

立法會 *Legislative Council*

立法會CB(3)709/10-11號文件

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定於2011年5月11日立法會會議上提出的質詢

提問者：

- | | | |
|------|--------|--------|
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| (2) | 葉劉淑儀議員 | (口頭答覆) |
| (3) | 方剛議員 | (口頭答覆) |
| (4) | 張文光議員 | (口頭答覆) |
| (5) | 潘佩璆議員 | (口頭答覆) |
| (6) | 葉偉明議員 | (口頭答覆) |
| (7) | 陳鑑林議員 | (書面答覆) |
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註 :

NOTE :

議員將採用這種語言提出質詢

Member will ask the question in this language

利用私人發展項目的“剩餘地積比率”

(1) 陳偉業議員 (口頭答覆)

據報，近日有發展商計劃利用私人發展項目的“剩餘地積比率”，在一些大型屋苑(例如美孚新邨及荃灣海濱花園)毗鄰興建高密度樓宇，對這些屋苑居民的生活環境構成嚴重影響。就此，政府可否告知本會：

- (一) 過去10年，發展商向當局申請利用私人發展項目的剩餘地積比率興建的樓宇的位置、高度及樓面面積、發展商何時提出申請，以及當局何時接納或拒絕其申請(以表列出)；
- (二) 當局會否考慮規定發展商須就多年前獲批准利用私人發展項目的剩餘地積比率興建樓宇，但至今(例如在10年內)仍未動工的個案重新提交申請，以便當局重新審核該等申請是否符合現時的規劃標準；若會，詳情為何；若否，原因為何；及
- (三) 當局會否考慮以換地形式(例如以空置政府土地及勾地表內的土地)，以及容許發展商改變土地儲備內農地的土地用途，與發展商交換極具爭議性的發展項目所在的土地，以解決發展商與居民之間的糾紛；若會，詳情為何；若否，原因為何？

Private property developments taking up “residual plot ratio”

(1) Hon Albert CHAN Wai-yip (Oral Reply)

It has been reported that recently some developers have planned to take up the “residual plot ratio” of private property developments to construct high-density buildings in the vicinity of some large housing estates, such as Mei Foo Sun Chuen and Riviera Gardens in Tsuen Wan, which seriously affects the living environment of the residents of the housing estates. In this connection, will the Government inform this Council:

- (a) regarding the applications by developers of construction plans to take up the residual plot ratio of private property developments in the past 10 years, of the respective locations, heights and floor areas of the buildings, and the time when such applications were submitted to and accepted or rejected by the authorities (set out in table form);
- (b) whether the authorities will consider requiring developers to submit afresh applications in respect of construction plans approved years ago to take up the residual plot ratio of private property developments but the construction had not commenced (e.g. within 10 years), so as to facilitate the authorities in reviewing afresh whether such applications meet the existing planning standards; if they will, of the details; if not, the reasons for that; and
- (c) whether the authorities will consider the options of land exchange with the developers (e.g. using vacant Government premises or sites on the Application List) and allowing developers to convert the land use of their agricultural land reserve, in exchange for the land on which those highly controversial property developments are located, so as to settle the disputes among the developers and the residents; if they will, of the details; if not, the reasons for that?

投機性及高風險的金融產品

(2) 葉劉淑儀議員 (口頭答覆)

有著名政治經濟學家指出，在2008年的金融海嘯之後，先進經濟體系(尤其是歐洲及美國)對高風險及投機性較強的金融業務(例如對沖基金、私募基金及其他另類投資工具等)的監管愈趨嚴厲，加上當地市場已經飽和，這些基金將繼續大舉投入新興市場(包括中國)，以尋求更高的投資收益。該名政治經濟學家又指出，香港低廉的稅制、成熟的法制，加上地緣政治因素，將會令香港持續成為投資中國的重要基地。就此，政府可否告知本會：

- (一) 是否知悉，現時本港的對沖基金、私募基金及其他另類投資工具在過去3年(請提供按年數字及升幅)所擁有的總資產、交易額和總利潤，以及該等金額各佔本地金融體系相關總數的百分比分別為何；該等百分比與其它國際金融中心(包括紐約、倫敦、東京及新加坡)的相關數字如何比較；
- (二) 現時是否由證券及期貨事務監察委員會根據《證券及期貨條例》監管發行上述投資產品的金融機構；監管該等機構的政策方針及法律框架的詳情為何；及
- (三) 鑒於人民幣逐漸國際化及香港正發展成為人民幣離岸中心，政府有否評估發行此等高風險及投機性強的投資產品的金融機構經香港對國內市場或人民幣作出的投資會否對國家金融安全造成影響？

Speculative and high-risk financial products

(2) Hon Regina IP LAU Suk-yee (Oral Reply)

An eminent political economist has pointed out that since the financial tsunami in 2008, advanced economies especially Europe and the United States are increasingly stringent in their regulation of financial business (such as hedge funds, private equity funds and other alternative investment vehicles, etc.) which is of a high-risk and relatively strong speculative nature, coupled with the fact that the markets in those places are already saturated, these funds will continue to flood the emerging markets, including China, so as to seek much higher investment returns. The political economist has further pointed out that Hong Kong will continue to be an important base for investing in China, given Hong Kong's low tax regime, mature legal system and geopolitical factors. In this connection, will the Government inform this Council:

- (a) whether it knows the total assets, turnovers and total profits in the past three years of the hedge funds, private equity funds and other alternative investment vehicles in Hong Kong at present, as well as the respective percentages of these amounts in the relevant total amounts of the local financial system (please provide annual figures and percentages of increase); how these percentages compare with the relevant figures of other international financial centres, including New York, London, Tokyo and Singapore;
- (b) whether the financial institutions which issue the aforesaid investment products are regulated by the Securities and Futures Commission under the Securities and Futures Ordinance at present; of the details of the policy objective and legislative framework for regulating these institutions; and
- (c) given the gradual internationalization of Renminbi ("RMB") and the development of Hong Kong as a RMB offshore centre, whether the Government has assessed if the investments in the mainland market or RMB made through Hong Kong by those financial institutions which issue such high-risk and strongly speculative

investment products which are of a high-risk and strong speculative nature will have impact on the national financial security?

改善公眾街市營運的建議措施

(3) 方剛議員 (口頭答覆)

政府轄下公眾街市因長期錄得虧損及出租率偏低等問題被審計署批評；就此，食物及衛生局提出各項改善建議，包括逐步提高公眾街市攤檔的租金至“實際平均租金”或“市值租金”水平，以及在出租率偏低的公眾街市引進服務行業攤檔。就上述兩項建議，政府可否告知本會：

- (一) 政府釐定公眾街市攤檔租金的準則為何；有否考慮公眾街市具有服務市民大眾的功能，以及其向租戶提供的服務是否不及私人經營的街市等因素；
- (二) 當局有否評估，在公眾街市引進服務行業攤檔(包括美容、修甲、陪月、旅行社、地產及金融服務等)，會否令公眾街市變成商業物業；有關做法有否違反批出土地興建公眾街市的土地用途規限，以及是否與公眾街市的功能不相符；及
- (三) 食物環境衛生署曾就引進服務行業舉行了多少次競投活動；競投結果(包括服務行業種類、成功透過競投租出的攤檔數目及租金)；這類攤檔的租金與同一個街市內其他攤檔的最高和最低租金如何比較；政府在計算攤檔的“實際平均租金”時，會否參考同一街市的服務行業攤檔的租金水平或將其計算在內？

Proposed measures to improve the operations of public markets

(3) Hon Vincent FANG Kang (Oral Reply)

Public markets of the Government were subject to criticisms by the Audit Commission because of problems such as long-term financial losses and low occupancy rates. In this regard, the Food and Health Bureau has proposed a number of improvement measures, including progressively increasing market stall rentals to “actual average rental” or “open market rental” and introducing service trade stalls at public markets with low occupancy rates. With regard to the aforesaid measures, will the Government inform this Council:

- (a) of the criteria for determining the rentals of public market stalls by the Government; whether it has taken into account the function of public markets to provide services to the general public, as well as other factors such as whether the services provided to the tenants are inferior to those provided by private markets;
- (b) whether the authorities have assessed if the introduction of service trade stalls (including beauty care, manicure, postnatal care-taking, travel agent, real estate and financial services, etc.) at public markets will turn public markets into commercial premises; whether such practice violates the land use restrictions of the land granted for the construction of public markets, and whether it is not consistent with the function of public markets; and
- (c) of the number of auctions held by the Food and Environmental Hygiene Department for the introduction of service trades; the results of such auctions (with a breakdown by the type of service trades, the number of stalls successfully let out through such auctions, and the level of rentals); how the rentals of such stalls compare to the highest and lowest rentals of other stalls at the same market; and when working out the “actual average rental” of stalls, whether the Government will make reference to or take into account in the calculation the level of rentals of service trade stalls at the same market?

