

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 15 June 2011

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE 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, S.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, G.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, J.P.

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.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

PUBLIC OFFICERS ATTENDING:

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

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

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, G.B.S., J.P.
SECRETARY FOR FOOD AND HEALTH

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

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

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

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

MR GREGORY SO KAM-LEUNG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

PROF GABRIEL MATTHEW LEUNG, J.P.
UNDER SECRETARY FOR FOOD AND HEALTH

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

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

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instrument	<i>L.N. No.</i>
Prevention and Control of Disease Ordinance (Amendment of Schedule 1) Notice 2011.....	101/2011

Other Papers

Report No. 25/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2011

Report of the Bills Committee on Motor Vehicles (First Registration Tax) (Amendment) Bill 2011

Report of the Bills Committee on Residential Care Homes (Persons with Disabilities) Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Regulation of Overhanging Advertisement Signboards Outside Buildings

1. **MR IP KWOK-HIM** (in Cantonese): *President, at present, in districts where private buildings are in great numbers, such as Wan Chai and Mong Kok, and so on, the advertisement signboards overhanging outside quite a number of buildings are huge in size and they are as high as the buildings. In many cases, the signboards are only owned by some households or even one particular household in the building concerned. However, under the existing legislation, erecting overhanging signboards outside buildings is not subject to regulation by the Deed of Mutual Covenant (DMC), nor does it require the approval of the owners' corporations (OCs). The Buildings Department (BD), which is responsible for vetting and approving applications for erecting such signboards, stresses that in vetting and approving such applications, it only takes into account whether the signboards will affect the structural safety of the buildings. In this connection, will the Government inform this Council:*

- (a) *whether, at present, there are avenues or government departments which can effectively prevent the erection of overhanging signboards outside buildings without the consent of other owners of the buildings; if so, of the details;*
- (b) *whether it has considered amending the existing legislation to address the above situation, so as to safeguard the rights of other owners of the buildings; if it has, of the details; if not, the reasons for that; and*
- (c) *given that while the aforesaid signboards are only owned by individual households, the owners of the entire buildings concerned have to collectively bear the removal costs in the event that the signboards are found to be illegal and have to be removed, and the OCs concerned can only resort to civil litigation to recover the removal costs from owners who are not willing to pay such costs, whether the Government has examined if there are ways to change such a situation; what assistance government departments can provide in respect of such disputes?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, as the question raised by Mr IP Kwok-him involves problems of building safety and management, the Secretary for Home Affairs and I will jointly answer questions from Members.

Any person who carries out buildings works, including erection of signboards, in the common part of a private building shall ensure that the relevant works comply with the requirements under all the current statutory provisions and the legal documents applicable to that common part.

The Buildings Ordinance (Cap. 123) (BO), administered by the BD, aims to regulate the planning, design and construction of buildings and building works, and prescribes the standards regarding structural and fire safety of buildings in order to safeguard the safety of the public. Erection of signboards on external walls of buildings is a kind of building works which shall be regulated under the BO. In this respect, the BD has issued a practice note to specify the display area, spacing, position, material and structural safety standards of the signboards erected on external walls of buildings.

On the other hand, a DMC demarcates the rights, benefits and responsibilities, and so on, amongst property owners. The administration of a DMC rests with the parties to the contract and the Government is not a party to the contract. If a person intends to construct or hang a signboard on an external wall, he should carefully peruse the relevant land lease and DMC to ensure that there will not be any contravention of the relevant provisions. If queries are encountered, he should seek legal advice. Whether the erection of a signboard in the common part of a building will be governed by the DMC depends on the provisions in the DMC concerned. Therefore, I need to point out that the situation that "overhanging signboards outside buildings is not subject to regulation by the DMC" as mentioned in the question could not be concluded in an indiscriminate manner.

Section 14(2) of the BO stipulates that neither the approval of any plans nor the consent to the commencement of any building works from the Building Authority shall be deemed: (a) to confer any title to land; (b) to act as a waiver of any term in any lease or licence; or (c) to grant any exemption from or to permit any contravention of any of the provisions of the BO or of any other enactment. In other words, any approval or consent given by the Building Authority (BA) in

accordance with the BO will, generally speaking, not affect the implementation of the DMC.

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

- (a) Any person who intends to erect a signboard on an external wall of a building should, in addition to obtaining approval of plans and consent to commence works from the Building Authority, ensure that the works will not be in breach of the provisions in other relevant Ordinances and legal documents (including the DMC concerned). The BD has reminded the parties concerned in the practice note related to erection of signboards that it is necessary to seek the consent of the relevant building owners or OC separately, as the case may be, for erection of signboards.

If the plans for erection of a proposed signboard comply with the requirements of the BO, the BD will approve the plans pursuant to the Ordinance. If the proposed signboard is to be erected on a communal external wall of the building, the BD, at the time of approving the plans, will notify the OC, mutual aid committee or management company of the building concerned.

Besides, if a proposed signboard comes under the works of the Minor Works Control System, in the other matters to note shown on the specified forms for carrying out minor works, the BD also reminds the party who intends to arrange for the carrying out of signboard works; the prescribed building professionals; and the prescribed registered contractors, and so on, that if the minor works concerned involve the common part of a building, they should pay attention to the provisions in the DMC of the building and consult the co-owners, OC and/or building management company before commencement of the works. Upon receipt of submission of minor works in respect of a signboard, the BD, when issuing confirmation letter, will deliver a copy of the acknowledgement letter to the OC of the building concerned.

The various arrangements mentioned above enable the owners/OC of the building concerned to be notified of the proposed signboard

works. If the owners/OC have different views towards the proposed signboard works, they may follow up timely the relevant matters with the person who has proposed to erect the signboard.

(b) and (c)

To tackle unauthorized signboards, the BD, pursuant to the provisions in section 24(2)(c) of the BO, issues removal orders to the persons who shall be responsible for removing the unauthorized signboards concerned. Pursuant to the provisions in section 24(2)(c)(i) of the BO, if the relevant signboard has been erected or is being erected for a person (the signboard owner), a removal order shall be served on the signboard owner. If the signboard owner cannot be found, the BD will, pursuant to the provisions in section 24(2)(c)(ii) of the BO, serve a removal order on the person who would receive any rent or other money consideration if the signboard were hired out. Only if the persons referred to in section 24(2)(c)(i) and section 24(2)(c)(ii) of the BO cannot be found, the BD, pursuant to the provisions in section 24(2)(c)(iii) of the BO, will then serve a removal order on the owner of the land or premises on which the signboard has been erected. Therefore, generally speaking, if the signboard concerned is only owned by an individual, the BD will only require that person to remove the signboard.

Regarding the handling of dangerous or abandoned signboards, the BD will, pursuant to section 105(1) of the Public Health and Municipal Services Ordinance (Cap. 132), issue "Dangerous Structure Removal Notices (DSRNs)" to the owners of the signboards to require removal of the signboards concerned. In case of emergency, the BD will initiate to remove dangerous signboards immediately so as to get rid of the imminent or potential danger caused to the public by such signboards, and recover the removal costs from the owners of the signboards afterwards. Therefore, if an OC or an individual household of a building is not the owner of a dangerous or abandoned signboard, the DSRN issued by the BD normally would not involve the OC concerned or the individual household.

I must point out that building owners and OCs have the ultimate responsibilities to properly manage the common parts (including external walls of buildings) of their buildings. As I have just mentioned, a DMC demarcates the rights, benefits and responsibilities, and so on, amongst property owners. It is a private contract amongst the property owners. The administration of a DMC rests with the parties to the contract and the Government is not a party to the contract. For signboards erected on common external walls of buildings without the consent of the building owners/OCs, the owners/OCs can take appropriate follow-up actions according to the provisions in the DMC. If the owners/OCs require professional advice to assist them in handling the relevant matters, they may consult their consultants or approach the Property Management Advisory Centres of the Hong Kong Housing Society to seek assistance.

However, we understand the concerns over signboards by Mr IP and building owners. On the condition that the principles of the BO will not be contravened, we are willing to explore if there are other measures to assist owners/OCs to deal with the signboards erected on external walls of buildings. I hope Members would understand that there will be quite a number of difficulties to be overcome in the exploration process, for example, whether the Building Authority is the appropriate (and empowered) body to step in the dispute between an OC and a signboard owner given the legislative intent of the BO to safeguard building safety. If a signboard owner is mandated to obtain the consent of the owners of the common part prior to erection of signboard, there may be tremendous implementation difficulty if the building has no OC or the OC is inactive. However, we are willing to listen to suggestions and views on this issue from various sectors.

MR IP KWOK-HIM (in Cantonese): *President, I have read the Secretary's reply very carefully and discovered that there is a great problem in it. In the case of the Canal Road area in Wan Chai, when drive on the flyover we will see a lot of large advertisement signboards. There is a true case which is about someone who wants to erect an advertisement signboard on the external wall of a*

building all of a sudden. According to the reply from the Secretary, the Bureau would have sent a copy of the confirmation letter to the OC of the building concerned. However, the chairman of the OC did not receive that letter. The OC would try to stop such an action of erecting an advertisement signboard on the external wall of the building because it came out of the blue suddenly. The OC reported to the police. After the case had been reported to the police, the contractor responsible for erecting the signboard produced the construction plan approved by the BD, saying that the works had been approved. And so the works commenced. In such circumstances, the police said that as the Government had certified that the works were safe, so the contractor was allowed to commence the works concerned. But a lawsuit was instigated after the completion of the works.

Since external walls are a common part of a building, but the works concerned cannot be stopped because the BD has given its approval. In the end, a civil litigation is instigated. Will this cause something undesirable and will it be unfair to the owners? What can the Government do to prevent such cases from happening?

PRESIDENT (in Cantonese): Which Secretary would tackle this question?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I would think that Mr IP's understanding is not entirely correct. If I have caught it correctly, he was saying that since the BD had given the approval to erect an advertisement signboard on the external wall of a building, so the other owners who jointly owned the external walls of that building in question could not take any legal action. But that is not the basis of the law in question. As I have pointed out in the main reply, the BO stipulates that neither the approval of any plans nor the consent to the commencement of any building works by the BA shall be deemed as to confer any title to land, or to act as a waiver of any term in any lease or licence. In other words, the BA will not override any party involved in any dispute concerning title to land. So as a general rule, the BA will not affect the enforcement of a DMC.

Mr IP has also said that we have done a lot of work in giving notices and reminders, but the OC of the building concerned and the owners have not

received any such copies. I will certainly ask the BD to follow the case up. It is because these persons should have received letters from the Government.

Mr IP should know that a DMC is a private contract and the Government is not a party to it. So if the external walls are really the common part of a building jointly owned by all owners, then the dispute will have to be resolved by the contractual parties to the DMC of that building through legal proceedings.

DR SAMSON TAM (in Cantonese): *President, both the main question and the main reply have explained the situation well enough. There is actually some sort of a void in the erection and removal of advertisement signboards, though. The result is that the liabilities of the owners of the building concerned and the owner of the signboard are not clearly defined. The Secretary has said that if all the advertisement signboards were to be brought under regulation, there might be difficulties in consulting the owners if there is no OC for that building concerned. However, I would think that it would be a good thing to make all buildings with an OC come under regulation first. For if not, if the problem is to be tackled until all buildings in Hong Kong have formed OCs, then the matter will be delayed.*

President, we have a lot of these advertisement signboards in Hong Kong, my supplementary question is: Do the authorities have some sort of a database so that we can know just how many signboards there are? More importantly, with respect to part (c) of the main question, if a signboard is to be removed due to damage, danger or non-compliance, there will be a need to find out the owner of the signboard in question, so may I ask the Secretary if there is such a database now? If so, are there any data on the owners of signboards?

PRESIDENT (in Cantonese): Which Secretary will take this question? Secretary for Development, please.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, according to estimates from the BD, there are about 190 000 signboards in Hong Kong of various kinds. In the past, we would take enforcement action against signboards that posed immediate dangers, newly constructed but without our consent, or

certain advertisement signboards of a large size but were illegally erected. Our pledge for this year is to remove 1 600 such advertisement signboards. In 2009 and 2010, we had made great progress in removing discarded illegal signboards and in these two years, we removed some 9 000 such signboards.

As for the proposal to build up a more detailed database, including information about the owners of these signboards which is a concern expressed by Dr TAM, we are presently doing two things and they should be of help in this regard. The first task is, as I have repeatedly emphasized in this Council, to survey the signboards in the 41 000 buildings in Hong Kong. We have begun to take stock of the illegal structures on the external walls of these buildings and it is believed that the work would be completed within one year though a contract project worth \$27 million commissioned by us. As for the second task, that is, to implement the Minor Works Control System (MWCS) introduced at the end of last year so that signboards which comply with the dimensions specified will not have to undergo the stringent application procedures as formerly required. These signboards can come under a certain type of works under the MWCS and only a record of the works should be submitted to us after completion. In this way, we can build up a database gradually which will be conducive to enforcement actions.

DR SAMSON TAM (in Cantonese): *The second part of my supplementary question is: Is the Secretary aware of the percentage of signboards of which the owners can be located?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I do not have such information on hand, and I do not think the BD has any comprehensive information on it either. This is because often we have to investigate and find out who are the owners of such signboards if we want to take any enforcement action such as the service of a removal order. Of course, there is also a large number of discarded signboards around.

