams are different *(The buzzer sounded)* …… Secretary, which one would you choose?

PRESIDENT (in Cantonese): Mr Frederick FUNG, your speaking time is up.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may now speak on the two amendments. You may speak for up to five minutes.

MR LEE CHEUK-YAN (in Cantonese): President, I am grateful to Mr Ronny TONG and Ms Emily LAU for proposing their amendments to my motion, so that I can speak for five more minutes. These five minutes are really important because I really do not have enough time to speak.

First, one of the most important changes in Mr Ronny TONG's amendment is to change the reference from confrontation between the Government and the people to confrontation among the Government, the business sector and the people. The Government is biased in favour of the interests of the business sector. Why do I say so? There are two reasons for this. First, this Government is actually elected by people including the business sector. It is evident that it is elected by the business sector. It is a small-circle election, an election among 800 people and the six million members of the public cannot take part in it. This is very clear and there is no need for us to evade this fact. It is a fact that the Government is not elected by the people.

However, the Government also has its difficulties. Since it is elected through a small-circle election, does it have to take care of the interests of its voters? As voters come from the business sector, it has to take care of the interests of the business sector. The Government also has another difficulty. If

it does not take care of business interests, can it secure enough votes when it submits proposals to this legislature? With so many FC Members defending the business interests present, can it secure enough votes? It also has to consider that if all FC Members belonging to the business sector voice their opposition, can its proposals be passed?

However, are we not having an even more difficult time than the Government? Because of the requirement to carry out separate voting, if we want to amend a government proposal or pass certain motions, 15 FC Members alone can negative our motions. It is that simple, so this is a structural problem. Therefore, why do I say that we have to eradicate plutocratic monopoly? Because apart from monopolizing the economy, the plutocracy also monopolizes politics. You cannot deny that this is the fact and that you represent business interests.

Today, a number of FC Members — more than a dozen of them — have responded to my speech. What I want to say is that, first, you are not trash, you are not demons, and you are not groveling sinners. You are not like that at all. I am not directing against you as a person. You are all normal people and many of you are nice people. Brother Tai Fai, you do not have to be so puzzled. You are really normal and nice. Notwithstanding this, I want to explain where the problem lies. There are two points which I am very disappointed with. You people are so well educated, yet you still do not understand what political privilege is, I really feel mad. You are not primary students — sorry, even a primary school graduate is better than you — so how can you not understand what political privilege is? Prof Patrick LAU was even so brazen as to ask, "We are born of the same root and why do we hurt each other so mercilessly?" There is no way that I am born of the same root as he is.

Members have to understand how direct election function. There are three million voters. How are you elected? There are some 200 000 people with the right to cast two votes. You were elected by these 200 000 or so people, so how can I possibly be "born of the same root" as you? In view of this, you must not deny that you enjoy political privileges and that you enjoy political "free lunches". This is not a matter of whether or not you are good

guys. This is how the system works, so let us not argue any more, shall we? Because this is the fact and Members must not insult the intelligence of the public. You do have political privileges because you are elected only by 200 000 or so people. Some of you even did not have to run for elections and were returned uncontested. This is the fact.

Second, you are normal people and nice guys, so to say. However, since you are normal, it is also normal for you to defend the interests of your voters, is it not? What is wrong with doing so? It is normal for you to do so and it is normal that you want to defend the interests of your voters because your political career is linked to whether or not you can defend the interests of your voters ……

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, please speak on the two amendments.

MR LEE CHEUK-YAN (in Cantonese): Yes, I am speaking on the two amendments. Why is the business sector so powerful? This is really because there are FCs. Also, I have to raise one more point, to put it more seriously, FC is related to the hatred harboured by the families and country. Regarding the hatred harboured by our country, of course, it has to do with the vindication of the 4 June incident and I am not going to say much about this. As for the hatred harboured by the families, President, when we have work, we neglect our families. I once proposed a motion to strive for the right to collective bargaining, but was negatived by FC Members. The motion to set a minimum wage was negatived by FC Members; the motion to set the maximum working hours was negatived by FC Members; the motion to standardize statutory holidays and general holidays was also negatived by FC Members. All these motions were negatived by them.