應付內地孕婦來港生育問題的措施

(4) 張文光議員 (口頭答覆)

終審法院於2001年裁定中國公民在香港所生的子女享有居港權。自此，配偶不是香港永久性居民的內地孕婦在港生育的嬰兒數目飆升超過50倍，由2001年的620名增至2010年的32 653名。當局於本年4月28日宣布推出7項措施，以紓緩內地孕婦在港生育對醫療體系造成的壓力，包括拒收非本地高危孕婦、成立工作小組制訂明年可接收的非本地孕婦數目，以及由明年起，每年年初決定翌年可獲准來港分娩的非本地孕婦數字。就此，行政機關可否告知本會：

- (一) 在推行上述措施時，如何阻截中介公司安排內地孕婦非法地來港生育；
- (二) 對配偶是及不是香港永久性居民的內地孕婦劃一對待的理據為何；就該兩類孕婦而言，會否要求公立和私家醫院優先為配偶是香港永久性居民的內地孕婦提供分娩服務；及
- (三) 預計本年將有多少名內地孕婦在港生育，以及如何確保這數目不會超越本港醫療體系的承受能力？

Measures to tackle the problem of mainland women
giving birth in Hong Kong

(4) Hon CHEUNG Man-kwong (Oral Reply)

The Court of Final Appeal ruled in 2001 that children born in Hong Kong to Chinese nationals had the right of abode in Hong Kong. Since then, the number of babies born in Hong Kong to mainland women whose spouses are not Hong Kong permanent residents has soared by more than 50 times, from 620 in 2001 to 32 653 in 2010. The authorities announced on 28 April this year that seven measures would be introduced to alleviate the pressure on the healthcare system caused by mainland women giving birth in Hong Kong. Such measures include refusing the admission of non-local high-risk pregnant women, setting up a working group to determine the number of non-local pregnant women to be admitted next year and, starting from next year, determine at the beginning of each year the number of non-local pregnant women allowed to give birth in Hong Kong in the following year. In this connection, will the Executive Authorities inform this Council:

- (a) how they will, in implementing the aforesaid measures, stop agencies from arranging for mainland pregnant women to illegally come to Hong Kong to give birth;
- (b) of the justifications for treating in the same manner mainland pregnant women whose spouses are and those women whose spouses are not Hong Kong permanent residents; in connection with these two types of pregnant women, whether the authorities will request public and private hospitals in providing obstetrics services to give priority to mainland pregnant women whose spouses are Hong Kong permanent residents; and
- (c) of the expected number of mainland pregnant women giving birth in Hong Kong this year, and how it ensures that this number will not exceed the capacity of the healthcare system in Hong Kong?

專利註冊的申請程序

(5) 潘佩璆議員 (口頭答覆)

本人在去年收到一名小型企業經營者的投訴，指他在本港為其產品申請專利卻得不到有效的保障，而申請專利的程序繁複，此外，本港欠缺公平審核專利產品的程序。就此，政府可否告知本會：

- (一) 鑒於根據現行的《專利條例》，若市民要為發明品在本港申請專利，必須先在其中一個本港以外的指定專利當局獲得批予專利，或提交指定查檢主管當局發出的查檢報告，過去3年，當局有否考慮檢討及修改該條例所訂的專利註冊程序，例如逐步引入“原授專利制度”，以配合本地產業的特質，以及促進本地創意產業的發展；如有，詳情為何；如否，原因為何；
- (二) 鑒於現時內地、台灣、日本及歐洲多個經濟體都設有“實用新型專利”，並將專利權的審核及覆審交由批予專利的機構或專利法庭全權負責，當局會否考慮引入上述制度；如否，原因為何；如會，詳情為何；當局會否增撥資源以實施該計劃；如會，詳情為何；如否，原因為何；及
- (三) 當局會否為本港的中小型企業就審核專利權的程序，以及在面對專利權的爭議時，提供法律支援，令他們不會因仲裁費用高昂而失去得到公平仲裁的機會；如會，詳情為何；如否，原因為何？

Patent registration in Hong Kong

(5) Dr Hon PAN Pey-chyou (Oral Reply)

Last year, I received a complaint from a small business proprietor alleging that he had submitted a patent application for his product in Hong Kong but had not obtained any effective protection, and the application procedures were cumbersome, and that Hong Kong lacks fair procedures for vetting patent products. In this connection, will the Government inform this Council:

- (a) given that under the existing Patents Ordinance, any member of the public who wants to submit a patent application for an invention in Hong Kong will first need to obtain the patent granted by one of the designated patent offices outside Hong Kong or submit a search report prepared by a designated searching authority, whether the authorities had, in the past three years, considered reviewing and revising the patent registration procedures under the Ordinance, such as introducing the “original grant patent system”, so as to dovetail with the unique features of local industries and foster the development of creative industries in Hong Kong; if they had, of the details; if not, the reasons for that;
- (b) given that a number of economies such as the Mainland, Taiwan, Japan and Europe currently adopts “utility model patents” and give full authority to patent organizations or patent courts to vet and review patent rights, whether the authorities will consider introducing such system; if they will not, of the reasons; if they will, of the details; whether they will allocate additional resources to implement this plan; if they will, of the details; if not, the reasons for that; and
- (c) whether the authorities will provide legal assistance to Hong Kong’s small and medium enterprises in respect of the vetting procedures for patent rights and in the event of patent disputes so that they will not lose the opportunity of having fair arbitration due to

huge arbitration costs; if they will, of the details,
if not, the reasons for that?

醫院管理局轄下各個聯網的藥物開支

(6) 葉偉明議員 (口頭答覆)

據報，醫院管理局(下稱“醫管局”)新界東聯網在2009-2010年度出現3,000萬元藥物開支赤字。本人近日收到市民投訴，指新界東聯網削減向病人處方的藥物及轉用副廠藥，令人擔心病人所接受的醫療服務及藥物的質素沒有保障。就此，政府可否告知本會，是否知悉：

- (一) 醫管局轄下各個聯網在過去5年的整體收支平衡狀況，以及在2010-2011年度的藥物開支；
- (二) 過去5年，醫管局轄下各個聯網購買的副廠藥的數量及其佔整體藥物的百分比；醫管局有否就各聯網應購買原廠藥抑或副廠藥定下指引；如有，詳情為何；如否，原因為何；及
- (三) 現時醫管局如何監察轄下各個聯網的藥物採購及向病人用藥的情況；醫管局是否知悉及允許個別聯網因出現赤字而大幅削減向病人處方的藥物；如是，詳情為何？

Expenditure on drugs of the clusters
under the Hospital Authority

(6) Hon IP Wai-ming (Oral Reply)

It has been reported that a deficit of \$30 million in the expenditure on drugs was incurred by the New Territories East Cluster of the Hospital Authority (“HA”) in 2009-2010. I have recently received complaints from members of the public that the New Territories East Cluster has reduced the quantity of drugs prescribed to patients and also switched to use generic drugs, causing people to worry that the quality of the medical services and drugs received by patients has no safeguard. In this connection, will the Government inform this Council whether it knows:

- (a) the overall balance of income and expenditure of various clusters under HA in the past five years, and their expenditure on drugs in 2010-2011;
- (b) the quantity of generic drugs purchased by the various clusters under HA and the percentage of such drugs in the total quantity of drugs in the past five years; whether HA has laid down guidelines on whether the clusters should purchase brand name drugs or generic drugs; if it has, of the details; if not, the reasons for that; and
- (c) how HA monitors the procurement of drugs and drug treatment on patients by its various clusters at present; whether HA knows if individual clusters have substantially reduced the quantity of drugs prescribed to patients because of deficits, and allows them to do so; if so, of the details?