MR ALBERT CHAN (in Cantonese): *Insofar as signboards are concerned, there are two grave problems and I hope the Secretary can consider how best they can be addressed. First, as Mr IP Kwok-him said just now, the current*

practice is for the owner of a signboard to take the initiative to apply for approval from the BD and the signboard in question can be erected once approval is granted. But in the course of vetting and approval, the BD does not require the applicant to obtain permission from the OC or management company concerned before an application is lodged with the BD. So when the contractor for the signboard has commenced the works, the police will regard the case as a civil case and the police will not prohibit the contractor from erecting that signboard. However, from the legal point of view, if consent from the title owner is not obtained and if a signboard is erected recklessly on the external walls of a building, that is basically an infringement of the right of personal property and that should be regarded as a criminal case as it is an act of causing damage to property. But, in actual practice, it is most likely that the police will not take any action. I once intervened in a case like this and I raised the point of whether I could erect a signboard at the office of the Hong Kong Police Force, saying that I had got the permission from the owner of the title. This sort of arguments has led to a lot of disputes which can otherwise be prevented and this also affects the handling of these problems by small owners

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

MR ALBERT CHAN (in Cantonese): *President, the best way is for the BD, in the course of vetting an application, to require the applicant to obtain permission from the OC or management company concerned before it will grant an approval.*

The second grave problem is that some of these signboards are erected on the external walls of buildings without an OC. For example, there are some signboards which are erected on the external walls of a six-storey building and these signboards are also six-storey high. Some of these have been there for 20 years

PRESIDENT (in Cantonese): You have said quite a lot. Please come to your supplementary question.

MR ALBERT CHAN (in Cantonese): and they are very dangerous. They have created problems like light pollution and obstructing air ventilation, and so on. With respect to the two problems mentioned by me, may I ask the Secretary whether a territory-wide study and review will be conducted to see how the problems can be ameliorated and addressed, so as to ensure that the rights of the residents and owners will not be infringed upon?

SECRETARY FOR DEVELOPMENT (in Cantonese): About Mr CHAN's supplementary question, we have to determine first and know clearly whether or not the external walls of the building in question are a common part of that building and who the title owners are. My colleagues from the BD have told me that in some of the old deeds, the title of the external walls may only belong to one household and these walls are not common parts. That would involve a problem of title. I suppose the situation about which Members are concerned relate to external walls jointly owned and so the owners will think there is no reason why they have no knowledge of the erection of signboards on the external walls they own. Or should any accident happen to a signboard, they will have to bear the liabilities.

Mr CHAN is correct in his understanding of the matter. Actually, under another piece of legislation, and Secretary TSANG Tak-sing may like to add later — and if I remember it correctly, there is another piece of legislation called the Building Management Ordinance (Cap. 341), and for jointly owned premises, it will be a contravention of the law to carry out any works on the external walls or any jointly owned parts of a building without the consent of the owners concerned. So even if the BO is not invoked, we can still take action by virtue of another piece of legislation.

As to the two problems which Mr CHAN has specifically mentioned, I have said in the last part of my main reply that we have recently talked with Mr IP and he knows that we will introduce an inspection scheme for signboards later. So he has asked us whether or not we will give further thoughts to that. I can say here that we will give further thoughts to that scheme, but the direction we will consider should not run counter to the objectives of the BO, that is, the problem of building safety should be addressed. So if it becomes mandatory to address the problem of land title in the vetting and approval of plans, then it would kind of contradict a main provision in the BO which I read out earlier.

However, we will work hard on that in the next few months to see if the problems which owners find distressing can be addressed with the help of the Home Affairs Bureau by way of laws under their charge or if some intricate and related measures can be introduced to effectively dispel such worries.

As to the question of common parts in buildings which do not have an OC, I think it is a question of building management and perhaps I should defer to Secretary TSANG Tak-sing.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I understand the reason why Mr Albert CHAN has raised this supplementary question to the main question raised by Mr IP Kwok-him and, that is, his hope that the authorities can regard any dispute arising from the owner of a signboard and an OC as a criminal case. Under the existing Building Management Ordinance, such disputes are handled by way of civil proceedings. If any dispute arises, the Home Affairs Department is willing to offer assistance via the District Officers of various districts concerned to help any OC in need. If the party concerned refuses to assume any liability, the OC can apply for an encumbrance attached to their deeds in the Lands Tribunal and sell the property in question.

MR ALBERT CHAN (in Cantonese): *The Secretary for Development may have misunderstood my first question. I was saying that when someone who wanted to erect a signboard was applying for approval from the BD, if the place where the signboard was to be erected belonged to the applicant, the BD should require the applicant to produce proof of private ownership. But if the place was commonly owned, then the applicant had to obtain approval from the OC or management company concerned. I was saying that the applicant should produce proof to the BD, and I was not suggesting that the BD should investigate. I think by so doing, the chances of incidence of problems and disputes mentioned by Mr IP Kwok-him earlier can be reduced.*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): I have not misunderstood the question and the reply given by me is there is no legal basis to achieve what was suggested by Mr CHAN. Members who took part in deliberating on the TPO might remember that at that time discussion was conducted on the point that it would be improper to allow any person to make an application under section 12A or section 16 with respect to land owned by another person. Therefore, an amendment was introduced at that time to add that under the TPO, if any person is to apply to the TPB to change the zoning of a place according to section 12A or to seek a planning approval under section 16, then the person has to use some reasonable means to inform the owner of his intent or seek his consent. The crucial word here is "or" and the consent of the owner may not necessarily have to be sought; and it would be all right if the owner is informed by some reasonable means. This is the area to which I referred just now that we would actively explore in the next few months. However, as I have just said, there is some kind of contradiction with the spirit of the principal intent underlining the BO. But that does not really matter for we will work hard on that in the hope of addressing the distress felt by many owners in this regard.

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

Cruelty to Animals

2. **MS MIRIAM LAU** (in Cantonese): *President, in early May this year, serious incidents involving cruelty to and brutal killing of cats occurred one after another in just a few days, including a female kitten, which was only two months old, suspected to be shot as a live target with an air gun and eight copper-plated metal pellets were found in its body; an adult spotted cat, which was suspected to be poisoned, stuck in a plastic bag before being thrown from the upper floor of a tenement building and died tragically; and a four-month-old stray cat, which was brutally tortured to death, with its spine broken from beating and died tragically with five knife stabs to its abdomen. In this connection, will the Government inform this Council:*

- (a) *of the number of reported cases of cruelty to animals received by the authorities in each of the past five years, with a breakdown by the district in which the incident occurred, the kind of animals involved, the type of incidents and the casualties;*
- (b) *among the reported cases in part (a), of the number of cases in which the authorities were not able to institute prosecution and the reasons for not being able to do so, broken down by the type of cases; whether any new initiative is in place to enhance the successful rate of prosecution; if so, of the details; whether the authorities will consider afresh establishing an "animal police" and offering rewards, so as to increase detection rates; if no new initiative is in place, the reasons for that; and*
- (c) *of the progress of the authorities' work in promoting the prevention of cruelty to animals, and whether they will consider increasing the existing penalty for cruelty to animals; if they will, of the details; if not, the reason for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, over the years, the Government has adopted a multi-pronged strategy comprising education, publicity and law enforcement to raise public awareness of animal rights. The Prevention of Cruelty to Animals Ordinance (Cap. 169) (the Ordinance) was specifically enacted to combat cruelty to animals. Officers from various government departments, including senior veterinary officers, health officers, health inspectors, police officers and authorized officers from Agriculture, Fisheries and Conservation Department (AFCD), may enforce the Ordinance as appropriate.

To further enhance co-operation in handling animal cruelty cases among the departments and organizations concerned, the AFCD, in conjunction with the police, Food and Environmental Hygiene Department and the Society for the Prevention of Cruelty to Animals (Hong Kong), set up a special working group earlier this year to review the work on handling animal cruelty cases. The focus of the working group is on the enhancement of mutual support, the development of guidelines for respective departments to enhance efficiency, and the provision of professional advice by relevant departments and organizations, with a view to

ensuring that the welfare of the animals involved in the cruelty cases is adequately protected. The working group will also study the level of penalty imposed by the Courts for convicted cases. If the penalty is considered to be too lenient, it will make recommendation to the Department of Justice as necessary.

With the significant increase in the maximum penalty under the Ordinance which was initiated by the Administration and endorsed by the Legislative Council in 2006, bringing the fine of \$5,000 to \$200,000 and imprisonment for six months to three years, the maximum penalty now provides sufficient deterrence. My reply to the various parts of the question is as follows:

(a) and (b)

In the years between 2007 and 2010, the AFCD and the police received 190, 187, 157 and 153 reports of suspected cruelty to animals respectively. These reports mainly involved dogs and cats. In fact, upon investigation, it was found that most of the reported cases did not involve cruelty to animals. Over the past five years, there were 70 cases which had been proven to involve animal cruelty and for which there was sufficient evidence for instituting prosecutions. Among these cases, there were 14 in 2006, 18 in each of 2007 and 2008, nine in 2009 and 11 in 2010. The vast majority of prosecutions were successful. In the past five years, there were only seven cases in which the persons involved had not been convicted.

As the nature of animal cruelty cases is distinctive in that most of the animals involved are stray cats and dogs found in secluded locations (such as rear lanes), law-enforcement officers inevitably encounter greater difficulty in collecting and adducing evidence. That said, they are making their best endeavours to bring to justice those who committed cruelty to animals.

The Crime Investigation Teams of various police districts have adequate manpower, experience and professional investigatory skills to handle cases of animal cruelty. If there is an increasing trend of animal cruelty cases in a certain district, the police will consider deploying dedicated teams to investigate the cases in a more

comprehensive and focused way in order to ensure an early detection of the crimes. By allowing greater flexibility in the deployment of resources to efficiently handle animal cruelty cases, such an arrangement will be more effective than setting up "animal police" teams. Besides, the police will consider offering rewards having regard to the nature and needs of individual cases, so as to encourage the public to provide clues for the detection of the cases.

The public is now aware of the various effective channels to report cases of animal abuse, including calling the police or reporting to the AFCD via 1823. We will continue to strengthen publicity and education so as to enhance public awareness of animal abuse cases. We will also encourage the public to report such cases and adduce evidence as and when appropriate.

- (c) Enforcement aside, promotion and education are also important in enhancing public awareness of care for animals. To this end, the AFCD produces television and radio Announcements in the Public Interest and posters to be put up on public transport carriers. Moreover, the department also prepares promotional leaflets, posters and souvenirs for distribution to the public. Activities are organized to promote care for animals and prevention of animal abuse, raise public awareness of animal welfare and bring home the message of respecting life and caring for animals. Last year, the AFCD organized and co-organized with other organizations more than 10 roving exhibitions, promotions in shopping malls and large-scale outdoor publicity activities promoting the message of care for animals.

As I have just pointed out, the maximum penalty under the Ordinance was significantly increased in 2006. We also notice that the sentences handed down by the Court carry a substantial deterrent effect. For instance, in March 2010, a man convicted of abusing a dog was sentenced to two months' imprisonment. In April 2010, a fine of \$7,000 and two weeks' imprisonment were imposed on the owner of a dog farm for negligence of care of dogs.

We consider that, apart from penalties with substantial deterrent effect and appropriate sentencing, the most effective way to reduce the number of animal cruelty cases is to enhance public awareness of respect for life and care for animals. We will therefore continue to enhance the promotional and educational activities in this respect. The timely reporting of any suspected case of cruelty to animals and provision of evidence will also be conducive to successful prosecution and reduction of such cases.

MS MIRIAM LAU (in Cantonese): *President, the principal law for the protection of small animals is the Prevention of Cruelty to Animals Ordinance just mentioned by the Secretary. The Ordinance was enacted back in 1935, modelled on an Act for the protection of animals made in the United Kingdom in 1911. Therefore, the provisions of the existing law for the protection of animals are very old and outdated.*

At present, many foreign countries or regions such as the United Kingdom, the United States, Australia, New Zealand and even Taiwan which is not far away from us, have actually changed their animal protection laws to laws that mainly promote animal welfare. The United Kingdom has also abandoned the relevant Act made in 1911, and it made another law on animal welfare in 2006, that is, the Animal Welfare Act.

To protect small animals more comprehensively, I think that comprehensive legislation as backup must be formulated. Will the Government make reference to the approaches of foreign countries or other regions such as the United Kingdom and Taiwan and review the current Prevention of Cruelty to Animals Ordinance in Hong Kong, amending it into a law for the protection of animals?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): We will review our laws from time to time to consider if, in terms of law enforcement, these laws would enable us to smoothly handle animal abuse cases and respond to people's needs. In light of the present situation, although the relevant Ordinance was apparently made a long time ago, it contained very clear definitions. As it clearly defines the elements that constitute cruelty to animals, it fully performs its

function of protecting animal welfare. We have also successfully prosecuted some persons by invoking this law.

We find it very important to enhance people's sense of responsibility in regard to taking care of pets. For the time being, we should enhance publicity and education; and if the relevant work is inadequate and cases of animal abuse continue to increase, we certainly need to review the law so as to facilitate enforcement. Yet, the present data show that abuse cases and the number of stray cats and dogs have actually dropped slightly, proving that the authorities' publicity and promotional efforts are effective to a certain extent.