PRESIDENT (in Cantonese): Please speak on the two amendments.

MR LEE CHEUK-YAN (in Cantonese): Therefore, President, why do I say that the business sector has a monopoly? This is how they negatived our motions. I really do not understand why the FTU has not thought about these hatred harboured by families. The FTU even speaks in defense of FCs, despite all the motions moved by it were also negatived by FC Members.

President, the amendment proposed by Ms Emily LAU is the most important one. She asks us to join the rally on 1 May because it is May Day; she also asks us to join the rally on 2 May. I hope that we can all put in efforts too strive for universal suffrage and the abolition of FCs.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I would like to thank Members wholeheartedly for their valuable opinions. I am going to give my responses to the specific details of this motion and its amendments.

Regarding the challenges facing Hong Kong now, I will analyse them from three perspectives, namely, the economic, social and political, then I will explain the policies and series of measures adopted by the SAR Government in countering the challenges. Before my elaboration, I wish to summarize in simple terms the policy objectives of the SAR Government as "developing the economy, improving people's living and promoting democracy".

First, I want to talk about developing the economy. Simply put, Hong Kong must move in the direction of a high value-added and knowledge-based economy. For a fairly long time, our four traditional pillar industries — namely, finance, trade and logistics, professional services and tourism — have accounted for 60% of the GDP. In the face of globalization and an increasingly competitive environment, we must take various necessary measures to enhance the competitiveness of these four industries, help them enhance their added values as well as actively develop new markets.

Apart from consolidating these four traditional pillar industries, we also have to understand that these industries are coming to their maturity and over-dependence on them will cause the Hong Kong economy to be too centralized and will weaken our ability to cope with risks. Therefore, we must develop new drivers for economic growth to optimize the development potential

of Hong Kong and achieve economic diversification, thereby reducing and neutralizing the impact of unfavourable external factors on the local economy. In the past couple of years, we advocated the active promotion of the six industries enjoying clear advantages, namely, education services, medical services, testing and certification, environmental industries, innovation and technology, and cultural and creative industries. At present, in respect of land supply, manpower training, standard setting, government procurement and additional resource allocation, we are launching a series of targeted complementary policies and measures to actively promote these industries and help them grow bigger and prosper, so as to synergize with the economic impetus of the four traditional industries and align with the overall direction of strategic and sustainable development.

The greatest edge of Hong Kong in its long-term development is having the Mainland market as our powerful backing. We actively promote the co-operation with Guangdong and strive to secure a role in the National Twelfth Five-Year Plan (the Plan), so that Hong Kong can continue playing a unique role in our country's development and developing a more extensive hinterland for the commodities and services of Hong Kong enterprises. Hence, at the beginning of this month, the Chief Executive and the Governor of Guangdong, Mr HUANG Hua-hua, signed the Framework Agreement on Hong Kong-Guangdong Co-operation in Beijing, thereby creating new room for Hong Kong-Guangdong co-operation. I hope that various sectors can grasp this important opportunity and work for the further development of Hong Kong.

Even as we pursue development, we also strongly support the vigorous development of vibrant small and medium enterprises (SMEs) and the preservation of a business environment conducive to their development.

As we have been affected by an international financial crisis, SMEs are facing quite a lot of difficulties in financing. In order to help SMEs solve the cash flow problem, we have taken the lead in enhancing the regular SME Loan Guarantee Scheme in November 2008 by allowing more flexibility in the use of funds and extending the loan repayment period, and so on. In December of the same year, we also launched the Special Loan Guarantee Scheme (SLGS) with a commitment of $100 billion. At present, the SLGS provides loan guarantees of over 80% to qualified enterprises and more than 30 000 applications have been approved, involving a total loan amount of over $74 billion and more than

300 000 employees were hired by the beneficiaries of the SLGS. The Government has just announced the extension of the application period of the Scheme by six months to the end of December this year for the last time. Our objective is to help the industries consolidate their business at this early stage of economic recovery. These measures have succeeded in helping the enterprises tide through the most difficult time.