銀行的服務收費

(7) 陳鑑林議員 (書面答覆)

據悉，現時本港有些銀行已豁免長者個別服務項目的收費，但有些銀行仍向平均結餘低於特定金額的戶口，以及使用櫃台服務的人士另行收費，令弱勢社羣(包括綜合社會保障援助計劃(“綜援”)受助人等)在生活費緊絀的情況下仍被定期收取相關服務費。就此，政府可否告知本會：

- (一) 是否知悉，現時本港哪些主要銀行向低結餘戶口及使用櫃台服務的人士另行收費；相關收費大致為何(請列表說明)；當中哪些銀行已豁免長者上述服務收費，以及哪些銀行有豁免“綜援”受助人上述服務收費；
- (二) 過去3年，政府及香港金融管理局有否收到市民關於銀行服務收費的投訴；如有，按年列出投訴個案的數目及結果；及
- (三) 過去3年，財經事務及庫務局和勞工及福利局，有否就爭取銀行豁免“綜援”受助人服務收費事宜，進行過任何討論或游說工作；若有，進展及結果為何；若否，當局會否考慮在未來進行有關工作？

Collection of service fees by banks

(7) Hon CHAN Kam-lam (Written Reply)

It has been learnt that some banks in Hong Kong have exempted the elderly from certain service fees at present, but some others still collect additional fees from accounts with an average balance below a specified amount and persons using counter services, causing the disadvantaged groups, including Comprehensive Social Security Assistance (“CSSA”) recipients etc., to be regularly charged these service fees despite their financial hardship. In this connection, will the Government inform this Council:

- (a) whether it knows which major banks in Hong Kong collect additional fees from low-balance accounts and persons using counter services at present; of the approximate amount of the fees collected (set out in table form); which of them exempt the elderly from such service fees, and which of them exempt “CSSA” recipients from such service fees;
- (b) whether the Government and the Hong Kong Monetary Authority had received any complaint from the public in the past three years about service fees collected by banks; if they had, of the number and outcome of the complaints, with a breakdown by year; and
- (c) whether the Financial Services and the Treasury Bureau and the Labour and Welfare Bureau had held any discussion or made any lobbying effort in the past three years with regard to urging banks to exempt “CSSA” recipients from service charges; if they had, of the progress and outcome of such work; if not, whether they will consider undertaking such work in the future?

改善西鐵線的服務

(8) 譚耀宗議員 (書面答覆)

有市民向本人反映，近年屯門、元朗及荃灣港鐵西鐵線沿線一帶的人口不斷增加，當區居民對西鐵線及其他交通工具的服務需求越來越大。然而，本年1月，當局在回答本會議員的質詢時表示，西鐵線的服務，即使在早上繁忙時間的高峰期，平均載客率為58%，足夠應付乘客需要，因此現階段並無需要增加車廂數目。就西鐵線的服務及安全性，政府可否告知本會：

- (一) 是否知悉，過去3年，西鐵線平均每日的乘搭人次及乘客增幅分別為何；
- (二) 是否知悉，第(一)項的乘搭人次有否計算在沿線多個轉線站轉搭西鐵線的市民數目；若有，其計算方式為何；若否，原因為何，以及香港鐵路有限公司(“港鐵公司”)會否重新檢討載客率的計算方式，把轉搭西鐵線的市民數目計算在內，以真正反映實際乘搭人次，並將西鐵線的車卡的數目由現時的7卡增至原設計標準的9卡，以改善乘客擠迫情況；若會，詳情為何；若否，原因為何；
- (三) 自去年10月至今，政府有否瞭解去年西鐵線大量橋臺出現裂紋的原因及跟進其安全性，以及要求港鐵公司檢討是否因為安全原因而導致西鐵線的車卡數目不能增加至原設計標準的9卡；若有，結果為何；若否，原因為何；及
- (四) 是否知悉，港鐵公司會否於短期內加密西鐵線晚上由市區至新界的列車班次，以紓緩乘客擠迫情況；若會，詳情為何；若否，原因為何？

Improvement to the services of West Rail Line

(8) Hon TAM Yiu-chung (Written Reply)

Some members of the public have reflected to me that owing to the growing population in areas along the MTR West Rail Line in Tuen Mun, Yuen Long and Tsuen Wan in recent years, the demand for services of the West Rail Line and other modes of transport by local residents continues to increase. Yet, in reply to a question of a Member of this Council in January this year, the authorities said that the average loading of the West Rail Line was 58%, even at the busiest period of the morning peak hours, which showed that service was sufficient to cater for passenger demand, and as such, there was no need to increase the number of train cars at this stage. Regarding the service and safety of the West Rail Line, will the Government inform this Council:

- (a) whether it knows the average daily passenger trips and increases in the number of passengers of the West Rail Line respectively in the past three years;
- (b) if it knows whether or not the passenger trips in (a) has included the number of people who changed to the West Rail Line at various interchange stations; if so, of the way of computing the number; if not, the reasons for that, and whether the MTR Corporation Limited (“MTRCL”) will review the computation of occupancy rates and include the number of people changing to the West Rail Line so as to truly reflect the actual passenger trips, and increase the number of train cars of the West Rail Line from the present seven cars to nine cars which is the original design standard with a view to ameliorate the crowded condition; if so, of the details; if not, the reasons for that;
- (c) whether, since October last year, it has looked into the reasons why cracks were found in a large number of bridge columns of the West Rail Line last year and taken follow-up actions on its safety and also requested MTRCL to review whether safety reasons have resulted in MTRCL not being able to increase the number of train

cars of the West Rail Line to the original design standard of nine cars; if so, of the results; if not, the reason for that; and

- (d) if it knows whether in the near future MTRCL will increase the train frequency of the West Rail Line from the urban area to the New Territories during nighttime so as to ease the crowded condition; if so, of the details; if not, the reasons for that?

保護學生免受其老師性侵犯

(9) 劉皇發議員 (書面答覆)

鑒於近年不時發生中小學教師性侵犯其學生的案件，政府可否告知本會：

- (一) 教育局有否向中小學提供指引，防止發生教師性侵犯學生的案件；若有，指引的內容為何；若沒有，原因為何；
- (二) 教育局有否研究為何近年不時發生教師性侵犯其學生的案件；及
- (三) 當局會否考慮採取新的措施，以加強保護學生，免受其老師性侵犯的威脅？

Protection of students
against sexual harassment by their teachers

(9) Hon LAU Wong-fat (Written Reply)

Given that from time to time in recent years, there were cases of primary and secondary school teachers sexually assaulting their students will the Government inform this Council:

- (a) whether the Education Bureau (“the Bureau”) has provided primary and secondary schools with guidelines on preventing cases of teachers sexually assaulting students; if so, of the contents of the guidelines; if not, the reasons for that;
- (b) whether the Bureau has studied why from time to time in recent years, there were cases of teachers sexually assaulting their students; and
- (c) whether the authorities will consider adopting new measures to enhance the protection of students against the threat of being sexually assaulted by their teachers?

香港賽馬會中藥研究院

(10) 何鍾泰議員 (書面答覆)

特區政府於2001年成立香港賽馬會中藥研究院(“中藥研究院”),作為香港應用科技研究院有限公司的附屬機構,以推動、協調和強化香港的中藥科研及促進中藥研究成果商品化,協助提升中藥業界的市場競爭力。中藥研究院獲香港賽馬會慈善信託基金捐款5億元,資助其研究計劃及活動。政府已於2010年就中藥研究院作出全面的檢討。就此,政府可否告知本會:

- (一) 除了上述5億元的捐款外,中藥研究院有否獲得其他捐助或撥款;及
- (二) 由中藥研究院成立至今,獲得該院批出資助的研究項目數目及所涉款額的總數分別為何;該數目及款額是否符合預期的水平;若否,相關的詳情及未能達到預期水平的原因為何?