MRS REGINA IP (in Cantonese): *President, the Secretary has just given the details about amending the law and increasing the penalty; however, these measures must be complemented by effective arrests. If the persons involved cannot be arrested, the provision of extremely serious penalties will just be futile. Can the Secretary inform this Council of the measures that the authorities have for handling the Bowen Road dog poisoning case that has plagued Mid-Levels residents and caused the tragic poisoning of many dogs for years? The authorities have not yet arrested any suspect.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I know that many people are annoyed by this problem. I have gone to Bowen Road for a personal inspection and found that the police have posted many notices there, reminding dog owners not to allow their dogs to eat food on the ground. I also hope that the residents in the district would notify the authorities as soon as possible if they have any information to facilitate follow-up actions.*

As I have just said, we certainly need to try our best to protect animals, and dog owners have certain responsibilities, too. When members of the public discover any inappropriate behaviour of suspicious persons, they should notify the authorities as quickly as possible so that follow-up actions can be taken.

I believe the police have made great efforts in following up such cases. The present situation is different and it is difficult to ascertain when someone will place food there to poison dogs. However, evidence can often be found in other cases of animal abuse. For example, the first case mentioned by Ms LAU in her

main question was cracked in a short time, the suspect who shot the cat with an air gun was found and he would be prosecuted under legal procedures. Therefore, I hope that anyone who has any information or clues should notify the police or the AFCD as soon as possible to facilitate follow-up actions.

MR CHAN HAK-KAN (in Cantonese): *President, the animal abuse problem in Hong Kong has become very serious and abuse cases are found almost every day. President, a friend of mine sent me a photograph yesterday which showed a kitten in Tsing Yi with corrosive liquids poured on it and its skin peeled off afterwards. I have other photographs showing animals mutilated even more badly, but I am not going to show them here. I just want to say that I will be very sorry if the Secretary is still unwilling to establish an "animal police" to follow up the animal abuse problem.*

The Government mentioned in the main reply that a special working group had been set up to follow up the matter. Nevertheless, can the Secretary tell us the role this working group played in connection with a series of animal abuse cases earlier on? It seems to me that I have not noticed any work undertaken by the working group. If the working group is not so effective, how can the Government solve the increasingly serious animal abuse problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, thanks to Mr CHAN for bringing up this suspected case. I think the most important point is that the public should not just provide Members with the relevant evidence and Members should also help members of the public refer the relevant cases to the police or the AFCD as soon as possible. Follow-up actions should be taken as soon as possible if there is any evidence or information, and the police have operational flexibility in this area. Although the specified "animal police" are not established, there are specialists within the police and the CID has the relevant professional experience. So long as there is a need, the police will mobilize manpower to deal with the work. They would very often make cross-district efforts to tackle such problems because no place or region has been identified as a black spot for such crimes for the time being. All the 18 districts in the territory have the risk of such cases occurring, so the police must flexibly deploy manpower and resources to handle such cases and they would deploy

professionals to perform the tasks. Hence, this is not at all different from establishing an "animal police".

The inter-departmental group has done a lot in terms of policy and procedure, and the police can seek the advice of veterinary surgeons when animal abuse cases happen. The veterinary surgeons can deal with the health and welfare matters of the victimized animals and make a diagnosis as soon as possible, so as to determine whether they can be treated and to examine them with a view to ascertaining the causes of their injuries and the types of abuse they suffered. Such evidence is very important. At this stage, we have adequate mechanisms to handle the animal abuse problem.

MR FRED LI (in Cantonese): *President, the Government has stated in its main reply that most of the animals in the cruelty cases involved stray cats and dogs, so these cases should be handled at source. The Secretary has just said that the number of stray cats and dogs has dropped slightly, but I am still not satisfied. Can the Secretary tell us how slight is the rate of decrease? If there is no stray cat or dog, there will not be any case of animal cruelty. This is a very important premise. Can the Secretary tell us what strategies the Government will adopt in the future to reduce the number of stray cats and dogs as far as possible, thereby reducing animal abuse?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, all policies must be complemented by various other policies. Therefore, besides educating pet owners to take care of their pets in a loving and caring manner, we must also encourage them not to abandon their pets easily.

Moreover, we would also attempt to adopt the trap-neuter-release (TNR) approach as adopted by places with a particularly large number of stray cats and dogs, and we have already briefed Members on this approach at the meeting of the Panel on Food Safety and Environmental Hygiene yesterday. In our view, adopting other methods will not drastically reduce the number of stray cats and dogs. Even though we adopted euthanasia in the past, the prerequisites for euthanasia were that an animal should have an incurable disease insofar as its health condition was concerned, an owner could not be found to adopt it or it could not continue to lead a quality life. I would also like to say that, 10 426

stray cats and dogs were trapped in 2010, slightly fewer than 12 000 in 2009, 13 000 in 2008 and 13 900 in 2007. We will continue to pay close attention to the overall trend in this connection.

MS AUDREY EU (in Cantonese): *President, according to the Secretary, education is the best method but the effectiveness of educational efforts depends on the Government's approach. The Government has turned a deaf ear despite many people have called for the establishment of an "animal police"; and the Government has refused to heed the request made by many people for it to expeditiously implement the TNR policy and stop euthanizing a large number of animals. Hence, its educational efforts are naturally ineffective.*

As stated by the Secretary in the main reply, "If there is an increasing trend of animal cruelty cases in a certain district, the police will consider deploying dedicated teams to investigate the cases in a more comprehensive and focused way in order to ensure an early detection of the crimes." Can the Secretary tell us if the authorities have established the said dedicated teams to investigate any cases so far? If they have not, what are the reasons? How serious should animal cruelty cases be before the authorities would establish dedicated teams to follow up the cases? If they have, can the Secretary tell us where the dedicated teams are deployed? What district do they belong? How many members are there? What are the duties or ranks of their members?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I do not have the relevant information on the manpower and ranks of the police on hand, so I will provide such information later. However, the most important point is that the police have established a system under which the most professional police officers can be mobilized to carry out investigation when necessary. In the course of investigation, we will take into account forensic veterinarian needs and we will study, together with professional veterinary surgeons from the AFCD, the abused condition of animals, the relevant background and the clues that can be followed up. A large number of cases are basically handled this way.*

When the police recently handled the first case mentioned by Ms Miriam LAU about a kitten having been shot by an air gun, some professionals were

called in to conduct studies. For example, ballistics experts were deployed to participate in the investigation and follow up clues about the buyers of air guns. The investigation procedures are basically the same as those in many serious criminal cases. Therefore, we think that the investigation is effective in some measure and these cases can be followed up so long as there is sufficient evidence and we have adequate reasons to be suspicious.

MS AUDREY EU (in Cantonese): *Will the Secretary provide us with supplementary information after the meeting?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I will ask the police to provide the aforesaid information on manpower, ranks and so on. (Appendix I)

PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Third question.

Definition of Marital Status

3. **DR MARGARET NG** (in Cantonese): *President, a member of the public has recently relayed to me that at the time when he filled in an application form relating to the services of the Immigration Department (ImmD), he and his wife were undergoing divorce proceedings but had not yet divorced. As such, he accurately put down "married" on the application form. Yet, the ImmD claimed that he had already "divorced" and charged him for providing false information. In another case, a married couple, despite living separately in two countries, had neither separated nor divorced, yet the husband was instructed by the ImmD that he must put down "separated" on the application form. He then sought assistance from a lawyer who suggested the ImmD to seek legal advice from the Department of Justice (DoJ) on the definition of "divorce" and "separation". Subsequently, the ImmD accepted his application. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of cases in which the ImmD had instituted prosecution in the past three years against the applicants concerned who were suspected to have provided false information on marital status and cases in which the applicants were convicted;*
- (b) *of the definition of different marital status (including "married", "divorced" and "separated") adopted by the ImmD, and whether DoJ's advice has been sought; and*
- (c) *whether the ImmD has taken the initiative to assist the applicants concerned in understanding the definition of different marital status when they fill in application forms; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, we will not comment on individual cases, nor is it appropriate for us to do so. In general, however, if immigration officers suspect that the information on marital status provided by the applicant is incorrect while processing an application under relevant legal provisions, they will allow the applicant to give an explanation. If the explanation furnished is both reasonable and satisfactory, the ImmD will proceed with the application according to procedures for processing the applications. However, if the immigration officers have reasonable grounds to suspect that the applicant has furnished false information, further investigations will then be made. The investigations made and possible prosecution action taken by the ImmD will certainly be based on facts and evidence.

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

- (a) As regards marriage registration, in respect of cases in which prosecution was instituted against those who had made a false declaration for the purpose of procuring a marriage and in contravention of the Crimes Ordinance, there were 68 in total for the period between 2008 and 2010, 65 of which were convicted.

During the same period, there were 678 prosecutions for conspiracy of defraud by means of false marriage (or commonly referred to as

"bogus marriage"), with 624 convicted. Among them, three cases involved visa applications or extensions of stay.

- (b) Under the laws of Hong Kong, "marriages" include those entered into in Hong Kong under the Marriage Ordinance (Cap. 181), which means the voluntary union for life of one man with one woman, and that a rite of marriage recognized by law has been performed in accordance with law. Furthermore, in accordance with the Matrimonial Causes Ordinance (Cap. 179) and the Married Persons Status Ordinance (Cap. 182), a monogamous marriage contracted outside Hong Kong in accordance with law will also be recognized as a legal marriage. Any person who is a party to the above "marriage" is considered "married".

Under the Matrimonial Causes Ordinance, "married" persons may file a petition or an application for divorce to the Court in Hong Kong. The "divorce" will become effective upon conclusion of proceedings and granting of a divorce certificate by the Court. Divorces obtained outside Hong Kong are also recognized under Hong Kong law.

In accordance with the Matrimonial Causes Ordinance, a husband and a wife may enter into a separation agreement or, in other cases, either party may apply to the Court for separation under the Ordinance. Under the common law, apart from considering whether the applicant is living with his/her spouse, factors such as whether the applicant is still maintaining husband-and-wife relationship with his/her spouse (for example, whether they have ceased to recognize the existence of their marriage and whether he/she intends to reconcile with his/her spouse, and so on) will be taken into account before judging whether they have been "separated".

- (c) Immigration officers will provide appropriate assistance to applicants in case they raise any doubt when filling in their marital status. Meanwhile, they may also request applicants to provide supporting documents as appropriate in relation to their marital

status, such as marriage certificates, divorce certificates, deeds of separation or other relevant legal documents.

DR MARGARET NG (in Cantonese): *President, the thrust of my main question is on the provision of false information on marital status. President, the Bureau's reply is really distant from reality. After a person was summoned and told that he would be prosecuted by the ImmD, he would be subject to great mental disturbance despite that he has yet to be convicted. In fact, the two cases cited in my question have already proven that the ImmD officers were wrong whereas the information put down by the two members of the public on the application forms was correct.*

President, please take a look at this application form. You can see that the part under discussion is "marital status", which is obviously the marital status in law as mentioned by the Secretary in his reply. Therefore, my supplementary question is: Has he consulted the DoJ? Since the definitions adopted by the ImmD must be legal definitions, so if a person has to choose between "married" and "divorced" before his divorce becomes effective, he cannot put down "divorced" as it has yet to come into effect. As regards separation, a husband and a wife who live in different places is not regarded as divorced in the legal sense. They will only be regarded as separated after obtaining a decree of judicial separation from the Court. Again, it is absolutely correct for the applicant to put down "married" instead of "separated".

However, the ImmD officers failed to understand that consideration should rather be given to the legal status than the actual place of residence of the couple concerned. Therefore, my supplementary question is: Can the Secretary explain whether the ImmD officers have sought legal advice such that they are aware of the need to follow legal procedures and to avoid wrongly instituting prosecutions, due to a lack of understanding of the relevant laws, against an applicant for providing false information as a result of a failure to correctly state in the form whether he is "married" or "divorced" when divorce proceedings were ongoing? Will the Secretary incorporate the relevant definitions into the application forms to ensure that people will not provide incorrect information, whereas officers will not wrongly institute prosecutions against members of the public due to of a lack of understanding?

SECRETARY FOR SECURITY (in Cantonese): President, the ImmD has all along processed each application with great care. I believe the case mentioned by Dr NG is being handled by the ImmD, which concerns a dependant's application for a visa or an extension of stay in Hong Kong. For this kind of applications, an applicant is required not only to tick the column "marital status" but also to produce documents in support of the application. When processing such applications, one important consideration is whether the applicant and his/her spouse in Hong Kong are maintaining a marital relationship. Under the existing immigration policy, a dependant will be granted permission to stay in Hong Kong for family reunion. Therefore, any changes in the marital relationship between the applicant and his/her spouse will be considered by the ImmD when processing the application. In this connection, questions will be asked by the ImmD officers during an interview to facilitate their making of decisions. If the officers found that the furnished information is misleading during an interview or the handling process, they have a legal obligation to carry out an investigation.

In response to the Member's supplementary question, the ImmD will consider using a clearer and simpler form completion note in the application forms. Regarding the definition of marriage, ImmD officers will definitely seek legal advice from the DoJ when a legal issue arises. If the ImmD finds it necessary to provide all officers with a clearer understanding of definitions, guidelines will be issued and training will also be provided.

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

DR MARGARET NG (in Cantonese): *The part which the Secretary has not answered is, as stated in the Secretary's reply, there is a column in the application form concerning the legal definition of marital status. It is not about whether the marriage is happy*

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

DR MARGARET NG (in Cantonese): *but about the legal status of a marriage. My supplementary question is: Will the Secretary provide a clear legal definition of the term in the application form to prevent misunderstanding by the public?*

SECRETARY FOR SECURITY (in Cantonese): I have already answered it. The ImmD will proactively consider using clearer and simpler expressions to enable all applicants to understand the definitions of the parts to be filled in or ticked in the application form.