To uphold free competition is the cornerstone of success of the Hong Kong economy. The Government has all along striven to promote market competition and ensure good business practices. As such, enterprises can take part in fair and healthy competition to enhance cost effectiveness and promote free trade, thus giving full play to the forces in the free market.

The Government will introduce a cross-sector competition law. By combating anti-competitive behaviour which may appear in various industries, it will ensure that market forces will operate freely and a fair and competitive business platform will be created to provide consumers with more and better choices.

We are actively drafting the relevant legislation and will do our utmost to introduce a bill into the Legislative Council in this session.

President, economic development is only the means and our major goal is to improve people's livelihood. It is necessary to instil greater vitality into the Hong Kong economy. If the size of the economy continues to expand, more employment opportunities can be created and hence, people with the ability and the willingness to work hard will have more opportunities for social mobility. Sufficient conditions can be created to help socially disadvantaged groups.

Hong Kong is an open economy with a relative high concentration of diversified and international service industries, the jobs of which require a markedly different level of knowledge content and skills. Consequently, the differences in income are naturally greater. In addition, the changes in the social structure of Hong Kong, for example, the continued ageing of the population and the trend towards small families, have also led to a rise in the number of lower-income families.

Given Hong Kong's continued transformation into a knowledge-based economy, there is a growing demand for professional and managerial personnel with higher education attainment and skills. This has created many highly paid jobs, resulting in the further widening of the income gap among workers at various levels. However, such a phenomenon is common in the course of development towards a high value-added and knowledge-based economy. This is also an international trend found in many major economies.

Hong Kong has all along adopted a policy of low taxation and low public expenditure. Generally speaking, society does not support making fundamental changes. If one wants to follow the example of developed western economies in effecting a redistribution of wealth through higher taxes and more welfare benefits, I am afraid it will be difficult to secure a broad consensus in the short term. For this reason, for many years, the Government has provided large sums of subsidies to such public services as education, health care and housing by virtue of its taxation policy, so as to promote the transfer of benefit in society and bridge the income gap.

We will continue to deal with the problem of poverty in a pragmatic attitude and help the grassroots through multi-pronged policies and support services.

Through the Comprehensive Social Security Assistance (CSSA) Scheme, as well as the aforesaid heavily subsidized services provided by the Government in such areas as education, health care and housing, the Government ensures that socially disadvantaged groups and low-income earners can meet with their basic needs in life. In 2010-2011, the public expenditure on four major policy area groups, namely, social welfare (including CSSA and Social Security Allowance), education, health and housing, is estimated to reach $139.2 billion, accounting for 57.2% of the total public expenditure.

In fact, the situation of poverty in Hong Kong has some continuous improvement prior to the international financial crisis. According to the income-based definition of poverty, the numbers of people with incomes below the average CSSA payment level and the elderly poor decreased gradually from about 1.03 million in 2003 to 715 000 in 2008. Among these poor people, many of them are already CSSA recipients or are benefiting from the subsidized housing or the education and health care services provided by the Government.

The figures of the Census and Statistics Department also indicate that with continual economic growth, the incomes of low-income earners in Hong Kong have seen improvements. Despite the economic recession in 2009, the average income of the three lowest decile groups of full-time employees still recorded growth rates of 9.7%, 5.1% and 1.7% respectively in real terms in the five years from 2004 to 2005.

In response to the changes in the economic situation, since 2008, the Government has launched a series of measures at various points of time to develop the economy, improve people's livelihood and promote employment. Together with the one-off relief measures proposed in the latest budget, we have already spent close to $110 billion. These measures have yielded some results in relieving public hardship and helping people in need.

Next, I wish to talk about promoting social mobility. Through various schemes, we are providing more opportunities for training and retraining to enhance the competitive edge and skills of the work force. The Government is also making heavy investments in education and child development to promote social mobility, so as to reduce inter-generational poverty. Of these measures, raising the quality of human resources through education is a policy targeting the root cause. In particular, given that it is necessary for Hong Kong to develop a knowledge-based economy and promote social mobility, it is necessary to lay the groundwork through enhancing knowledge and giving play to creativity, diligence and hard work.