Hong Kong Jockey Club Institute of Chinese Medicine

(10) Ir Dr Hon Raymond HO Chung-tai (Written Reply)

The SAR Government set up the Hong Kong Jockey Club Institute of Chinese Medicine (“HKJCICM”) in 2001 as a subsidiary of the Hong Kong Applied Science and Technology Research Institute Company Limited. The purpose is to promote, coordinate and strengthen scientific research in Chinese medicines in Hong Kong and facilitate the commercialization of research results in Chinese medicines, with a view to enhancing the competitiveness of the Chinese medicine industry in the market. HKJCICM obtained a donation of \$500 million from the Hong Kong Jockey Club Charities Trust for funding its research projects and activities. The Government conducted a comprehensive review of HKJCICM in 2010. In this connection, will the Government inform this Council:

- (a) whether HKJCICM has received other donations or funding support apart from the aforesaid donation of \$500 million; and
- (b) of the number of research projects funded by HKJCICM since its inception and the total amount of funding involved; whether such number and amount have met the expected level; if not, of the relevant details and the reasons for their falling short of the expected level?

對付街頭擺賣活動的執法行動

(11) 黃毓民議員 (書面答覆)

根據政府資料，食物環境衛生署(“食環署”)在2010年曾對小販作出123 877次掃蕩行動，即平均每天約340次。近年小販和小販事務隊的衝突多次成為報章新聞，在本年4月10日大坑一宗執法行動更成為多份報章的頭條。就此，政府可否告知本會：

- (一) 2010年食環署人員檢控小販無牌或違規擺賣的數字；以及被控者中有多少人 是退休長者；
- (二) 2010年內的1 561宗對付無牌擺賣的跨部門聯合行動中，涉及“襲警”和“襲擊公職人員”的個案宗數；
- (三) 2010年被食環署人員重覆檢控的小販人數；以及當局對小販有否類似“列入觀察名單”的做法；
- (四) 過去3年，小販事務隊所沒收的貨物和工具的件數；當局有否考慮發還該等貨物及工具；如否，原因為何；
- (五) 食環署人員在小販和商戶旁邊定點監察的理據為何；及
- (六) 鑒於個多月前，一名推銷電訊服務的男子向本人求助，自稱在數日內三番四次接到食環署的告票，懷疑食環署人員在本年2及3月開始加緊執法，掃蕩街上推銷電訊服務和派傳單的人士，當局有否在本年1至3月向執法人員發出加強執法的指令？

Enforcement actions against street hawking activities

(11) Hon WONG Yuk-man (Written Reply)

According to government information, the Food and Environmental Hygiene Department (“FEHD”) mounted 123 877 raids against hawkers in 2010, i.e. a daily average of about 340 operations. In recent years, conflicts between hawkers and Hawker Control Teams (“HCTs”) have time and again been reported in the newspapers, and an enforcement action in Tai Hang on the 10th of April this year became the headlines of several newspapers. In this connection, will the Government inform this Council:

- (a) of the number of prosecutions instituted in 2010 by the staff of FEHD against hawkers’ unlicensed or illegal hawking; and the number of retired elderly people among those people who were prosecuted;
- (b) among the 1 561 joint departmental operations against illegal hawking in 2010, of the number of cases involving “assault on police officers” and “assault on public officers”;
- (c) of the number of hawkers who were repeatedly prosecuted by staff of FEHD in 2010; and whether there is any practice against hawkers which is similar to putting them “on a watch list”;
- (d) of the number of goods and paraphernalia seized by HCTs in the past three years; whether the authorities have considered returning such goods and paraphernalia; if they have not, of the reasons for that;
- (e) of the justifications for the staff of FEHD to conduct sentinel surveillance beside hawkers and retailers; and
- (f) given that a man promoting telecommunication services sought my assistance a month or so ago claiming that he had repeatedly received penalty tickets from FEHD within a few days, and he suspected that the staff of FEHD had started to step up law enforcement in February and March this year to clear from the streets

those people who promoted telecommunication services and distributed handbills, whether the authorities had issued any instruction on stepping up enforcement to the law enforcement staff between January and March this year?

向離婚人士提供體恤安置

(12) 梁耀忠議員 (書面答覆)

政府可否告知本會：

- (一) 過去 5 年 (2006-2007 至 2010-2011 年度), 因離婚問題而向社會福利署求助的人數為何；及
- (二) 在第(一)項的求助人當中, 曾獲當局向房屋署推薦作“體恤安置”及成功獲安置的人數分別為何；該等求助人獲得及不獲得安置的原因分別為何？

Compassionate rehousing offered to divorcees

(12) Hon LEUNG Yiu-chung (Written Reply)

Will the Government inform this Council of:

- (a) the number of people who had sought assistance from the Social Welfare Department in the past five years (from 2006-2007 to 2010-2011) because of problems relating to their divorces; and
- (b) among the people seeking assistance in (a), the respective numbers of those who had been recommended by the authorities to the Housing Department for “compassionate rehousing” and those who had been successfully rehoused, as well as the respective reasons for offering and not offering rehousing to them?

網上團購的監察措施

(13) 王國興議員 (書面答覆)

據報，本港近年流行“網上團購”，很多市民希望藉此以較優惠的價格購買產品或服務；不過亦經常有市民於付款後，才發現商品或服務貨不對辦，引起不少糾紛。鑒於現時“網上團購”網站及銷售活動未受法例監管，令市民在有需要投訴時卻求助無門。就此，政府可否告知本會：

- (一) 過去5年，每年消費者委員會及相關執法部門曾收到或處理多少宗有關“網上團購”的投訴；當中涉及的投訴原因及金額為何，以及有沒有就該等個案作出檢控並將涉案人士定罪；
- (二) 鑒於現時“網上團購”日益蓬勃，當局有否法例及措施作出規管及監察；如有，根據當局的評估，去年該等工作的成效為何；如否，當局會否考慮通過制定新的法例，或擴大現有《商品說明條例》(第362章)的涵蓋範圍，以及參照外國設立網上認證制度，從而規管“網上團購”網站及銷售活動；及
- (三) 當局有否任何計劃、措施或指引，教導市民在參與“網上團購”時，須選擇聲譽良好和具實力的網站，瞭解賣家過往交易的情況，並詳細閱覽交易的條款，以保障自己的利益；若有，詳情為何；若否，原因為何？

Measures to monitor online group purchases

(13) Hon WONG Kwok-hing (Written Reply)

It has been reported that “online group purchases” have become popular in Hong Kong in recent years and many members of the public hope to buy products or services at favourable prices through this means. Nevertheless, from time to time there are members of the public who find that the products or services do not match the specifications or descriptions only after they had made the payments for the purchases, thus resulting in many disputes. As group purchase web sites and related sales activities are currently not under statutory control, members of the public have nowhere to turn to for assistance when they need to make complaints. In this connection, will the Government inform this Council:

- (a) of the number of complaints about “online group purchases” received or dealt with by the Consumer Council and relevant law enforcement departments in each of the past five years; the reasons for and the amount of money involved in such complaints, and whether prosecution had been instituted in respect of those cases and the persons involved convicted;
- (b) given that “online group purchases” continue to thrive, whether there are legislation and measures in place to regulate and monitor these activities; if there are, according to the assessment of the authorities, of the effectiveness of such work last year; if there is not, whether the authorities will consider enacting new legislation or extending the coverage of the existing Trade Descriptions Ordinance (Cap. 362), and following the practices of overseas countries and establishing an online certification system, in order to regulate group purchase web sites and related sales activities; and
- (c) whether the authorities have any plan, measure or guideline to educate members of the public that when making “online group purchases”, they must choose those web sites with good reputation and backing, find out how sellers

made transactions in the past and read the transaction terms carefully, so as to safeguard their own interests; if they have, of the details; if not, the reasons for that?