MR JEFFREY LAM (in Cantonese): *President, I registered a marriage once in Hong Kong and have no intention of doing it a second time. People who made false statement about their marital status when registering a marriage had invariably claimed that they are single or divorced when they had actually got married in Hong Kong or abroad. May I ask the Secretary, in that case, whether those people will be charged with bigamy after claiming to be single or divorced? Can the ImmD advise this Council of the enforcement situation and the number of prosecutions instituted?*

SECRETARY FOR SECURITY (in Cantonese): President, in principle, anyone who, being married, marries any other person during the life of the former husband or wife shall be guilty of bigamy under the Offences Against the Person Ordinance. Law-enforcement officers must prove that the suspect, who is attempting to get married again, has already entered into a valid marriage with a third party. In addition, law-enforcement officers must also have a clear understanding that the person who is attempting to get married again is well aware of the relevant fact. If he was registered married abroad, more evidence would have to be gathered. There were 68 prosecutions of such cases over the past few years. While eight of them were charged with bigamy, the rest were charged with making false declaration in the course of registering marriages. Of the eight cases of bigamy, seven people were convicted.

On the whole, just as I have pointed out in the main reply, we have instituted a total of 68 prosecutions during the period between 2008 and 2010, and there were 65 convictions.

Bigamy is indeed a very serious offence, and it would bring significant problems to the family concerned. Therefore, when such cases are detected, the ImmD will conduct serious investigations and institute prosecutions when there is sufficient evidence.

MR WONG YUNG-KAN (in Cantonese): *President, my office has also received a number of these so-called bogus marriage cases in recent years. May I ask the Administration the number of applications filed for registration of changes in marital status during the past few years? What information would have to be supplied and whether declarations are necessary? How can the supplied information be verified? Will the Government conduct any investigation? If not, what problem will arise?*

Furthermore, there is another problem involving foreigners, that is, marriage with people from Southeast Asia. For instance, a Hong Kong resident married a foreigner who disappeared not long afterwards. May I ask the Administration, in case If I detect any irregularities with the person who came to my office, I would certainly advise him to report to the police. Is it possible for the Administration to contact the relevant consulates or consider what can be done to help combat this kind of problem?

PRESIDENT (in Cantonese): Mr WONG, you have raised a number of supplementary questions.

MR WONG YUNG-KAN (in Cantonese): *I will keep the last question. Is it possible for the Administration to help those foreigners, that is, the Southeast Asian people who have marriage problems, to resolve their problems?*

SECRETARY FOR SECURITY (in Cantonese): Let me first answer the last part of Mr WONG Yung-kan's supplementary question. As I have pointed out earlier on, marriages may not only be entered into in Hong Kong under the laws of Hong Kong. If a marriage is entered into outside Hong Kong under the prevailing local laws, it may also be recognized in Hong Kong. That is why we sometimes come across cases where a man and a woman, who claimed to have

entered into a legal marriage abroad, filed an application with the ImmD by producing a marriage certificate of other countries. In case we have queries about the furnished documents when processing the applications, generally speaking, enquiries will be made with the relevant consulates in Hong Kong and see if they can help to prove the authenticity and validity of the marriage certificate concerned. If irregularities are detected and substantiated, there will be *prima facie* evidence of the production of inaccurate or false documents to support an application, which is a criminal offence. With such evidence in hand, ImmD officers will certainly proceed with an investigation.

Regarding bogus marriages, perhaps I can provide some figures here. Over the past three years, there were 678 prosecutions for conspiracy to defraud ImmD officers by means of bogus marriage, with 624 convicted. Given the severity of the problem, a task force has been set up by the ImmD to combat illegal marriages. It is tasked to collect intelligence through various channels and exchange information with overseas law-enforcement authorities. If we have reasonable grounds to suspect that a Hong Kong person and a foreigner have entered into a bogus marriage for the purpose of obtaining residence qualification, the ImmD will definitely handle and look into the case in a serious manner. If any person is found to have obtained the resident status by illegal means, we will act in accordance with the law if the case is substantiated, and such actions include revoking the relevant identity card and residence qualification and repatriate the person concerned to his place of origin.

MR RONNY TONG (in Cantonese): *President, I think that the Secretary has not answered Dr Margaret NG's supplementary question at all. The crux of the question is whether ImmD officers have been instructed to request travellers to state their legal status or legal marital status. If legal status is the point in question, I would like to know whether the front-line staff concerned would be prosecuted for abetting or threatening other people to make a false statement. If not, why was the staff not prosecuted? If legal status is not the point in question, then shall we add two more boxes to the application forms, namely "happy marriage" and "bedfellow"?*

SECRETARY FOR SECURITY (in Cantonese): There is one point I need to clarify. As far as I understand it, such cases usually involve foreigners

requesting to come to reside in Hong Kong as dependants. Under the immigration policy, the two parties concerned are required to prove their legal relationship, am I right? That is why there is a column called "marital status" in the application form. Furthermore, the policy also requires the applicants to prove that they are maintaining a marital relationship. Why? Because the applicant is a dependant, and the purpose of the policy is to facilitate family reunion. For reunion, it means that the husband and wife will live together in Hong Kong. Therefore, generally speaking, apart from ticking the appropriate box, more information will be required to prove that the applicant is willing to live with his/her spouse in Hong Kong.

Apart from the application form mentioned by Dr Margaret NG, an applicant may also be required to declare, upon approval of his application for an extension of stay, any changes in his/her marital status since the submission of the application. In case there is any change in the status, the applicant will be invited to give an account on it. When handling this kind of applications, ImmD officers would by all means clearly explain to applicants who have any difficulties or problems the necessary information to be produced. There is no question of abetting at all. However, if we discover that the information supplied by the applicant is misleading when handling the application, investigations will be conducted in accordance with the law. Certainly, if sufficient evidence is collected after the investigation, advice from the DoJ will be sought where necessary and a decision on prosecution will be made.

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

MR RONNY TONG (in Cantonese): *President, you are also aware that he has not answered it at all.*

PRESIDENT (in Cantonese): Please clearly state your supplementary question.

MR RONNY TONG (in Cantonese): *My supplementary question is: Is he requesting information on the applicant's legal status? President, honestly*

speaking, an application of divorce does not necessarily lead to a divorce. In fact, our law encourages parties who have filed an application for divorce to withdraw their application after mediation.

PRESIDENT (in Cantonese): Mr TONG, can you repeat your supplementary question in a simpler way?

MR RONNY TONG (in Cantonese): *To put it simply, President, he has not answered my supplementary question on whether information on legal status should be provided. If legal status is the point in question, the fact that the applicant had put down "married" without specifying that he has "divorced" does not constitute any mistake in law. Rather, it is the ImmD officer who had made a mistake by abetting other people to provide false information. Originally, the applicant*

PRESIDENT (in Cantonese): Mr TONG, your question is clear enough.

MR RONNY TONG (in Cantonese): *..... was "married", but the officer concerned had made him put down "divorced". Should we prosecute this ImmD officer instead?*

PRESIDENT (in Cantonese): Secretary, Mr TONG's supplementary question is about whether an applicant is required to put down in the column "marital status" his marriage status as defined in law.

SECRETARY FOR SECURITY (in Cantonese): Firstly, although the application form only asks about the marital status, we do not only look at the applicant's marital status when processing the relevant application, but also the policy under which a permission to stay in Hong Kong will be granted, which is the policy of family reunion. Therefore, it is necessary for the applicant to maintain a marital relationship. Legally speaking, if a person's marital status is not held by the Court to be divorced, his marital status remains unchanged.

However, in respect of his marital relationship, is the couple willing to live together thereafter? This is a matter of policy. The vetting of his application will not continue until this condition is met. Also, we have stated clearly in the form completion note that an application filed by a dependant for entry for residence in Hong Kong will only be considered provided that the applicant still meets the dependant requirement.

MR RONNY TONG (in Cantonese): *I suggest him to add one more box called "bedfellow".*

PRESIDENT (in Cantonese): We have spent more than 25 minutes on this question. Fourth question. Mr Albert HO will ask this oral question for Mr James TO.

Abolition of District Council Appointment System

4. **MR ALBERT HO** (in Cantonese): *President, the Government advised the Panel on Constitutional Affairs of this Council (the Panel) in July last year that proposals concerning the abolition of the District Council (DC) appointment system would be submitted to the Panel, but the Government has to date still not submitted the relevant proposals. Given that the forthcoming election for the fourth-term DCs is imminent as it will be held on 6 November this year, will the Government inform this Council:*

- (a) *whether the DC appointment system will be completely abolished by means of amending the District Councils Ordinance; if so, of the details; if not, the reasons for that;*
- (b) *whether it will put forward the details of the abolition of the DC appointment system after the announcement of the results of the election for the fourth term DCs; if it will, whether such an arrangement is made because of the need to analyse the changes of political forces at district level; and*

- (c) *whether it has assessed if the complete abolition of the DC appointment system is conducive to expediting the development towards democratization of Hong Kong; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the Government's reply to the question which Mr Albert HO asked for Mr James TO is as follows:

- (a) When the Chief Executive made a public statement on 21 June 2010 regarding the 2012 constitutional reform package, he stated that after the passage of the motions on constitutional reform by the Legislative Council, we shall put forth proposals for the abolition of the DC appointment system. The SAR Government will take forward this issue in accordance with this position.

At present, we are examining internally the issue of abolition of the DC appointment system and have not yet decided on the final proposal. We will put forth the proposal as soon as practicable and will deal with any issues concerning the District Councils Ordinance at that time.

- (b) We will endeavour to put forth the proposal for abolishing the DC appointment system as soon as practicable. We will aim at putting forth the proposal before the ordinary election of the fourth-term DC.
- (c) With regard to democratic developments in Hong Kong, the Standing Committee of the National People's Congress (NPCSC) made a decision on 29 December 2007, making clear the timetable for universal suffrage: Hong Kong may implement universal suffrage for the Chief Executive in 2017 and subsequently for the Legislative Council in 2020. This is a most significant breakthrough in the constitutional development of the Hong Kong SAR.

Last year, we put forth the proposal concerning the amendments to the methods for the selection of the Chief Executive and for the

formation of Legislative Council in 2012, including the "one-person-two-votes" proposal for returning the five new DC functional constituency (FC) seats in 2012. On 24 and 25 June 2010, the Legislative Council passed by a two-thirds majority the motions put forth by the Government concerning the draft amendments to the methods for the selection of the Chief Executive and for the formation of the Legislative Council in 2012.

The Chief Executive gave consent to the draft amendments on 29 June 2010.

The NPCSC approved and recorded respectively the amendments to Annexes I and II of the Basic Law on 28 August 2010.

On 3 and 5 March this year, the Legislative Council passed respectively the Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010, which provide for the relevant amendments.

The above developments represent important milestones of the Hong Kong SAR moving towards universal suffrage. The five new DC FC seats will be elected by 3.2 million registered electors. This will greatly enhance the democratic elements of the Legislative Council election. This is also the most important part of the DC system concerning the constitutional development. The abolition of the DC appointment system is an important issue and a development which we are all concerned about. However, there is no direct relationship between the abolition of the DC appointment system and the ultimate aim of attaining universal suffrage for the selection of the Chief Executive and the formation of the Legislative Council under Articles 45 and 68 of the Basic Law.

MR ALBERT HO (in Cantonese): *I am deeply dismayed that to date, the Government has not yet finalized the schedule and proposal for the abolition of the DC appointment system, which is a policy that should have already been formulated, including whether amendments should be made to the District Councils Ordinance.*

The Government stated in the main reply that it is still examining this issue. May I ask what is being examined? Does the Government wish to wait until the results of the DC election are announced so that it can see how the forces of the pro-Government political parties and groupings balance with others and whether it is necessary to preserve the appointment system for the Government's continued control on the DCs?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have clearly stated in part (b) of my main reply that "we will aim at putting forth the proposal before the ordinary election of the fourth-term DC". Mr Albert HO is concerned that we will carry out a political assessment on the results of the forthcoming DC election, but his concern is unfounded.

On the other hand, President, I wish to explain to Members through you that since the passage of the 2012 constitutional reform package in June 2010, we have been working proactively to follow up the policy and the legislative amendments. We have tabled four bills and other relevant subsidiary legislation to the Legislative Council, including the two Bills which were proposed in 2010 and passed in March this year concerning the proposals on the Chief Executive and Legislative Council elections, which I just mentioned. There are two outstanding items which are being scrutinized by this Council. One is a bill on the miscellaneous amendments and the other is a bill on the replacement mechanism for the Legislative Council election. Hence, we have been working non-stop all along.

With respect to the review of the DC appointment system, President, we will advise Members of the result as soon as practicable.

MR ALBERT HO (in Cantonese): *The Secretary has not answered my question about what is being examined by the Government.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we are examining a proposal how best to abolish the DC appointment system.