The Government has implemented curriculum reforms in primary and junior secondary schools since the beginning of 2000. The aim is to cultivate students' learning skills and instil in them positive attitude and values, thus achieving the ideal of whole-person development and lifelong learning. On this basis, we implemented the New Senior Secondary Academic Structure in September last year to provide a broader and more balanced programmes to students and help identify students' various potentials, thus making it possible for youngsters to choose their future pathways according to their aspirations and potentials. In addition, through various support schemes, children from low-income families are also able to enjoy diverse learning activities and it can be also ensured that they would not be denied opportunities of receiving tertiary education because of financial difficulties. By enhancing the quality of education, we can enable young people to seize the opportunity provided by a

knowledge-based economy to strive for the best in society so as to promote the upward social mobility.

Now, I would like to talk about how to promote democratization. In fact, the SAR Government and members of the public are in the same boat. We hope, and we will also do our utmost, to attain the two goals of "universality" and "equality" in universal suffrage.

In 2007, the Standing Committee of the National People's Congress (NPCSC) made the "Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage" (the NPCSC Decision) and set down a timetable for universal suffrage for Hong Kong to hold elections for the Chief Executive and the Legislative Council through universal suffrage in 2017 and 2020 respectively. It is a constitutional and lawful, as well as a solemn, clear and specific decision that lays a solid foundation for the development of democracy in Hong Kong and it is also widely accepted by the community of Hong Kong.

The objective of the present SAR Government is to enhance the democratic elements of the two 2012 elections under the framework of the NPCSC Decision, so as to pave the way for finally implementing universal suffrage in a steady manner.

After three months' of public consultation and having adequately considered all the views put forward by members of the public, different sectors of the community and the Legislative Council, the SAR Government has formulated a package of proposals for the electoral method for selecting the Chief Executive and forming the Legislative Council.

New democratic elements are injected into the proposed package for the 2010 elections:

(a) We suggest having all District Council seats in the Election Committee and the Legislative Council elected from among elected District Council members in 2012 in response to the demand made

by some Legislative Council Members in vetoing the 2005 proposal and further enhance the democratic element of the elections.

(b) We have abided by the principle of not creating new "traditional" functional constituencies. In 2012, 41, or almost 60% of the seats, will be returned by geographical constituencies through direct or indirect elections.

(c) We propose that the six new District Council functional constituency seats will all be returned through election among elected District Council members under a proportional representation system. In this way, the allocation of seats will be fairer and political parties big and small, as well as independent candidates will all stand a chance of being elected.

In addition, the SAR Government undertakes to put forward proposals relating to the abolition of the appointment system for the District Council at the level of enacting local legislation for consideration by the public and the Legislative Council as soon as possible after the Legislative Council has passed the proposal on the two electoral methods for 2012.

Under the framework of the NPCSC Decision, we have already striven for maximum latitude to enhance the democratic elements of the two elections in 2012 and to pave the way for implementing universal suffrage. We believe that the proposed package stands the best possible chance of being accepted by the majority of the public, the Legislative Council, the Chief Executive and the Central Authorities, which can allow Hong Kong's constitutional development to be rolled forward rather than get stuck again. We will continue to communicate with different political parties and various sectors of the community with our readiness to accept different views and our ability to seek common ground and accommodate differences in order to actively rally from the public and the Legislative Council support for this proposed package.

Concerning the amendment proposed by Ms Emily LAU urging the Government to implement genuine universal suffrage for the election of the Chief Executive and the Legislative Council, I stress again that the timetable set by the NPCSC Decision in 2007 is solemn, constitutional and has legal effect.

The Deputy Secretary-General of the NPCSC, QIAO Xiao-yang, said publicly two weeks ago that there is no doubt about the authority and legal effect of the timetable on universal suffrage. The green light for universal suffrage has been given and so long as a consensus can be reached within Hong Kong society on the mode of universal suffrage and the five steps have been taken, it will be possible to implement universal suffrage.