港鐵為跨境學童提供的車費優惠

(14) 陳克勤議員 (書面答覆)

日前一些由內地跨境來港上學的學生向本人反映，表示他們使用八達通卡乘搭港鐵落馬洲支線前往本港北區上學時，須繳付高於成人票價的車費；他們指出，香港鐵路有限公司(“港鐵公司”)所提供的學生半價優惠不適用於跨境支線過境車程，此外，港鐵現時設於深圳地鐵福田口岸站的“特惠站”，只限於向持成人八達通卡的乘客提供港幣3元的車費優惠，因此他們亦未能受惠。就此，政府可否告知本會，是否知悉：

- (一) 港鐵公司現時提供的學生半價優惠為何不適用於跨境支線過境車程；
- (二) 過去3年，每年平均有多少名學生需乘港鐵跨境支線由內地來港上學；會否要求港鐵檢討現時未有向他們提供車費優惠的安排，並在短期內作出改善；若會，詳情為何；若否，原因為何；及
- (三) 港鐵設於深圳福田口岸站的“特惠站”為何只限於向持成人八達通卡的乘客提供車費優惠，以及現時在設立各“特惠站”及釐訂所提供的車費優惠時，會考慮哪些因素；當局會否要求港鐵公司向跨境學童提供該優惠，以及因應通脹加劇，增加“特惠站”的數目及提供更高的車費優惠；若會，詳情為何；若否，原因為何？

Fare concessions offered by MTR for cross-boundary students

(14) Hon CHAN Hak-kan (Written Reply)

Some students who cross the boundary from the Mainland to attend schools in Hong Kong relayed to me earlier that the fare they have to pay with their Octopus cards to take the MTR Lok Ma Chau Spur Line to attend schools in the North District of Hong Kong is higher than the adult fare; they pointed out that the half-fare concession offered to students by the MTR Corporation Limited (“MTRCL”) is not applicable to journeys via the cross-boundary spur lines, and they are unable to enjoy the HK\$3 fare discount offered via the MTR “Fare Saver” machine installed at the Shenzhen Metro Fu Tian Kou’an Station as such discount is applicable to adult Octopus card holders only. In this connection, will the Government inform this Council whether it knows:

- (a) why the existing half-fare concession offered by MTRCL to students is not applicable to journeys via the cross-boundary spur lines;
- (b) the average number of students in each of the past three years who had to take the MTR cross-boundary spur lines from the Mainland to attend schools in Hong Kong; whether it will request MTRCL to review the existing arrangement of not offering fare concession to such students and make improvement shortly; if it will, of the details; if not, the reasons for that; and
- (c) why the fare discount offered via the MTR “Fare Saver” machine at the Shenzhen Metro Fu Tian Kou’an Station is applicable to adult Octopus card holders only; which factors MTRCL will take into account in setting up various “Fare Savers” and determining the fare discounts to be offered at present; whether the authorities will request MTRCL to offer such fare discounts to cross-boundary students, increase the number of stations with “Fare Savers” and raise the fare discount rates in response to the aggravating inflation; if so, of the details; if not, the reasons for that?

斜坡的管理及維修工作

(15) 張學明議員 (書面答覆)

據報，早前何文田一個斜坡竟在未有天雨之下發生山泥傾瀉，令人擔心雨季將至，當局對斜坡的管理及維修工作能否降低滑坡風險。就此，政府可否告知本會：

- (一) 本港現存的人造斜坡及天然山坡的數目，以及當局有否評估當中有多少個具潛在危險；當局處理該些危險斜坡的計劃為何及需時多久；
- (二) 過去3年，政府的天然山坡、人造斜坡及擋土牆發生滑坡意外的次數和涉及的傷亡數字為何；
- (三) 過去3年，私人的天然山坡及人造斜坡發生滑坡意外的次數和涉及的傷亡數字為何；
- (四) 去年發出的“危險斜坡修葺令”的數目為何；當中已完全遵從的修葺令數目、因不遵從修葺令而被定罪的人數，以及他們不遵從修葺令的主要原因為何；
- (五) 當局有否計劃於本年的雨季來臨前，加強對政府及私人的斜坡的檢查及其他相關措施，以減少發生山泥傾瀉的機會；
- (六) 在提高市民對人造斜坡及天然山坡所引起的山泥傾瀉危險的意識方面，當局現時的公眾教育活動的具體內容為何；及
- (七) 鑒於當局已於2010年展開“長遠防治山泥傾瀉計劃”(“防治計劃”)，銜接於2010年年底完成的“延續防止山泥傾瀉計劃”，以繼續減少山泥傾瀉發生的風險，防治計劃相對於舊計劃有何改進的地方；如沒有，原因為何？

Management and maintenance of slopes

(15) Hon CHEUNG Hok-ming (Written Reply)

It has been reported that a landslide occurred earlier at a slope in Ho Man Tin although it did not rain that day, causing people to worry whether with the approach of the rainy season, the slope management and maintenance work carried out by the authorities is able to reduce the risk of landslides. In this connection, will the Government inform this Council:

- (a) of the number of existing man-made slopes and natural hillsides in Hong Kong, and whether the authorities have assessed the number of such slopes and hillsides with potential risk; of the plan and the time required for the authorities to deal with such dangerous slopes;
- (b) of the number of landslides which occurred on natural hillsides, man-made slopes and retaining walls within the purview of the Government in the past three years, as well as the resultant casualties;
- (c) of the number of landslides which occurred on privately-owned natural hillsides and man-made slopes in the past three years, as well as the resultant casualties;
- (d) of the number of Dangerous Hillside Orders served last year and, among them, the number of orders which have been fully complied with, the number of persons convicted of non-compliance with such orders and the main reasons for their non-compliance;
- (e) whether the authorities have plans to step up the inspection of both government and privately-owned slopes and enhance other relevant measures before the advent of the forthcoming rainy season so as to reduce the chance of landslides;
- (f) regarding enhancement of public awareness about the risk of landslides arising from man-made slopes and natural hillsides, of the specific details of the public education

activities organized by the authorities at present; and

- (g) given that the Landslip Prevention and Mitigation Programme (“LPMitP”) has been implemented by the authorities since 2010 to dovetail with the Extend Landslip Preventive Measures Programme which was completed at the end of 2010, with an aim to further reduce the risk of landslides, of the improvement made to LPMitP as compared with the previous programme; if no improvement has been made, of the reasons for that?

為單身長者代辦身後事

(16) 劉江華議員 (書面答覆)

據報，本港不少單身長者於離世後並無親友為其辦理身後事；此外，根據政府統計處的數字，在2001年，40歲或以上從未結婚的人士約有17萬9千人，至2009年已增至約29萬4千人；鑒於本港人口老化問題加劇，而單身人士的人數持續增加，為單身長者代辦身後事的服務的需求將有增無減。就此，政府可否告知本會：

- (一) 政府有否統計過去3年，本港每月平均有多少名單身長者因無親友辦理其身後事，而需要代辦身後事的服務，以及有否估計未來10年，本港將有多少名單身長者需要這類服務；若有，數字分別為何，這類服務的需求有否上升的趨勢；若沒有統計及估計，會否考慮跟進以瞭解這類服務的需求；
- (二) 是否知悉，現時本港有多少間機構為單身長者提供代辦身後事的服務；有否評估是否足以應付需求；
- (三) 政府會否考慮撥出資源提供這類服務，或鼓勵更多志願機構提供這類服務，為有需要的單身長者代辦其身後事；及
- (四) 鑒於政府於2010年5月5日回覆本人的質詢時所提供的資料顯示，於2009-2010財政年度約有798萬元遺產因無人認領而轉撥入政府一般收入內，當局會否運用這些款項為有需要的單身長者代辦其身後事？

Services for undertaking after-death arrangements
for elderly singletons

(16) Hon LAU Kong-wah (Written Reply)

It has been reported that there are many elderly singletons in Hong Kong who do not have any relative or friend to take care of their after-death arrangements. Moreover, according to the figures of the Census and Statistics Department, in 2001 the number of persons aged 40 or above who had never married was about 179 000, and in 2009 the number had increased to about 294 000. Owing to the aggravating problem of ageing population in Hong Kong, coupled with the continuous increase in the number of singletons, the demand for services for undertaking the after-death arrangements (“after-death services”) for elderly singletons will continue to increase. In this connection, will the Government inform this Council:

- (a) whether in the past three years the Government has compiled statistics on the monthly average number of elderly singletons in Hong Kong who needed after-death services as they did not have any relative or friend to take care of their after-death arrangements, and whether it has estimated the number of elderly singletons who will need such services in Hong Kong in the next decade; if it has, of the respective figures, and whether there is an upward trend in the demand for such services; if it has not compiled any statistics or made any estimation, whether it will consider following up to find out such service demand;
- (b) whether it knows the number of agencies in Hong Kong which are currently providing after-death services for elderly singletons; whether it has assessed if their services are sufficient to meet the demand;
- (c) whether the Government will consider allocating resources to provide such services or encouraging more voluntary agencies to provide such services for those elderly singletons in need; and

- (d) given that according to the information provided by the Government in its reply to my question on 5 May 2010, the sums of unclaimed estate transferred to the general revenue of the Government amounted to \$7,980,000 in the 2009-2010 financial year, whether the authorities will use such sums to help those elderly singletons in need with their after-death arrangements?