MR WONG YUK-MAN (in Cantonese): *President, it is almost a consensus among most democratic Members that the DC appointment system should be abolished. However, the Democratic Party did not cite this as a condition for their support of the constitutional reform package when it negotiated with the Government. What are they saying now? It is really awkward. Even Mr Frederick FUNG is so. At that time, he said that he would definitely not support the constitutional reform package if the Government did not abolish the DC appointment system. In the end, he supported the package anyhow. So, I tell you all, the Government will surely have its way with you.*

The Government would say: we would not abolish it now, not for the time being. What can you do about it

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

MR WONG YUK-MAN (in Cantonese): *..... in phases; it is unclear how it will be done in phases. What the Secretary said just now was utterly coming from the "human tape recorder", blathering his way to the end. Examine, examine what?*

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

MR WONG YUK-MAN (in Cantonese): *I want the Secretary to tell us when. Give us a timetable. Okay? Tell us clearly and don't blather about examining. When will it be done?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we will advise Members as soon as practicable.

MR WONG YUK-MAN (in Cantonese): *What is as soon as practicable? What is "as soon as practicable"? One year can be "as soon as practicable", so can two years, three years Is he out of his mind? As soon as practicable Continue to act like a "human tape recorder"*

PRESIDENT (in Cantonese): Mr WONG, please stop speaking and sit down. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, may I invite Mr WONG Yuk-man and other Members to review part (b) of my main reply where I said that "we will aim at putting forth the proposal before the ordinary election of the fourth-term DC."

MR CHEUNG MAN-KWONG (in Cantonese): *President, 17 years ago in 1994 when Hong Kong was still a colony, the appointment system of the then District Boards had already been abolished. Now in 2011, 17 years down the line, the SAR Government still preserves the DC appointment system. Seventeen years are a long time, but after all these years the appointment system still exists, after a revival. This is regression in democracy.*

Will the Government abolish all appointed seats in one go in the next DC, so that the DCs will not become less democratic than the District Boards during the colony era and that the monstrous appointed seats will not be still preserved in the DCs by 2017 when the Chief Executive will already be returned by universal suffrage?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr CHEUNG Man-kwong mentioned the political reform package in 1995. Members should remember that the political reform package just survived a brief period of time and was removed two years later.

Conversely, today, after the reunification, we have a timetable for universal suffrage. This is another prominent milestone following the formulation of the Basic Law in 1990. Moreover, we have a specific goal, that is, to return the

Chief Executive through "one person, one vote" in 2017 and subsequently return all Legislative Council Members by universal suffrage in 2020.

Last year, this Council also endorsed the constitutional reform package, including the "one-person-two-votes" proposal for the 2012 election, meaning that all people from then onwards will be able to have one vote for returning the geographical constituency Members and another vote for returning FC Members. It will be more balanced and even than it was the case in the past.

With respect to Mr CHEUNG Man-kwong's question, namely how we are going to abolish the DC appointment system, President, I notice that there are two schools of views inside and outside this Council. Some political parties and groupings as well as organizations and individuals suggest that all the 102 appointed DC seats should be abolished in one go, while some other political parties and groupings suggest that the seats should be abolished in phases. President, we will comprehensively assess these views and advise this Council of the result as soon as practicable.

DR LAM TAI-FAI (in Cantonese): *The elections for the fourth-term DC will definitely be intense and there will be heated competition. Members are all aware that different political parties and groupings are ready for the fist-fight and have been making preparations at the district level. I heard that many appointed DC members are interested in standing for the direct elections and that many heavyweight Legislative Council Members may stand in certain district elections. Hence, the competition will definitely be fierce.*

Certainly, I believe that those heavy weight Members who plan to stand in the elections are not doing it for the meagre remunerations of \$20,000-odd as the Government seldom increases the remunerations of DC members, but rather, I believe they will do it for political reasons, hoping that joining the election can increase their political power

PRESIDENT (in Cantonese): Dr LAM, please raise your supplementary question.

DR LAM TAI-FAI (in Cantonese): *I have this supplementary for the Secretary. In relation to part (b) of Mr James TO's main question, whether he will take the political forces as a factor in considering whether the DC appointment system should be abolished in one go or in phases? As many heavyweight Members intend to join the district election because of the political forces, will he take it as a factor of consideration?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we will comprehensively consider the work of the DCs at the district level and how elected and appointed DC members have been working together over the years and their contribution towards different aspects of community work. We will also consider Members' proposals on the abolition of the DC appointment system, including the two main views: some opine that the system should be abolished in one go while others opine that it should be abolished in phases. We will advise Members of the details when we revert to Members.

Dr LAM Tai-fai said that some heavyweight figures wish to participate in politics through the forthcoming DC election and then proceed to the election in September next year to contest for the super Legislative Council seats. President, the SAR Government certainly welcomes this. No matter it is the DC election, the Legislative Council election next year or any other elections, we welcome aspiring candidates to stand in elections, so as to give our voters more choices.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary is really audacious and shameless as shown in his reply to Mr CHEUNG Man-kwong's supplementary question just now. Out of no reason he mentioned the short-lived democracy in 1995. Honestly, that was by no means democracy. The election in 1995 was not genuinely democratic, nor was it completely universal suffrage. Then, he talked about the democratization agenda after the unification. He is indeed audacious and shameless.*

From now until 2012, the electoral system will still be comprised of Members returned by geographical direct elections and by FCs, with each taking half of the seats. In other words, half of the seats are still returned by FCs.

Will universal suffrage truly be implemented in 2020? We do not know. We know nothing. Secretary, it has been ten-odd years now. Universal suffrage has yet to be seen in Hong Kong.

My supplementary question today The President will certainly say that we are now discussing the DC

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

MR LEE CHEUK-YAN (in Cantonese): *Yes, I wish to raise a question on the DC. May I ask the Secretary when he will demolish the illegal structure? The DC appointment system is a form of "illegal structure" which was abolished in the colonial era before 1997, in 1994 to be exact. However, you "illegally erected" this appointment system in 1998. It is an illegal structure on your own home and you said that you would demolish it as soon as practicable. Yet, it has been "illegally erected" for 10-odd years since 1998. Why is it not demolished? When will it be demolished? Will it be demolished in one go? It has to be examined, so they said, but what is there to examine? You said you would demolish your illegal structure, but why would you not say: let us examine it first and see if it needs to be demolished? Why does the appointment system need to be examined? Just simply demolish it in one go.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr LEE Cheuk-yan has talked about the development of the constitutional system as a whole. I also wish to talk about why the "one-person-two-votes" model is so important. The reason is that there were 3.43 million votes in the last district direct election, and there were 230 000 votes from the FCs. Adding them together, 3.6 million people can vote in each Legislative Council election. If the election in September next year adopts the "one-person-two-votes" model, the total number of votes will be

MR WONG YUK-MAN (in Cantonese): *President, this is irrelevant to the supplementary question. What he is saying now is irrelevant to the supplementary question. You can stop us from speaking, why do you not stop him?*

PRESIDENT (in Cantonese): Mr WONG, it is not your speaking time now. Please sit down. Secretary, please continue.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): This is the background information and regarding Mr LEE Cheuk-yan's supplementary question asking about our decision, President, we are assessing the views received and examining how the proposal should be formulated. Mr LEE Cheuk-yan proposed the one-off abolition of the appointment system, which is one school of view, but there is another school of view asking for the abolition of the appointment system in phases. In any case, we will take forward this issue according to law.

PRESIDENT (in Cantonese): Fifth question.

Measures to Alleviate Pressure on Obstetrics Services in Public Hospitals

5. **MR JEFFREY LAM** (in Cantonese): *President, given that Mainland pregnant women giving birth in Hong Kong one after another have caused obstetric services of the public hospitals in Hong Kong to become overloaded, the Government has planned to set quotas on the admission of Mainland pregnant women giving birth in public and private hospitals next year, so as to address the problem of severe imbalance between the demand and supply of obstetric services. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the setting of such quotas will result in a vast number of Mainland pregnant women rushing to Accidents and Emergency Departments (A&EDs) for delivery without making appointment, causing A&EDs, which are already suffering from tight manpower, to become overloaded, and affecting the normal medical services provided to other patients; whether the Government has considered substantially raising the charges on Mainland pregnant women seeking admission to hospitals through A&EDs for delivery, so as to lessen their incentives to give birth in Hong Kong; and whether it will liaise with the Mainland authorities to formulate*

more stringent measures to restrict Mainland pregnant women from giving birth in Hong Kong;

- (b) whether it has examined measures to facilitate the development of related medical industries to meet the continuous increase in demand for obstetric services in future; whether it has considered setting up an obstetrics and gynaecology hospital in Hong Kong; and*
- (c) given that the Hospital Authority (HA), with a view to tackling the manpower shortage problem, has advertised for the recruitment of non-local registered doctors, and the requirements of the positions include proficiency in Cantonese and possessing a qualification comparable to the Intermediate Examinations of constituent Colleges of the Hong Kong Academy of Medicine, whether it knows if the response so far to the recruitment of obstetricians is satisfactory; whether the Government will consider relaxing the qualifications of non-local registered obstetricians applying for the relevant positions, for example, by making reference to the list for exemption from "licensing examination" introduced in Singapore, and directly allow doctors graduated from renowned non-local medical schools to practise in Hong Kong, so as to alleviate the tight manpower supply for obstetric services?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, it is the Government's policy to ensure that Hong Kong residents are given proper and adequate obstetric services. The Administration is very concerned about the surge of demand for obstetric services in Hong Kong by non-local women (including Mainland women) in recent years, which has caused tremendous pressure on the overall obstetric and neonatal care services.

We have proposed a number of measures to ensure that local pregnant women are given priority for obstetric services. Such measures include requiring non-local pregnant women who intend to have deliveries in Hong Kong to undergo antenatal check-ups by obstetricians in Hong Kong at an appropriate stage for assessment on whether they are suitable to give birth in Hong Kong. We will discuss with both public and private hospitals to determine in the first

quarter of each year the number of non-local pregnant women allowed to give birth in Hong Kong in the following year. My reply to various parts of the question is as follow:

- (a) Under the current arrangements, all non-local pregnant women who seek obstetric services in public hospitals have to make prior booking and pay for a package charge of \$39,000. For cases of delivery by emergency admission through the A&EDs without prior booking, or without attending any antenatal attendance at an HA hospital, the charge would be \$48,000. These measures can help encourage non-local pregnant women to make prior booking when using public obstetric services.

The series of new measures proposed by the Administration, including the proposal that non-local pregnant women should receive check-ups by doctors, aim to protect the safety of pregnant women and their foetus. We hope the pregnant women would take their own safety and that of their babies as their prime consideration and avoid the dangerous behaviour of seeking emergency deliveries through A&EDs shortly before labour. The HA will closely monitor the demand for obstetric services and the number of pregnant women seeking emergency deliveries through A&EDs, in considering appropriate measures to tackle the problem.

- (b) The healthcare services of Hong Kong are of international standard. We aim to develop the medical industry as one of the six industries crucial to the development of Hong Kong's economy. The development of healthcare industry can also further enhance the overall standard of healthcare services in Hong Kong. The Administration has reserved four sites at Wong Chuk Hang, Tseung Kwan O, Tai Po and Lantau for private hospital development. We are now formulating suitable land disposal arrangements and plan to dispose of the sites in phases starting from end-2011 or 2012.

The new private hospitals to be developed on the four sites can provide obstetric services. At the same time, the Administration will ensure that the new hospitals will provide quality services that meet the community's healthcare needs. As such, the Government

will formulate a set of special requirements for development of the sites, covering such aspects as scope of service, price transparency, service standard, and so on.

In addition, subject to compliance of the development with relevant statutory and regulatory requirements, the Government supports the expansion or redevelopment projects of existing private hospitals for enhancement of their services as well as the development of new hospitals, so as to enhance the overall capacity of the healthcare system in Hong Kong. To facilitate the development of the medical industry, we will continue to encourage tertiary institutions to increase student places for the relevant healthcare professions. The HA will also strengthen its manpower training accordingly.

- (c) Under the Medical Registration Ordinance (the Ordinance), with the exception of graduates of the faculties of medicine of The Chinese University of Hong Kong and the University of Hong Kong, all those who intend to obtain a practising licence through registration with the Medical Council, regardless of whether or not they have already obtained a practising licence outside Hong Kong, are required to satisfy the Council that they have completed medical training and hold a medical qualification approved by the Council, sat and passed the Medical Council's Licensing Examination and completed successfully a 12-month internship training in Hong Kong before they can register as medical practitioners in Hong Kong. The Licensing Examination of the Medical Council aims to ensure that those who wish to register as medical practitioners in Hong Kong after receiving medical training outside Hong Kong have attained a professional standard comparable to that of local medical graduates, so as to safeguard the quality standard of our healthcare services and public health.

The Ordinance also empowers the Medical Council to approve individual applications of overseas medical practitioners for limited registration for a period not exceeding one year. Applicants must meet the qualifications stipulated in the Ordinance. Upon approval and endorsement by the Council, they can be exempted from taking

the Licensing Examination and registered as medical practitioners with limited registration.

In order to address the manpower problem faced by its Obstetric and Gynaecology departments, the HA has taken a number of measures to strengthen the recruitment and retention of healthcare staff and improve the working environment of its staff. The HA is also planning to employ non-local doctors with limited registration on a trial basis to strengthen its manpower. Applicants are required to have several years of experience and have acquired a qualification of intermediate examinations recognized by the constituent colleges of the Hong Kong Academy of Medicine. The HA will review details of the scheme in light of the response to the first round of the recruitment exercise.