The SAR Government has also made it clear that the mode of universal suffrage to be implemented in the future must comply with the principle of universality and equality as stipulated in the Basic Law.

In fact, the NPCSC Decision has already stated that when universal suffrage is implemented in 2017, the Chief Executive should be elected by all registered voters, that is, on a one-person-one-vote basis. At an appropriate time prior to 2017, the package for implementing universal suffrage for the Chief Executive to be put forth by the SAR Government will include a broadly representative "nominating committee", which shall be formed with reference to the composition of the "Election Committee" in accordance with Basic Law and in accordance with democratic procedures, to nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the SAR.

Concerning the issue of functional constituencies in the Legislative Council, ever since elections were held for the first time in 1985, functional constituencies have all along been part of the electoral system in Hong Kong. At present, of the 28 functional constituencies, apart from those representing the business sectors, there are also functional constituencies representing the professional and labour sectors and district organizations. On the one hand, they represent the views of various sectors in society, thus complying with the principle of balanced participation; on the other, the representatives of these sectors also make contribution to the work of the Legislative Council with their professional knowledge, so that the discussions can be more pluralistic and comprehensive.

Looking round the Chamber, we will find that many Members elected by various functional constituencies are competent, full of stamina and committed. Their efforts are also affirmed and appreciated by the public.

In the elections of past Legislative Councils, many Members who were originally returned by functional constituencies subsequently became directly-elected Members. They joined the legislature through different channels and they are also serving the public with the same sense of responsibility. For this reason, we should not completely rule out the contribution made by Members of functional constituencies to the legislature throughout the years.

As to how the functional constituencies should be dealt with when election by universal suffrage of the Legislative Council is introduced, various sectors of the community, as well as various political parties and groupings of the Legislative Council still have very divergent views. Some people hold that functional constituency seats should be abolished, whereas others hold that the electoral base of functional constituencies should be expanded. The community has yet to reach general consensus on this major issue and more time is needed to discuss the issue thoroughly and forge consensus.

The present SAR Government is only authorized by the NPCSC to deal with the electoral arrangements for the two elections in 2012. For this reason, we have kept a record of the various proposals put forward in society recently and recommend that the next SAR Government follow them up actively and examine the relevant proposals earnestly.

As regards how functional constituencies should be dealt with in the future, society should continue to discuss how to democratize the Legislative Council elections in 2012 and 2016 step by step and attain universal suffrage in 2020 in line with the principle of universality and equality and in accordance with the Basic Law.

President, Hong Kong is a pluralistic society and of course, various voices and demands can be found in it. Due to the different perspectives and considerations, conflicts of interest may arise among various stakeholders in society. It is difficult for any proposal on resolving these conflicts to please everyone. The deeper rooted the conflicts are, the more likely it is that various parties have to make compromises and the difficulty in forging a consensus would also be greater. In these circumstances, the Government can only use its justifications as its backing when making explanations and carrying out lobbying,

so as to secure the broadest consensus possible and reduce the resistance and conflicts when implementing policies.

The Government is certainly duty-bound to resolve conflicts and build a harmonious society. However, the support of various parties, including the Legislative Council, and the joint efforts of society are also indispensable. To promote social harmony, various parties must have more communication and rational discussions, so as to seek a compromise and establish a consensus. I believe this is also an approach that the overwhelming majority of the public would agree with.

President, I so submit.

PRESIDENT (in Cantonese): I now call upon Mr Ronny TONG to move his amendment to the motion.

MR RONNY TONG (in Cantonese): President, I move that Mr LEE Cheuk-yan's motion be amended.

Mr Ronny TONG moved the following amendment: (Translation)

"To add ", as" after "That"; to delete ";" after "governance" and substitute with ","; to delete "between" after "confrontation" and substitute with "among"; to add ", the business sector" before "and the people;"; to add ", changing the existing policies which are biased towards the business sector," after "functional bodies"; and to add "resolving the conflicts of interest between the business sector and the people," after "thereby"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Mr LEE Cheuk-yan's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for three 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 Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, four were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Ms Emily LAU, you may move your amendment.