私人物業的管理費飆升的事宜

(17) 涂謹申議員 (書面答覆)

據報，因應《最低工資條例》(第608章)於本年5月1日起生效，為上調一些大廈保安員及清潔工人的工資以符合法定最低工資水平，亦由於通脹引致開支增加等，不少私人樓宇將增加管理費，有部分更大幅增加40%至50%。就此，政府可否告知本會：

- (一) 鑒於現行的《建築物管理條例》(第344章)規定，私人樓宇的管理委員會在預算增加管理費時，若增加後的管理費款額超過相當於原有管理費款額的150%，才須召開業主大會議決通過，訂立是項規定的原因為何；當局會否考慮就此作出檢討；
- (二) 鑒於有報道指出，有私人樓宇的管理費是因應《最低工資條例》實施而需上調，當局會否考慮在協助業主立案法團(“法團”)及業主瞭解其在該條例下作為僱主的責任的同時，亦協助他們瞭解如何避免濫加管理費；若會，將提供哪些協助；
- (三) 有否向各法團瞭解去年7月至今有否增加管理費及有關增幅；若有，就當局已知情況，分別列出管理費增幅為15%以下、15%至24%、25%至34%、35%至49%，以及50%或以上的私人樓宇數目；是否知悉，這些樓宇涉及多少個法團，當中，曾召開業主大會議決增加管理費的百分比為何，涉及最高及最低的管理費增幅為何；若不知悉，會否考慮搜集該等資料；
- (四) 當局有否建議及協助擬增加管理費的法團，盡量安排於業主大會上討論及議決通過該事宜；若有，去年7月至今，當局曾向多少個法團提出有關建議，分別有多少個法團接受及拒絕該建議；當法團拒絕該建議，當局會否向業主提供

支援，以協助他們就增加管理費事宜召開業主大會，以使法團遵照業主大會的議決行事；若會，所提供的支援為何；及

- (五) 去年7月至今，當局曾否出席法團的管理委員會會議，以商討調整管理費事宜；如曾出席，共出席了多少個上述會議，以及當中有多少是在過半數委員出席及通過下議決上調管理費？

Upward surge of management fees of private properties

(17) Hon James TO Kun-sun (Written Reply)

It has been reported that, in response to the Minimum Wage Ordinance (Cap. 608) (“MWO”) which came into force on 1 May this year, quite a number of private buildings will increase management fees and some will even have the fees increased significantly by 40% to 50%, in order to increase the wages of some security guards and cleansing workers of the buildings to meet the statutory minimum wage level and cope with other increases in expenditure due to inflation. In this connection, will the Government inform this Council:

- (a) given that the existing Building Management Ordinance (Cap. 344) provides that, when the management committee (“MC”) of a private building is making an estimate for an increase in management fees, a general meeting of the owners to pass a resolution on such increase is required only if the amount of the management fees charged after the increase exceeds 150% of the preceding amount charged, of the reasons for formulating this stipulation; whether the authorities will consider conducting any review in this regard;
- (b) given that it has been reported that some private buildings need to increase their management fees in response to the implementation of the MWO, whether the authorities will, while assisting owners’ corporations (“OCs”) and owners in understanding their responsibility as employers under the Ordinance, also consider helping them to know how to avoid increasing management fees indiscriminately; if they will, of the kind of assistance to be offered;
- (c) whether the authorities have sought information from OCs about any increase in management fees since July last year and the rates of such increases; if they have, in respect of the cases that the authorities know, of the number of private buildings concerned, broken down by the increase (i.e. less than 15%, 15% to 24%, 25% to 34%, 35% to 49%, and 50% or above)

in management fees; whether they know the number of OCs involved, and among them, the percentage of those which had convened general meetings of owners to pass resolutions on such increases, as well as the highest and lowest rates of such increases; if they do not know, whether they will consider collecting such information;

- (d) whether the authorities have advised and assisted OCs which had proposed to increase management fees in convening general meetings of owners as far as possible, to discuss the issue and pass resolutions thereon; if they have, of the number of OCs to which the authorities have given such advice since July last year, and among these OCs, the respective numbers of those which have accepted and rejected such advice; in case where the OC rejects such advice, whether the authorities will offer assistance to the owners in convening a general meeting on the increase of management fees to make the OC follow the resolution passed at the general meeting; if they will, of the assistance given; and
- (e) whether the authorities have, since July last year, attended any meeting convened by MCs of OCs to discuss matters concerning the adjustments of management fees; if they have, of the total number of the meetings attended and among them, the number of meetings at which more than half of the members were present and resolutions on increasing management fees were passed by a majority of the members present?

撥出土地供物流業發展

(18) 劉健儀議員 (書面答覆)

有本港物流業界人士反映，發展物流業需要有大量土地供應，用作貯存、處理貨物及提供增值服務，因此，業界一直希望政府能撥出更多土地以供發展。然而，有報道指出，過去10年，政府總共只批出兩幅物流長期用地，而且是透過招標由價高者得，這難免會推高地價，增加成本；另外，以短期租約租出的用地租約期太短(例如3年、一季或一個月)，業界未能作長遠投資及發展。就此，政府可否告知本會：

- (一) 過去5年，當局已批出的長期及以短期租約租出的物流用地的詳細資料(包括用地的批出日期、位置、面積、用途、出售或出租的價格、以及短期租約的租用期限和續租安排)；
- (二) 鑒於行政長官於2009-2010年施政報告中宣布，政府已在葵青區物色了數幅總面積共29公頃的長期用地，以供發展一個物流群組，據悉當中首幅約2.4公頃的用地剛於去年年底批出，將會推出的其餘幾幅用地的詳情及時間表為何；
- (三) 鑒於有業界人士指出，物流業的投資額龐大，難以在短時間內收回投資成本，但政府物流用地的短期租約過短，以致窒礙了業界的長遠發展，當局決定該等用地的租用期限的準則為何；以及，當局會否考慮提供物流用地，讓沒有足夠資金競投物流長期用地的中小型物流公司以長期租約租用，以支持中小型物流公司的發展；若會，詳情為何；若否，原因為何；及
- (四) 針對本港現時缺乏物流用地的問題，除已物色29公頃的長期用地外，當局有何長遠政策及計劃以增加更多合適的物流用地(特別是低成本的用地)，藉以推動物流業的發展？

Allocation of land for the development of logistics industry

(18) Hon Miriam LAU Kin-ye (Written Reply)

Some members of the logistics industry in Hong Kong have reflected that the development of the logistics industry hinges on an ample supply of land for storing and handling goods and providing value-added services; therefore, the industry has all along hoped that the Government can allocate more land for its development. Nevertheless, it has been reported that only two permanent logistics sites had been granted by the Government in the past 10 years by way of tendering and through which the sites were awarded to the highest bidders, which inevitably pushed up the prices of the sites and increased the costs. Besides, as the tenancy terms of sites leased out on a short-term tenancy basis (“STT sites”) were too short (e.g. for three years, a quarter or a month), the industry cannot make long-term investments and developments. In this connection, will the Government inform this Council:

- (a) of the details (including the disposal dates, locations, areas, uses, selling prices or rents of the sites as well as the tenancy terms of the STTs and tenancy renewal arrangements) of the permanent logistics sites granted and STT sites leased out by the authorities in the past five years;
- (b) given that the Chief Executive announced in his 2009-2010 Policy Address that the Government had identified a number of permanent sites in the Kwai Tsing area, with a total site area of 29 hectares, for the development of a logistics cluster, and it is learnt that the first of such sites with an area of around 2.4 hectares was just granted at the end of last year, of the details and timetable of releasing the remaining sites;
- (c) given that some members of the industry pointed out the logistics industry entails substantial investment, making it difficult to recover the cost of investment within a short period of time, but the tenancy terms of the STTs of Government logistics sites are too short, thus hindering the long-term development of the industry, of the criteria

adopted by the authorities in determining the tenancy terms of such sites; whether the authorities will consider providing logistics sites for small and medium-sized logistics companies, which do not have sufficient capital to bid for permanent logistics sites, to rent such sites on a long-term basis, so as to facilitate the development of small and medium-sized logistics companies; if they will, of the details; if not, the reasons for that; and

- (d) regarding the existing problem of the lack of logistics sites in Hong Kong, apart from the 29 hectares of permanent sites identified for such purpose, of any long-term policy and plans that the authorities have to increase the number of sites suitable for logistics uses (particularly low-cost sites) in order to promote the development of the logistics industry?

從事加工貿易的企業於升級轉型時面對的稅務問題

(19) 林大輝議員 (書面答覆)

關於從事加工貿易的本港企業於升級轉型時面對的稅務問題，政府可否告知本會：

- (一) 鑒於財經事務及庫務局局長(“局長”)於2009年11月4日答覆本人的質詢時表示，放寬《稅務條例》(第112章)第39E條(“第39E條”)的實質困難是由於有關裝置在境外由其他人士使用，稅務局難以向其查核有關裝置的真確用途，當局會否考慮在內地委託或成立一個組織或辦事處專責查證該些在內地使用的機械設備的真確用途，而當其查明有關企業沒有從事避稅或其他不法活動後，可向香港稅務局發出證明書，使該局可據此批准相關的香港企業在港申報折舊免稅額，以解決上述困難；如否，原因為何；
- (二) 鑒於廣東省一直是港資加工貿易企業的集中地，《珠江三角洲地區改革發展規劃綱要(2008-2020年)》亦列明，廣東省可以充分發揮經濟特區的改革開放先行作用，支持建設全國加工貿易轉型升級示範區，當局會否向廣東省當局提出合作先行先試推行第(一)項的方案，及建議建立稅務事宜合作平台及溝通聯絡機制，使兩地稅務機關深化合作，加強訊息交流及積極支援粵港兩地商貿發展；如會，詳情為何；如否，原因為何；
- (三) 鑒於商務及經濟發展局於本年4月12日確認已向財經事務及庫務局反映業界就第39E條的折舊免稅額問題所提的意見，當局可否公開前者所反映的內容和後者回覆前者的詳情，以便業界確定訴求已被真確反映；如否，原因為何；
- (四) 鑒於政府於本年4月6日答覆本人的質詢時表示，納稅人最終撤回有關反對或

上訴或被裁定為敗訴後，須就獲緩繳的稅款按“判定債項利率”繳付利息，旨在保障稅收，避免納稅人濫用反對程序來拖延繳付稅款，當局在制訂此防止濫用的機制時，有否考慮到公平原則；如有，可否容許成功反對或上訴的納稅人與政府一樣可按“判定債項利率”獲得利息賠償；

- (五) 鑒於局長於本年4月13日答覆本人的質詢時表示，稅務局是根據香港企業在內地從事加工貿易的實際運作情況，而非該等加工貿易的名稱，按“地域來源徵稅”原則評定該香港企業的應課稅利潤，過去10年，當局有否容許名義上屬“進料加工”企業但實際仍沿用“來料加工”運作模式的本港公司，獲得與“來料加工”企業相同的稅務安排；如有，逐年數字為何；如沒有，原因為何；
- (六) 鑒於本人於本年4月13日詢問政府，如“進料加工”企業放棄升級轉型，重新從事“來料加工”業務，該等企業可否再次享有機械設備折舊免稅額及根據50：50比例分攤基礎課稅，但局長未有正面回答，當局可否就上述的情況作出明確的解釋；如否，原因為何；
- (七) 稅務上訴委員會於聆訊編號 D61/08的個案時，稅務局代表有否告知該委員會有關法院認可的“目的為本”原則、《釋義及通則條例》(第1章)第19條對法例詮釋須確定立法用意的規定、終審法院在《香港醫務委員會對周兆碩》(2000年)一案的判詞中就法例詮釋所作出的意見，以及當局本身在 CIR v Sawhney (HCIA1/2006)一案中對法例詮釋所持的論調；如沒有告知，原因為何；如有告知，該委員會有否作出考慮；
- (八) 鑒於局長多次僅表示已考慮工商界、會計界以及稅務專家就第39E條的問題提出的意見，為何局長沒有考慮法律界或律政司的獨立法律意見；

- (九) 鑒於《基本法》第六十四條及“問責制主要官員守則”第二章規定官員有責任答覆立法會議員的質詢，而本人曾至少6次詢問局長有否就第39E條的問題尋求律政司或其他法律顧問的意見，並且要求政府公開工商界、會計界、稅務專家、律政司及其他政府部門的意見，以及解釋為何他們的意見沒有足夠理據和有違“地域來源徵稅”及“稅務對稱”原則，但均未獲局長正面回答，當局現在可否具體答覆上述問題；
- (十) 鑒於政府於過去兩年提出拒絕修訂第39E條的原因時，初期以詮釋法例不用考慮立法原意、行政困難等為由，其後卻提出“地域來源徵稅”及“稅務對稱”原則和“轉讓定價”等理由，為何當局會有前後不一致的回應；鑒於按照“地域來源徵稅”及“稅務對稱”原則，納稅人可以申索扣除就為產生香港應課稅利潤而在香港或香港以外地方招致的營運開支，為何在香港以外地方使用的機械或工業裝置，必須由納稅人本身使用才符合“地域來源徵稅”及“稅務對稱”原則，以及貿易商向加工商提供機器模具，雖然機器模具由加工商使用，但貿易商仍需負擔折舊成本，為何就有關機器模具提供折舊免稅額有違“稅務對稱”原則；
- (十一) 鑒於政府指出放寬第39E條會帶來轉讓定價問題，政府是否已作過評估；如是，可否提供證據證明香港企業與內地關聯企業在提供機械及工業裝置的交易中出現轉讓定價問題；如否，為何有此結論；及
- (十二) 鑒於財政司司長公布本年度財政預算案後，願意再順應市民的訴求而作出修訂，局長會否仿效司長，因應業界的訴求和配合內地政府鼓勵港資企業升級轉型而修訂涉及第39E條等問題的稅務安排；如否，原因為何？

Taxation problems faced by enterprises engaged in processing trade in the course of upgrading and restructuring

(19) Dr Hon LAM Tai-fai (Written Reply)

Regarding the taxation problems faced by Hong Kong enterprises engaged in processing trade operations in the course of upgrading and restructuring, will the Government inform this Council:

- (a) given that in reply to my question on 4 November 2009, the Secretary for Financial Services and the Treasury (“SFST”) indicated that the practical difficulties in relaxing section 39E of the Inland Revenue Ordinance (Cap. 112) (“Section 39E”) were that as the relevant machinery or plants were used by another enterprise outside Hong Kong, it would be difficult for the Inland Revenue Department (“IRD”) to check the actual usage of the relevant machinery or plants, whether the authorities will, in order to resolve such difficulties, consider commissioning or establishing an organization or office on the Mainland which is dedicated to checking the actual usage of those machinery or plants that are used on the Mainland, and is authorized to issue certificates to IRD after verifying that the relevant enterprises have not engaged in any tax avoidance or other illegal activities, so that IRD may accordingly grant approval for the relevant Hong Kong enterprises to claim depreciation allowances in Hong Kong; if they will not, of the reasons for that;
- (b) given that Guangdong Province has always been a congregating place for Hong Kong-invested processing trade enterprises, and the Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020) has also stipulated that Guangdong Province can fully exert a pioneering role of special economic zones in reforming and opening up the region by supporting the establishment of a national demonstration zone for the transformation and upgrade of processing trade enterprises, whether the authorities will suggest to the