MR JEFFREY LAM (in Cantonese): *President, it is a fact that doctors trained locally are excellent. But it is a question of personal judgment as to whether non-local doctors are less capable than local doctors. Nonetheless, the serious shortage of manpower in public hospitals is an indisputable fact. We can read from newspapers these days that all healthcare staff are working in "exhaustion". As we all know, doctors graduated from renowned non-local medical schools are allowed to practise in Singapore direct without taking any examination. In fact, a similar proposal has been discussed for a long time in Hong Kong, yet seemingly without any substantial progress, and the matter is still undecided. Can this proposal help alleviate the current manpower shortage of medical practitioners in Hong Kong? I hope the Secretary can give us some further enlightenments.*

Apart from these medical practitioners, some specialist doctors would also come to Hong Kong to attend to urgent cases because there is no doctor of that specific specialty in Hong Kong. When they come to Hong Kong, they must also practise without a licence. Under the current system of Hong Kong, can the Government relax the existing requirements in handling cases of non-local doctors coming to Hong Kong to treat patients and grant them some sort of short-term or even temporary practising licences? In fact, the duration of a 12-month internship is quite long, and I hope the Secretary can respond to my question about the admission of non-local doctors.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as a general rule, applications from medical practitioners for limited registration in Hong Kong for a period not exceeding one year as currently vetted and approved by the Medical Council must be made through the Department of Health, the HA or the two universities. Applications from individuals are not entertained. Hence, for complicated medical cases or cases with special need as mentioned by the Honourable Member which require specialists to come to Hong Kong to administer treatment, it will be necessary to go through such a process before the relevant service can be provided to the patients in Hong Kong.

However, if the relevant specialists intend to practise in private hospitals, the process will of course be more complicated. The requirement for doctors to complete a 12-month internship as just mentioned applies to those who intend to provide long-term service in Hong Kong. Hence, they must pass the licensing examination of Hong Kong and attain a professional standard comparable to that of local medical graduates before they are allowed to practise in Hong Kong. Those are the current requirements of the Medical Council.

As to the question of whether we will recognize the medical or other qualifications held by medical practitioners who graduated outside Hong Kong, and consider that their qualifications are on par with those of Hong Kong so that they can be exempted from the licensing examination, it would require detailed consideration by the Medical Council. I recall that before 1997, similar arrangements were in place between Hong Kong and all Commonwealth universities. At the same time, doctors who graduated in Hong Kong could obtain a medical licence in certain Commonwealth territories direct without taking any examination. That was a bilateral agreement. But, of course, the relevant agreement could no longer be implemented after 1997. Regarding this question, we must work according to the conditions imposed by different universities and governments. Hence, we will continue to explore whether practical arrangements can be made so as to ensure not only a sufficient supply of doctors, but a sufficient supply of quality doctors in Hong Kong. These two aspects are both very important.

I understand that the HA needs to recruit additional doctors for certain specialist departments. Under its current practice, after the close of applications, information on the applicants will also be passed to the head of various specialist departments for vetting to see whether any candidate meets their requirements.

It is only when considered suitable by the head of a specialist department that an application would be submitted to the Medical Council.

MR WONG YUK-MAN (in Cantonese): *President, our existing policy involves a number of issues, and one of them is really bizarre. We all know that Mainland spouses of Hong Kong residents must pay for the use of public healthcare services. But now, they cannot come to Hong Kong to give birth even if they pay for the service. However, in discussing the question of Mainland women coming to Hong Kong to give birth, the Government has lumped together two different situations, namely those where both the husband and wife are non-Hong Kong residents and those of Mainland spouses of Hong Kong residents. In the case of Hong Kong residents married to Mainland women and the wives wanting to come to Hong Kong to give birth, what is the rationale for not letting them use the public healthcare services of Hong Kong? There is none except for the lack of resources.*

But this standard does not apply to civil servants. For civil servants married to Mainland women, their spouses can come to Hong Kong to give birth without any charge. What standard is that? All these women are Mainland spouses of Hong Kong residents, but if their husbands are civil servants, they can come to Hong Kong to give birth and use the public healthcare services of Hong Kong. It is wrong to apply such double standard.

May I ask the Secretary whether this policy will be changed? Second, the Secretary has not answered the main question of Mr Jeffrey LAM. Given the current manpower shortage and high wastage rate of obstetric nurses and doctors, why does the Government not change the current system, or even make legislation, so that non-local doctors and nurses can come to Hong Kong to provide services? That is a profit-making proposal. Do Members know that profits can be made by public hospitals from the charge of \$39,000 for obstetric services? But instead of considering this proposal, the Government has introduced discriminatory measures and its policies do not have any long-term vision

PRESIDENT (in Cantonese): Mr WONG, you have already asked your supplementary question. Please sit down.

MR WONG YUK-MAN (in Cantonese): *My supplementary question is: Just now, the Secretary*

PRESIDENT (in Cantonese): You have already clearly stated your supplementary question. Secretary, please.

MR WONG YUK-MAN (in Cantonese): *No, the Secretary needs to answer my first supplementary question. My question for him is: How come the Mainland spouses of civil servants can come to Hong Kong to give birth free of charge*

PRESIDENT (in Cantonese): Mr WONG, please sit down and let the Secretary reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as far as I know, the entitlement to medical benefits of civil servants is a matter of policy between the employer and employees. The situation is the same as many private organizations. By virtue of their status, they can use public healthcare services, and this has nothing to do with our current policy.

That said, I must draw Members' attention to the fact that under our healthcare policy, we are only concerned with the identity of persons who actually receive the healthcare services, not their spouses or any other persons to whom they are related. All along, we have adhered to this principle, and the same principle is applied all over the world in respect of the provision of public-sector healthcare services. Likewise, if a person goes to the Mainland, he cannot use such services as a Mainland citizen even though he has married a Mainland woman. That is not possible. Therefore, we will adopt the same principle at all times.

Of course, Members may have different views about the identity of Mainland women depending on whether their spouses are Hong Kong residents. I totally understand the views of Members. But in terms of policy, the provision

of healthcare services and the relevant charges are determined according to the identity of patients or those who require such treatment.

Members would also understand that the current problem lies in the increasing number of non-local women coming to Hong Kong to give birth in recent years. Such demand accounts for 45% of the overall service capacity. We consider that if the number is allowed to increase further, our obstetric services will be overloaded. Moreover, the problem is not restricted to obstetric services, but also related to the demand for paediatric intensive care services.

Therefore, it would be most imperative to take care of these women and their fetus, and to ensure the health of their new-born babies. In this regard, our current policy must achieve the following objectives: First, to provide adequate obstetric services for pregnant Hong Kong residents; and second, to provide obstetric services to persons outside the territory if and when there is surplus capacity.

MR LAU WONG-FAT (in Cantonese): *President, there are many incentives for Mainland women to come to Hong Kong to give birth, such as they can circumvent the one-child policy of the Mainland, and their children born in Hong Kong can have the right of abode and enjoy the relevant education and medical benefits. Will the Government consider reviewing the problem against the said incentives so as to dampen the raving trend of Mainland women coming to Hong Kong to give birth?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we understand that the standard of our healthcare services is not the only incentive for Mainland women coming to Hong Kong to give birth. Therefore, consideration has been given to adjusting various policies. However, we are also aware that under the Basic Law, Mainland women are allowed to come here to give birth. In this regard, we neither encourage nor restrict them to do so. But it is essential that if they do have the right to come here to give birth, we must ensure the health of these women and their babies.

There is a limit to the capacity of our healthcare services, and we must maintain our professional standard. Hence, we cannot allow everyone to come

to Hong Kong to give birth. I know that the capacity of medical services in Hong Kong can neither satisfy the demands of all Mainland women nor their demand for coming to Hong Kong to give birth. Hence, certain restrictions must be imposed and this policy is essential. We consider that this policy which is founded on the principles of ensuring the well-being of the pregnant women and their babies has achieved certain effect.

We would also like to take this opportunity to urge those people not to come to Hong Kong to give birth if they have not made any delivery booking or undergone any antenatal check-up. That is because if they rush to A&EDs for delivery, the health of themselves and their babies cannot be assured necessarily as the medical staff at A&EDs are not specialized in obstetrics and they can only try their best to help the pregnant women. Hence, in this respect, we must emphasize that we will deal with these problems in a systematic and orderly manner.

DR LEUNG KA-LAU (in Cantonese): *President, although I am aware of the concern of many Honourable colleagues about the demographic policy and the question concerning Mainland women whose husbands are Hong Kong residents, I am not going to ask a question about this. I want to talk about the manpower problem.*

In fact, overall speaking, surplus resources are available in respect of obstetric service staff in Hong Kong. For example, only half of the qualified midwives are working as midwives, and there are 400 obstetricians in Hong Kong. Only hospital beds are lacking in Hong Kong, and the HA has not dealt with the problem properly. That is simply a case of mismanagement on the part of the HA.

Why do I say so? The HA charges each Mainland pregnant woman \$39,000, but the money is not allocated to the departments providing such services. There is neither a mechanism of "work-more-earn-more". Hence, it is only natural that colleagues choose to leave, and the departments cannot maintain operation. If this \$39,000 is charged by private commercial organizations, they will surely have no problem about maintaining proper operation and recruiting healthcare staff. The problems cannot possibly be

unresolved. The current issue is really about the HA and the Government having no business acumen.

Let me follow up further part (b) of Mr Jeffrey LAM's main question about the healthcare industry. Will the Government re-open Tsan Yuk Hospital? Originally a maternity hospital, Tsan Yuk Hospital was closed as a result of the excessively low birth rate. If Tsan Yuk Hospital is re-opened, 160 obstetric beds and 40 neonatal beds can be provided. The operation of the hospital can be granted to commercial healthcare organizations through tender. If they are allowed to charge \$39,000 on each pregnant woman, they cannot possibly fail to maintain operation. In that case, the HA will no longer have to provide service to Mainland pregnant women and private organizations are allowed to charge \$39,000 on each pregnant women. By putting Tsan Yuk Hospital to such a use, the problem can be resolved immediately. Will the Government consider this suggestion?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I must make it clear that the provision of healthcare services is not some business operation. That is a kind of public service, as well as professional service. We cannot deal with these problems purely from a business or commercial perspective. We consider that, under the present circumstances, we can only deal with the problem effectively through the existing policy.

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

DR LEUNG KA-LAU (in Cantonese): *The supplementary question I put to him is whether Tsan Yuk Hospital can be re-opened for operation by commercial organizations through tender? In that way, the problem will no doubt be resolved. The Government can monitor the service standard and it should be fine. Can Tsan Yuk Hospital be re-opened?*

PRESIDENT (in Cantonese): Secretary, please.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I do not want to waste too much time because I think Dr LEUNG knows the whole story. Nonetheless, the most important point is that we are not seeking to increase the number of babies delivered at our Obstetric departments so as to make more money. We must take care of the babies. As the babies born in Hong Kong will become Hong Kong residents, they need to use our public services. That is the greatest bottleneck. We all know that recently, obstetricians and paediatricians have expressed their dissatisfaction about the limited capacity of such services so that they are disabled from providing total care to the patients.

We cannot possibly increase such services within a short time, no matter how much hardware and software are provided. As I have just said, no matter how much additional software is provided, we will never meet the demands of all Mainland women who want to come to Hong Kong to give birth. Hence, we must impose a specific quota and certain control in terms of service provision.

PRESIDENT (in Cantonese): Many Members are still waiting for their turn to ask questions, but this Council has already spent more than 23 minutes on this question. Last oral question.

Children of Chinese Nationality Born in Hong Kong to Non-Hong Kong Residents

6. **DR RAYMOND HO** (in Cantonese): *President, the Court of Final Appeal handed down the judgment on Chong Fung-yuen's case in 2001 that children of Chinese nationality born in Hong Kong to Chinese nationals have the right of abode (ROA) in Hong Kong, irrespective of whether or not their parents have settled or have ROA in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of children of Chinese nationality and have ROA in Hong Kong by virtue of the aforesaid judgment born in Hong Kong in each year since 2002 to Chinese nationals who are non-Hong Kong residents and have no ROA in Hong Kong, and among them, the number of those who have settled in Hong Kong at present; given that their parents are non-Hong Kong residents and*

have no ROA in Hong Kong, whether the authorities have taken any appropriate measure to ensure that the arrangement for such minors to settle in Hong Kong complies with the requirements of protecting the welfare of children and other related requirements in Hong Kong; and

- (b) *in case these persons who were born in Hong Kong and have ROA are in distress on the Mainland and seek assistance from the SAR Government prior to their official settlement in Hong Kong, whether they will be given assistance similar to that rendered to Hong Kong residents; if they will, whether it knows if their "Hong Kong resident status" is recognized by the authorities concerned on the Mainland?*

SECRETARY FOR SECURITY (in Cantonese): President, since part of the question involves the welfare of children, Secretary Matthew CHEUNG will also answer questions from Members.

President, according to the Basic Law, Chinese citizens born in Hong Kong are Hong Kong permanent residents, and they shall have the ROA. Regarding the two parts of the question, my reply is as follows:

- (a) According to the information of the Immigration Department (ImmD), the number of children born in Hong Kong of Mainland residents with no ROA in Hong Kong since 2002 is as follows:

<i>Year</i>	<i>Number</i>
2002	1 250
2003	2 070
2004	4 102
2005	9 273
2006	16 044
2007	18 816
2008	25 269
2009	29 766
2010	32 653
2011 (up to May)	15 513

Under the Basic Law, Hong Kong residents have freedom to travel and to enter or leave Hong Kong. The ImmD does not require Hong Kong residents to declare their place of residence when they depart or enter Hong Kong. As such, the ImmD does not have statistics on the number of the aforesaid children residing in Hong Kong.