MS EMILY LAU (in Cantonese): President, I move that Mr LEE Cheuk-yan's motion be amended.

Ms Emily LAU moved the following amendment: (Translation)

"To add "in recent years social conflicts have become daily occurrences, and" after "That"; and to add "; this Council also appeals to all Hong Kong people to demonstrate their power on 2 May to urge the Government to implement genuine universal suffrage for the election of

the Chief Executive and the Legislative Council, so as to resolve social confrontation and avoid Hong Kong being driven towards a crisis of being ungovernable" after "competition"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Emily LAU to Mr LEE Cheuk-yan's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three 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 Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, four were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may now reply and you have two minutes 41 seconds.

MR LEE CHEUK-YAN (in Cantonese): President, first, concerning the response of the Government, I can only say two words: hopeless case. Never mind. We should not waste our breath for the sake of the Government. The Government has not made any self-examination at all. In fact, I hope very much that I can hear some new thinking or introspection. Actually, the Government thinks that the past approach still works in resolving the contradictions of the whole society. However, had the approach in the past worked, we would not have come to such a pass. The Government too has to admit that it is also "trapped in a state of worries".

I wish to comment further on the issue of FCs. Just now, it was part one and Honourable colleagues, I have not finished yet. In part one, I said that in fact, FC Members were perfectly normal. Members all know that I do not like Mr Tommy CHEUNG but actually, he is also perfectly normal. He is just defending the interests of his sector. Someone said to me, "Tommy CHEUNG proposes a minimum wage of $20. He is so mean and unkind.". I disagree. He is a normal person because he has to defend the interests of his sector. Mr Tommy CHEUNG said that this was a matter of the system. He said just now that we were the two sides of a coin, that is, FC Members and directly-elected Members were the two sides of a coin. I do not understand how people supporting an hourly rate of $24 and those supporting an hourly rate of $33 can be the two sides of a coin. There is no such thing as two sides. It would do only if all of us have taken public interest into consideration. If one side is the interests of the sectors concerned and the other side is public interest, this would not do.

In fact, FC Members act normally in defending the interests of their respective sectors. This is a matter concerning the system. Today, I find one thing quite interesting. You said smugly, "Look at us. Who says we are defending the interests of the business sector? When it comes to enacting legislation to regulate the sale of new and uncompleted flats, I express my immediate support. Dr LAM Tai-fai even won the applause from the pro-democracy camp.". However, I call on Members to open their eyes wide and look at how he votes.

Mr Abraham SHEK is also a normal person and he defends the interests of his sector. What is wrong with this? When everybody says that legislation should be enacted to regulate the sale of new and uncompleted flats, the Member

representing the property sector is unwilling to do so. All right, please think, if some day, the restrictive interests of your sector are discussed …… for example, when we talk about the interests of the banking sector, the responsibility of banks in the Lehman Brothers minibond incident, when the issue involving the interests of Dr David LI's sector is raised, he will attend the Council meetings. Frankly speaking, Dr David LI is not present today but if issues relating to the banking sector are discussed, he will surely be present. This is, in fact, a very normal practice under such a system. When the interests of the banking sector are at stake, Dr David LI will show up. When the interests of property developers are at stake, the Member representing the property sector would speak out. This is perfectly normal. However, what I want to say is that very often, in defending the interests of the business sector, wage earners will eventually be under attack. For this reason, the motions proposed by us, members of the Hong Kong Confederation of Trade Unions, to safeguard workers' interests are often all negatived by you. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Cheuk-yan 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 LEE Cheuk-yan rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for three 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 Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, four were in favour of the motion and 17 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 5 May 2010.

Adjourned accordingly at twenty minutes past Ten o'clock.