Guangdong provincial authorities that concerted efforts be made to implement the proposal in (a) on a trial basis, and that a co-operation platform and a communication and liaison mechanism be established on taxation matters for the purpose of deepening the co-operation between the taxation authorities of the two sides, enhancing information exchange and proactively supporting the development of commerce and trade in Guangdong and Hong Kong; if they will, of the details; if not, the reasons for that;

- (c) given that the Commerce and Economic Development Bureau (“CEDB”) confirmed on 12 April this year that the views raised by the sector on the issue of depreciation allowances under Section 39E had been reflected to the Financial Services and the Treasury Bureau (“FSTB”), whether the authorities can make public the contents of the views as reflected by CEDB and the details of the response given by FSTB, so that the sector can ascertain that their aspirations have been accurately reflected; if they cannot, of the reasons for that;
- (d) given that in reply to my question on 6 April this year, the Government indicated that for those taxpayers who eventually withdrew the relevant objections or appeals, or the objections or appeals were determined against the taxpayers, the taxpayers concerned would be required to pay interest on the tax being held over in accordance with the “judgment debt rate” and that the aim was to protect tax revenue by preventing taxpayers from abusing the objection mechanism for the purpose of deferring tax payment, whether the authorities have taken into account the principle of fairness in formulating this mechanism to guard against abuse; if they have, whether the taxpayers whose objections or appeals have been determined in their favour can, as in the case of the Government, be compensated with interest calculated at “judgment debt rate”;
- (e) given that in reply to my question on 13 April this year, SFST indicated that IRD would

adhere to the “territorial source” principle in assessing the chargeable profits of the Hong Kong enterprises according to their actual processing trade operations on the Mainland rather than the nomenclature of such processing trade, whether the authorities had, in the past decade, permitted Hong Kong companies which were nominally “import processing” enterprises but were actually engaged in “contract processing” mode of operation to be subjected to taxation arrangements that are identical to those applicable to “contract processing” enterprises; if they had, of the annual figures; if they had not, the reasons for that;

- (f) given that SFST had not provided a direct response to my question on 13 April this year about whether an “import processing” enterprise which gives up its efforts of upgrading and restructuring and engages in “contract processing” will again be eligible for the depreciation allowances for machinery and plants and whether the 50:50 basis of tax apportionment will again be applicable to it, whether the authorities can give a clear explanation regarding the aforesaid scenario; if not, of the reasons for that;
- (g) whether IRD representatives had informed the Board of Review (“the Board”) of the followings during the Board’s hearing on the case numbered D61/08: the purposive approach recognized by the courts, the requirement of establishing the legislative intent in interpreting law under section 19 of the Interpretation and General Clauses Ordinance (Cap. 1), the Court of Final Appeal’s comments on interpreting law made in its judgment on the case of *Medical Council of Hong Kong v Chow Siu Shek David* (2000), and the views on interpreting law held by the authorities in the case of *CIR v Sawhney* (HCIA1/2006); if the Board had not been informed of the above, of the reasons for that; if it had been so informed, whether the Board had considered the above;

- (h) given that SFST only repeatedly stated that he had already taken into consideration the views of the industrial and commercial sector, the accounting sector and tax experts on the issue of Section 39E, why SFST has not considered the independent legal advice offered by the legal sector or the Department of Justice (“DoJ”);
- (i) given that both Article 64 of the Basic Law and chapter two of the Code for Principal Officials under the Accountability System stipulate that it is incumbent upon officials to answer questions raised by Members of the Legislative Council, and I asked SFST, at least on six occasions, whether he had sought advice from DoJ or other legal advisors on the issue of Section 39E, as well as requested the Government to make public the views of the industrial and commercial sector, the accounting sector, the tax experts, DoJ and other government departments and to explain why their views are not adequately justified and are against the principles of “territorial source” and “tax symmetry”, but SFST still has not provided a direct response, whether the authorities can give a concrete reply to the above questions now;
- (j) given that in the past two years, in stating the reasons for not amending Section 39E, the Government had initially given the reasons that it was not necessary to take into consideration the legislative intent in interpreting law and that there were administrative difficulties, etc., yet subsequently it stated the reasons of adhering to the principles of “territorial source” and “tax symmetry” as well as transfer pricing, why the authorities have given inconsistent responses; given that according to the principles of “territorial source” and “tax symmetry”, taxpayers can claim deductions for operational expenses incurred in or outside Hong Kong for production of chargeable profits in Hong Kong, why the machinery or plants used outside Hong Kong must be used by the taxpayers themselves in order to comply with the principles of

“territorial source” and “tax symmetry”; regarding the molds and machines provided by traders for processors, although the molds and machines are used by the processors, the traders still need to pay for the depreciation costs, why the provision of depreciation allowances for the relevant molds and machines is against the principle of “tax symmetry”;

- (k) given that the Government has pointed out that relaxing Section 39E will give rise to the issue of transfer pricing, whether the Government has made any assessment; if it has, whether evidence can be provided to substantiate that the transactions between Hong Kong enterprises and associated enterprises on the Mainland for the provision of machines and plants have given rise to the issue of transfer pricing; if no evidence can be provided, why such a conclusion has been arrived at; and
- (l) given that the Financial Secretary was willing to make amendments to his Budget in the light of the public’s aspirations after his announcement of this year’s Budget, whether SFST will follow suit and amend the taxation arrangements involving Section 39E, etc. in response to the sector’s aspirations and in tandem with the initiatives of the mainland government in encouraging Hong Kong-invested enterprises to upgrade and transform; if SFST will not do so, of the reasons for that?

視力障礙及聽力障礙學生的升學機會

(20) 劉慧卿議員 (書面答覆)

就視力障礙(“視障”)及聽力障礙(“聽障”)學生的升學問題，行政機關可否告知本會：

- (一) 在當局於1997年推行“全校參與”模式的融合教育之前一學年，全港視障及聽障學生完成中五課程後升讀中六的百分比，以及完成中學課程後升讀大學教育資助委員會(“教資會”)資助課程的百分比分別為何；過去3年，在融合教育下就讀普通學校的視障及聽障學生，其升讀中六及教資會資助課程的相關百分比分別為何；在1996年及過去3年，該等百分比與同年全港整體學生的相關升學率分別如何比較；
- (二) 有否評估，推行融合教育後，視障及聽障學生的升學率與其他學生的差距有否得以縮窄；及
- (三) 是否知悉，英國、美國、加拿大和台灣的視障及聽障學生升讀大學的百分比，與當地整體學生升讀大學的百分比如何比較；有否參考這些國家和地區投放哪些資源以支援視障及聽障學生升學，以及有何措施有效地提高他們的升學機會；如有，詳情為何？

Opportunities for further studies for
students with visual and hearing impairment

(20) Hon Emily LAU Wai-hing (Written Reply)

With regard to further education for students with visual impairment (“VI”) and hearing impairment (“HI”), will the Executive Authorities inform this Council:

- (a) in the school year preceding the implementation of the whole school approach to integrated education in 1997, of the respective percentages of students with VI and HI in Hong Kong being admitted to Secondary Six (“S6”) after completing Secondary Five, and those being admitted to programmes funded by the University Grants Committee (“UGC”) after completing secondary education; in the past three years, with regard to those students with VI and HI who had attended ordinary schools under the integrated education approach, of the respective percentages of them being admitted to S6 and UGC-funded programmes; and how such percentages in 1996 and the past three years compare to the corresponding percentages for all students in Hong Kong in the respective years;
- (b) whether they have assessed if, after the implementation of integrated education, the difference in the percentages of further studies for students with VI and HI and other students has been narrowed; and
- (c) whether they know, in the United Kingdom, the United States, Canada and Taiwan, how the percentages of students with VI and HI who have progressed to universities compare to the corresponding percentages for all students; whether they have made reference to the resources being injected in these countries and areas to assist students with VI and HI in pursuing further studies, as well as the measures in place to effectively enhance the opportunities for further studies for these students; if they have, of the details?