If parents, who are non-Hong Kong residents, leave their child aged below 18, who is a Hong Kong permanent resident, to the care of their relative in Hong Kong, they should make sure that the relative is able to take care of their child and assume the relevant responsibilities. If the family of the relative applies for Comprehensive Social Security Assistance (CSSA), the Social Welfare Department (SWD) will process the CSSA application in accordance with established policies and requirements. If the application is approved, the CSSA payments will cover the recognized needs of the child.

As regards welfare services, all children who are Hong Kong permanent residents are eligible for the various welfare services provided by the SWD, including the continuum of services provided by the integrated family service centres over the territory. The SWD also provides various child care services through non-governmental organizations (NGOs) to children in need, including those parents of whom are not Hong Kong permanent residents. Fee subsidies are also available to service users who can pass the financial needs and other assessments.

On education services, the Education Bureau will closely monitor the future demand on education services and formulate relevant measures to ensure adequate provision of public sector school places.

- (b) The SAR Government has an established mechanism to provide assistance to Hong Kong residents in distress outside Hong Kong. If Hong Kong residents, including the aforesaid children who are Hong Kong permanent residents, are distressed in the Mainland, they or their family members may approach the Assistance to Hong Kong

Residents Unit of the ImmD, the Office of the Government of the HKSAR in Beijing (BJO) or the Economic and Trade Office of the Government of the HKSAR in Guangdong (GDETO) for assistance. Having regard to the nature and circumstances of the cases and the volition of the assistance seekers, the ImmD, BJO or GDETO will render suitable assistance, such as providing information, issuing Entry Permits or facilitating the return of these residents, and so on.

On the other hand, according to the regulations of the Mainland, Hong Kong residents with Chinese nationality are required to obtain an "Entry-exit Permit for Travelling from and to Mainland for Hong Kong and Macau Residents" (Home Visit Card) issued by the Mainland public security authority for entry into the Mainland. As such, the Mainland authorities will recognize the Hong Kong resident status of children by reference to the "Home Visit Card" they hold.

DR RAYMOND HO (in Cantonese): *President, the question from Mr Jeffrey LAM may be regarded as the first episode, while my question is the second. In my view, Mainland parents, who are non-Hong Kong permanent residents, arrange for their children to be born in Hong Kong mainly because they want to secure legitimate ROA in Hong Kong for their children, and that they consider the medical facilities in Hong Kong are better. However, these children are great in number. In the past decade, there are some 100 000 of them. If these children reside in Hong Kong, more often than not, they will be living with their relatives, and their relatives may have to apply for CSSA for financial reasons. Often times, these children may be subjected to abuse, leading an orphan-like life across the border.*

In part (a) of the main reply, the Secretary said that the Government would provide various child care services, as well as fee subsidies to service users who have passed the financial needs and other assessments. This reply is very simple. Yet, President, I think the issue is not that simple, and it is rather serious. More often than not, parents may end up arrested for working as illegal workers in order to take care of their children. These are very sad cases.

Will the Secretary consider taking the initiative to carry out investigations to identify children who are in need of special care or arrangements for direct

service, rather than providing services to them only upon receipt of complains or appeals for assistance? Besides, the Secretary has not stated clearly what services will be provided to them.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Dr HO for his question. Actually, we are always concerned about these children, and we are particularly concerned about the raising and nurturing of these children. For this reason, we do not encourage parents to let their children live away from home with their relatives in Hong Kong. Basically, it is incorrect to do so, for during the development of a child, parental love and family care are essential. If parents have no alternative but to let their children live away from home with their relatives or guardians, the parents must ensure the ability of the relatives or guardians concerned in taking care of the children and their financial capability. These two points are very important.

However, if the children really need any services, we will provide to them for they are Hong Kong people. A series of service, including child care services and after-school care services, are provided via the 61 integrated family service centres and two integrated services centres, as well as many NGOs, over the territory. Since these children are Hong Kong people, they enjoy the relevant rights, and we may provide services to them in this aspect. However, we really do not encourage parents to let their children live away from home in Hong Kong, for it is undesirable insofar as the development of the children is concerned.

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

DR RAYMOND HO (in Cantonese): *President, the Secretary's reply is very passive. He has not answered my question on how proactive actions will be taken to provide suitable services to children in need of assistance. He has not answered this part of the question.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the initiative rests with the carers of the children, particularly when they are the

parents. If children in Hong Kong are not provided with a warm family and taken care of by the family, it is basically undesirable. If parents have no alternative but to let their children live away from home in Hong Kong, they must carefully consider the ability of the guardians and relatives in caring for their children. If necessary, as I mentioned earlier, we will offer assistance. We will provide assistance in all aspects, for those children are entitled to enjoying services provided in Hong Kong.

However, CSSA is a separate issue, for CSSA applications must be considered on a household basis. I have pointed out clearly in the reply that for cases involving financial difficulties, the applications concerned will be assessed on a household basis. In other words, no matter the child is taken care of by his or her relative or the guardian, the application for CSSA will be considered according to the financial status of the whole family but not the situation of the child concerned. This is a new policy adopted since 2008.

MR CHAN KIN-POR (in Cantonese): *President, in view of the low birth rate in Hong Kong, Mainland women giving birth in Hong Kong will indeed alleviate the problem of ageing population in Hong Kong. However, according to the figures listed in the main reply, tens of thousands of Mainland women come to Hong Kong to give birth in a year. Even primary students know that this will definitely has a great impact on Hong Kong.*

May I ask the two Directors of Bureaux in this Chamber whether this significant issue affecting the security, housing, health and education aspects in Hong Kong has been elevated to the level of the Chief Executive? We hope holistic co-ordination will be effected to address this issue. I believe it may require the Hong Kong Government and the Central Authorities to consider together various approaches. May I ask the two Directors of Bureaux here whether this issue has been elevated to the level of the Chief Executive?

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Security, please.

SECRETARY FOR SECURITY (in Cantonese): Thanks to Mr CHAN for his supplementary question. It is stipulated in the Basic Law that children born in

Hong Kong and whose parents are Mainland residents have the ROA in Hong Kong. Over a long period of time in the past, we have noticed a year-on-year rise in the relevant figures. Apart from Members of the Legislative Council, the Government is also gravely concerned about the problems brought about by the issue. Since the issue involves a number of Policy Bureaux and the overall policy on population, the Government attaches great importance to it. The Government has considered the issue from various angles to examine the best approach for addressing the problem.

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

MR CHAN KIN-POR (in Cantonese): *President, he has not answered whether it has been elevated to*

PRESIDENT (in Cantonese): The level of the Chief Executive?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Let me add some information. Secretary LAI said earlier that a body called the Steering Committee on Population Policy had been set up within the Government. The Steering Committee is led by the Chief Secretary for Administration, and all Directors of Bureaux concerned, as well as the Commissioner for Census and Statistics and the Director of Immigration are members of the committee. One of the subjects now under examination is the issue of Mainland women giving birth in Hong Kong and the formulation of a holistic policy and planning for these children. At the same time, we are examining the issue of elderly services. Hence, the areas of concerns raised by Members are already covered under the population policy. In other words, the senior level of the Government is gravely concerned about this issue.

MR PAUL TSE (in Cantonese): *President, I very much agree with Dr Raymond HO's earlier remark that the issue concerning Mainland pregnant women is only*

the tip of the iceberg. Actually, the true root of the problem is the issue mentioned in the present question.

Mr CHAN Kin-por asked earlier whether the issue had been elevated to the Chief Executive level. In fact, the issue has already been raised to a higher level, to the level of Secretaries of Departments, and the discussion is about population policy. But it is far from adequate. Since the judgment on CHONG Fung-yuen's case in 2001, the number of Mainland pregnant women giving birth in Hong Kong has increased by over 26 times (2 600%). Under this circumstance, the issue of Mainland pregnant women is only the first wave, the second and the third waves are coming, that means problems of education, welfare and employment will follow.

In part (b) of the main reply, that is, the part relating to the Home Visit Permit (HVP) and the protection of Mainland babies prior to their migration to Hong Kong, the reply is perfunctory. He did not focus on the question at all. He only said that those babies would not be discovered for they did not enter Hong Kong with their HVPs, which means they were beyond the "radar coverage". He has no idea how serious the problem is, that is, many potential Hong Kong residents are living on the Mainland. On the one hand, this prevents us from coming up with an accurate calculation of the welfare demand. And on the other hand, the status of these children is not recognized in the Mainland, for it is impossible for them to enter the Mainland with HVPs. Hence, they possess dual identities. If we do not iron out these issues and if we fail to address the issue of population policy properly, issues relating to pregnant women will not be the only problem, and many other problems will arise.

May I ask the Secretary to explain whether the Government is determined and sincere, and whether it is making an all-out effort, in ironing out issues of population policy to formulate planning for education, welfare and other areas rather than making piecemeal remedies? If the Government does not do so, it is simply sweeping the problems under the carpet for the time being. The problems will surface in future, President.

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Security, please.

SECRETARY FOR SECURITY (in Cantonese): President, thanks to the Honourable Member for his question. As we pointed out earlier, this issue in fact involves various aspects and levels, which is a rather complicated problem. Hence, the Steering Committee on Population Policy led by the Chief Secretary for Administration has included various Directors of Bureaux and department heads as members, so that they can examine and address the issue from various aspects. Since divergent views and opinions are expressed in society, the issue is not a simple and straightforward one. Hence, we have to examine and consider it in a prudent manner.

Mr TSE asked earlier about the situation of children who were born in Hong Kong and return to live on the Mainland. According to our understanding, in general, their parents will obtain the Hong Kong birth certificate and apply for the Home Visit Card for their children before bringing them back to the Mainland. As we understand it, the Mainland authorities will regard these children as Hong Kong residents, for they enter the Mainland with HVPs, like other people entering the Mainland with HVPs. Naturally, to the Mainland authorities concerned, they are not Mainland residents. Since they hold HVPs, they are Hong Kong residents. They live on the Mainland in this capacity. In part (b) of the question from Dr Raymond HO, he asked whether the SAR Government would render equivalent and similar assistance to these children when they need assistance on the Mainland. The answer is in the affirmative. For they share the same identity with all Hong Kong permanent residents, they are no different. Hence, they are provided with the same assistance we provide to all Hong Kong permanent residents.

DR RAYMOND HO (in Cantonese): *I mentioned the situation of these "orphans" across the border earlier. The Secretary pointed out in the reply that the ImmD did not have the data on these children settling in Hong Kong, and the actual number was unknown. However, as they grow up, they may encounter difficulties in their daily life in society, and they may find it difficult to join or integrate into society. Since a daily quota of 150 is granted to Mainlanders approved for settlement in Hong Kong, will the Secretary consider raising this issue with the Central Government and examining the possibilities of allocating some of the quota to parents of these children? If the arrival of these parents is considered conducive to the long-term interest of Hong Kong under the assessment or screening system, will they be allowed to use the daily quota of 150*

after passing certain screening processes? Will the issue be escalated to the level of the Central Government for discussion?

SECRETARY FOR SECURITY (in Cantonese): President, children of Mainland residents born in Hong Kong have the ROA in Hong Kong. But it does not mean that either their fathers or mothers, who are non-Hong Kong permanent residents, will enjoy any additional rights because of this.

There are views in society that Hong Kong may make arrangements within the affordability of society as a whole to encourage and assist these children to enter Hong Kong with their parents in an orderly manner during their early years, thereby slowing down the ageing of the population. However, I must point out that these views are extremely controversial. Moreover, different views have been expressed in society. Hence, we must be very cautious in handling these views.

According to the provisions in the Basic Law, Mainland residents must apply for documents from the relevant Mainland authorities for entry into Hong Kong irrespective of the reasons for the entry. At present, they may apply for endorsements for social visits with reasonable justifications to come to Hong Kong to visit their relatives.

Regarding the situation mentioned by Dr Raymond HO, according to my understanding, the Mainland has no policy on granting approval to parents, whose children were born in Hong Kong, to be put on the waiting list of the one-way exit permit system.

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

DR RAYMOND HO (in Cantonese): *The Secretary has not answered my question at all. In respect of entry quota, Hong Kong definitely has no authority to decide who should be granted permission to come to Hong Kong, but I mean to ask that under the system of a daily quota of 150, whether the Secretary will raise the issue with the Central Government, so that examination can be conducted on*

the possibility of using the quota. I am not saying that the quota should be increased under the population policy. I am not talking about this situation. If places are available under the quota — not all the places have been allocated, and the Central Authorities may allocate the places at the regional level — whether it is possible to allocate the quota to those with a genuine need and whom Hong Kong considers such allocation is favourable to Hong Kong. Will the Secretary answer this question?

PRESIDENT (in Cantonese): Your follow-up question is very clear.

DR RAYMOND HO (in Cantonese): *Will the Secretary please answer my question.*

PRESIDENT (in Cantonese): Secretary, the Member asked whether the issue has been raised with the Central Authorities.

SECRETARY FOR SECURITY (in Cantonese): President, as I said earlier, though their children were born in Hong Kong, we have to adhere to a very important principle, that is, we should not provide any additional right to fathers or mothers whose children were born in Hong Kong.