Annex I

EMPLOYMENT (AMENDMENT) BILL 2009

COMMITTEE STAGE

Amendments to be moved by the Secretary for Labour and Welfare

Clause	Amendment Proposed
4	In the proposed section 43N(1), in the definition of "specified entitlement" – (a) in paragraph (*i*), by deleting "or" at the end; (b) by deleting paragraph (*j*) and substituting – "(*j*) any terminal payments payable under section 32O to the extent that – (i) the terminal payments are entitlements referred to in paragraph (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*) or (*i*) to which an employee is entitled upon the termination of the employee's contract of employment or, by virtue of section 32O(5), as a consequence of the unreasonable variation of the terms of that contract; or (ii) the award of those terminal payments is made by virtue of section 32M(2); or"; (c) by adding – "(*k*) any compensation payable under section 32P;".

4 In the proposed section 43R(1), in the Chinese text –

(a) in paragraph (*b*), by deleting "指明文件的副本，並且看來是由審裁處或法院的人員擬備" and substituting "、並且是由審裁處或法院的人員擬備的指明文件的副本";

(b) in paragraph (*c*), by deleting "指明文件的副本，並且看來是由審裁處或法院的人員擬備" and substituting "、並且是由審裁處或法院的人員擬備的指明文件的副本".

Appendix 1

REQUEST FOR POST-MEETING AMENDMENTS

The Secretary for Transport and Housing requested the following post-meeting amendment

Line 2 to 3, second paragraph, page 198 of the Confirmed version

To amend "…… In 2009, "confirmor sales" accounted for 3% of all private residential property transactions. In March 2010, "confirmor sales" likewise accounted for 3% of all the private residential property transactions ……" as "…… In 2009, "confirmor sales" accounted for 3% of all private residential property transactions. In March 2010, "confirmor sales" accounted for 2% of all the private residential property transactions ……" (Translation)

(Please refer to line 1 to 4, first paragraph, page 7733 of this Translated version)

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Mr CHAN Kin-por's supplementary question to Question 1

As regards the financial reporting requirements of Hong Kong Exchanges and Clearing Limited for listed companies incorporated in overseas jurisdictions, the Stock Exchange of Hong Kong (SEHK) continuously reviews, on a sample basis, the financial statements prepared by listed issuers. It adopts a "risk-based approach" in selecting listed companies for review. The companies selected include:

(a) samples based on the impact criteria(1) and probability criteria(2); and

(b) randomly sampled companies from all listed companies.

Among the financial reports published by listed companies in 2005 to 2009, the SEHK has reviewed 310 of them. Based on the existing system, the SEHK has so far not selected the financial statements of non-Hong Kong incorporated companies with non-Hong Kong auditors for review.

The review findings and observations by the SEHK indicated that some disclosure made by listed companies in their financial reports could be improved. The vast majority of the 310 financial statements reviewed were in conformity with the requirements under the Listing Rules and the relevant accounting standards, including Hong Kong Financial Reporting Standards and International Financial Reporting Standards. Among the 310 financial statements reviewed by the SEHK, 12 cases involving significant breaches of the Listing Rules or accounting standards that would render the financial statements false or misleading or warrant additional investigation or enforcement action. The SEHK had referred them to the Financial Reporting Council, the Securities and Futures Commission or the police, as appropriate.

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(1) Large listed issuers, where an instance of major non-compliance might adversely affect the reputation of the Hong Kong equity market as a whole.

(2) Listed issuers, where there is a possible higher risk of misstatement or misapplication of financial reporting standards due to the existence of features that may be indicative of higher risk. Features include where a listed issuer has been:
- issued with a qualified or modified auditors' report
- subject to complaints concerning compliance with the Listing Rules
- subject to frequent changes of independent non-executive directors
- subject to a frequent change of auditors.

Appendix II

WRITTEN ANSWER

Written answer by the Secretary for Education to Dr Samson TAM's supplementary question to Question 2

In the past three school years (that is, from the 2006-2007 to 2008-2009 school year) and up till now for this school year (May 2010), the Education Bureau, on learning students' voicing their discontent with school policies on the Internet, has approached a total of nine schools to better understand the cases. Among these incidents, six schools have taken appropriate action to follow up the students' views and reply to the persons concerned. For two cases, since the persons concerned have not provided their contact information, this Bureau has conveyed their opinions to the relevant schools for consideration and follow-up action. At present, this Bureau is still following up the remaining case with the school concerned.