The one-way exit permit system, as mentioned by Dr HO, is managed by the relevant agents and departments of the Mainland. As for the quota of 150 places, though there are remaining quotas from the past few years, Members should know that a consensus has been reached with the public security authorities of the Mainland recently to allocate the remaining quotas to the so-called "over-age children" for them to come to Hong Kong. I believe the quota of 150 places is fully utilized for the time being.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Tsuen Wan 5 Property Development Project of Tsuen Wan West Station of West Rail**

7. **MR ALBERT HO** (in Chinese): *President, recently, the MTR Corporation Limited (MTRCL) has, in response to the new set of practice notes drawn up by the Government for controlling "inflated buildings", redesigned the Tsuen Wan 5 development project located above and in the nearby area of Tsuen Wan West (TWW) Station of the MTR West Rail. In respect of the newly revised schemes for the project, will the Government inform this Council:*

- (a) *how the newly revised schemes for such project at present compare with the schemes approved in 2005 (including the respective land areas, permissible floor areas and plot ratios for residential and non-residential uses as well as the overall plot ratio for the entire project; the numbers of residential blocks and flats, as well as those residential flats of area less than 40 sq m; the numbers of storeys of the podium and refuge floors of the residential project, and the areas of public open spaces, public walkways, podiums and clubhouses; the numbers of private and public parking spaces and parking spaces for motorcycles; and the projected revenue from land premium);*
- (b) *given that according to the newly revised schemes, at the bayside area site (situated on the waterfront), there will be nine residential blocks of 46 to 55 storeys (including the podium floors and the sky gardens or the refuge floors) and their heights will be approximately 152 m above Principal Datum (mPD) to 187 mPD, and at the cityside area site (situated farther inland), there will be five residential blocks of 17 to 46 storeys (including the podium floors and the sky gardens), and that the building heights at these two sites will exceed the height of the neighbouring Skyline Plaza (with about 35 storeys) situated farther inland, whether the authorities have conducted any air ventilation assessment on the newly revised schemes so as to ascertain whether the project will cause wall effect (with illustrations to show the details of the distribution, heights and distances from the waterfront of buildings under such schemes, the*

distribution and heights of neighbouring buildings, the relationship between the wind directions of the area and the ventilation breezeways, as well as the relationship between the landscape of the area and the visual corridors, and so on);

- (c) why under the newly revised schemes, an additional storey is added to each of the eight out of the nine residential blocks at the bayside area site (that is, from 39 to 42 storeys to 40 to 43 storeys), while only one block has been reduced from 49 storeys to 48 storeys;*
- (d) as it is advised in the "Urban Design Guidelines" of the "Hong Kong Planning Standards and Guidelines", taller buildings should be located inland and lower buildings on the waterfront, and wall and land-locked effect should be avoided to maintain visual permeability to harbour, and the TWW Station is situated along the Rambler Channel, whether it has assessed the impact of the construction of buildings with such heights at that location on the harbour view of the area, and whether this is in breach of the relevant guidelines; of the general building heights along waterfront areas at present;*
- (e) whether it knows the views of the relevant District Councils on the newly revised schemes; and*
- (f) whether it will request the MTRCL to examine making further adjustments to the layout and design of the buildings in the project and reducing building heights, with a view to alleviating the impact of the project on the air ventilation and harbour view of the area?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, in the 2011-2012 Budget Speech, the Financial Secretary announced that the West Rail Property Development Limited (WRPDL) would redesign the six property development projects above the West Rail stations to comply with the new quality and sustainable built environment (QBE) requirements which aim at addressing the community's concerns over "inflated buildings". Sites Tsuen Wan 5 (Bayside) and Tsuen Wan 5 (Cityside) of the TWW Station are two of these six projects.

The QBE requirements, including measures to regulate "inflated buildings", have been drawn up on the basis of extensive public engagement undertaken by the Council for Sustainable Development. The requirements are now set out in the practice notes issued by the Buildings Department following detailed discussions with professionals in the building and construction industries. They provide objective standards for assessing building designs and suitable incentives for inclusion of green features in new buildings.

The Tsuen Wan 5 (Bayside) and Tsuen Wan 5 (Cityside) projects had master layout plans and building plans approved by the relevant authorities before the new QBE policy was announced in October 2010 and could actually proceed without any change. However, since they are government sites yet to be tendered, the Administration has taken the initiative to subject them to the new QBE requirements. The opportunity has also been taken to increase the supply of small and medium-sized flats in these West Rail projects so as to better cater for the public's demand for such flats.

I reply to the question as follows:

- (a) Based on the information provided by the MTRCL (as agent of WRPDL), the comparison of the revised scheme and the 2005 approved scheme of the Tsuen Wan 5 projects is set out at Annex 1. Since the land premium of the projects is affected by a number of factors, we are unable to compare their estimated land premium. However, it is worthwhile to point out that these development projects above the West Rail stations are owned by the Government through WRPDL, and that the MTRCL is playing an agency role only.
- (b) The MTRCL has appointed an independent consultant to conduct an air ventilation assessment in accordance with the Government's relevant Technical Circular. The detailed assessment report has been appended to the planning application of the Master Layout Plan (No. A/TW/423) which the MTRCL has submitted to the Town Planning Board.

Results of the assessment indicate that reduction of podium height, widening of the breezeways and introduction of urban windows in the revised scheme are conducive to penetration of more wind into the inland area in summer. Based on the air ventilation assessment and the visual impact assessment submitted by the MTRCL, compared with the 2005 approved scheme, the revised scheme has made improvements in terms of air ventilation and visual permeability. The illustrative diagram on breezeways and visual corridors of the revised scheme is at Annex 2.

- (c) The objective of redesigning the scheme is to comply with the new building design guidelines. The revised scheme for the Tsuen Wan 5 (Bayside) meets this objective.
- (d) The objective of redesigning the Tsuen Wan 5 projects is to comply with the new QBE requirements and at the same time to increase the number of small and medium-sized flats.

When redesigning the Tsuen Wan 5 projects, the MTRCL made reference to the Urban Design Guidelines of the Hong Kong Planning Standards and Guidelines. Introduction of breezeways/visual corridors along the waterfront buildings, coupled with a reduction of the podium bulk and enhanced landscape design, is conducive to wind penetration from the sea in summer and improving the visual effects viewing from the waterfront and inland area to the subject sites.

As mentioned above, based on the visual impact assessment submitted by the MTRCL, as compared with the 2005 approved scheme, the revised scheme has made improvements in terms of visual permeability.

- (e) The Tsuen Wan District Council (TWDC) discussed the revised scheme of the Tsuen Wan 5 projects on 31 May 2011 and passed the following motion: "The TWDC welcomes the improved design of the Tsuen Wan 5 projects put forward by the Government according to the requirements of 'controlling inflated buildings' and in

increasing the supply of small and medium-sized flats. But the TWDC strongly urged the Government to further adjust the distribution of residential flats at the Cityside development in response to the demand of local residents." We have given detailed responses to this, namely that, on the premises of better utilization of land resources to meet housing needs and achieving early development of the Tsuen Wan 5 projects, there is no room for further revisions.

- (f) Compared with the 2005 approved scheme, the revised scheme complies with the new QBE requirements and has made improvements in terms of air ventilation and visual permeability. The Government and the MTRCL have done lots of work to revise the scheme of the Tsuen Wan 5 projects, striving to address the public's aspirations for better living environment, and have struck a reasonable balance amongst the supply of more small and medium-sized flats at West Rail property developments, implementation feasibility of the projects and better utilization of scarce land resources, and so on.

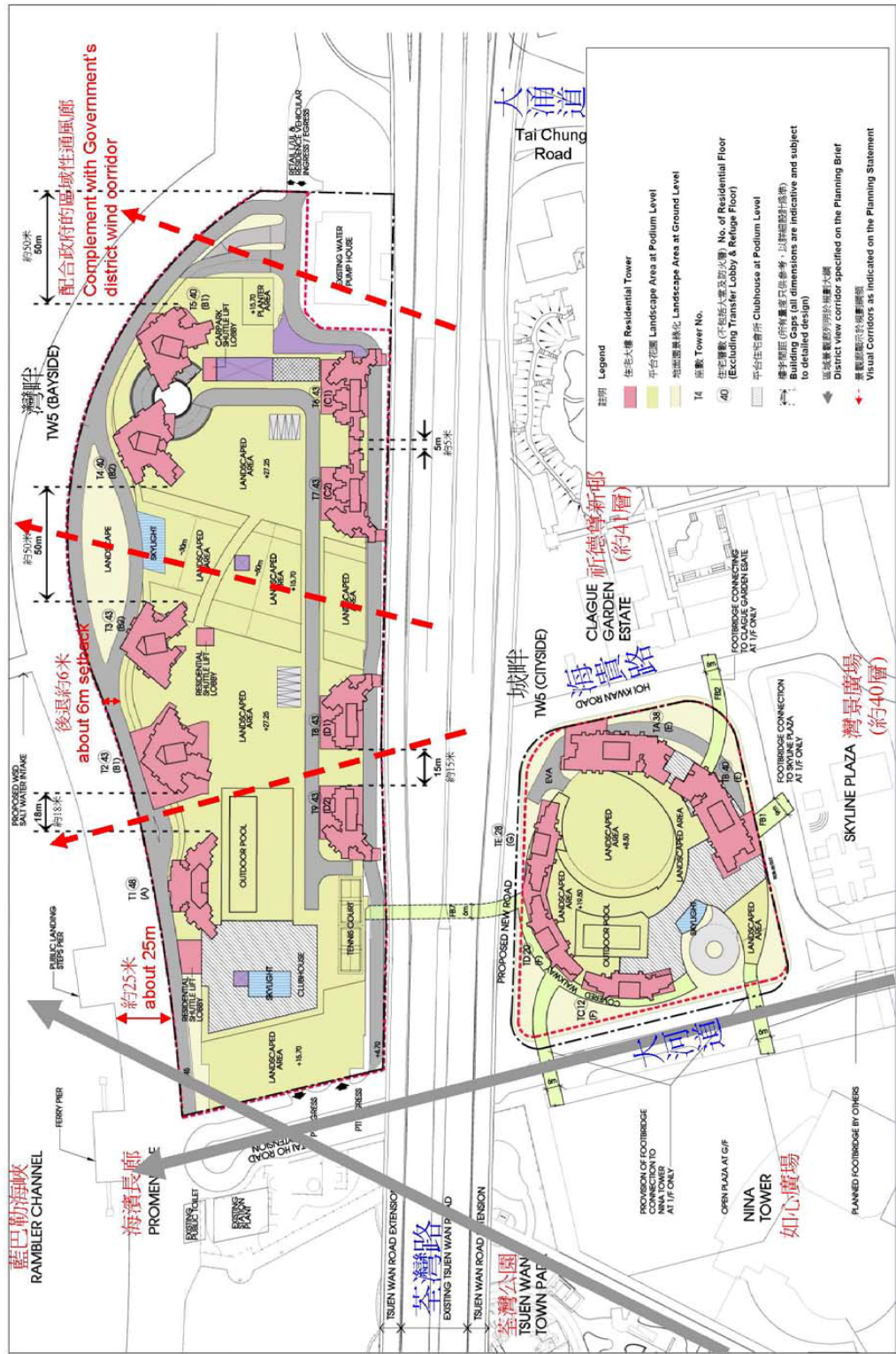
Annex 1

Tsuen Wan 5 (Bayside) and Tsuen Wan 5 (Cityside)
Development Projects of TWW Station Comparison
of the 2005 Approved Scheme and the 2011 Revised Scheme
(Information Source: MTRCL)

	<i>2005 Approved Scheme</i>	<i>2011 Revised Scheme</i>	<i>Change</i>
Total Development Site Area	56 040 sq m	56 040 sq m	No change
Domestic GFA (Total)	226 600 sq m	233 214 sq m	+6 614 sq m
Non-domestic GFA (Total)	101 840 sq m	57 760 sq m	-44 080 sq m
Domestic Plot Ratio	About 4.0435	About 4.1616	+0.1181 (about)
Non-domestic Plot Ratio	About 1.8173	About 1.0307	-0.7866 (about)

	<i>2005 Approved Scheme</i>	<i>2011 Revised Scheme</i>	<i>Change</i>
Total Plot Ratio	About 5.8608	About 5.1923	-0.6685 (about)
Number of Blocks	Bayside: nine residential Cityside: two residential and two hotel	Bayside: nine residential Cityside: five residential	Bayside: No change Cityside: +3 residential and -2 hotel
Number of Units	3 250	3 326	+76
Small and Medium-sized Units (≤ 50 sq m saleable floor area)	1 377	1 823	+446
Number of Podium Levels	Bayside: five Cityside: five	Bayside: four Cityside: three	Bayside: -1 Cityside: -2
Number of Refuge Floors	T1 of Bayside: two T10 and T11 of Cityside: two Other towers of Bayside and Cityside: one	T1 of Bayside: two TC and TD of Cityside: 0 Other towers of Bayside and Cityside: one	T10 (currently TA) and T11 (currently TB) of Cityside: -1
Area of Public Open Space	0	0	No change
Public Pedestrian Walkway Area	No information	About 2 800 sq m	N/A
Podium Area	No information	No information	N/A
Clubhouse Area	About 11 300 sq m	About 6 822.1 sq m	-4 477.9 sq m (about)
Private Car Parking Spaces	727	539	-188
Public Car Parking Spaces	Bayside (Station Park and Ride): 120 Cityside Public Car Park: 450	Bayside (Station Park and Ride): 120 Cityside Public Car Park: 100	Bayside (Station Park and Ride): No change Cityside Public Car Park: -350
Private Motorcycle Parking	37	54	+17

Tsuen Wan 5 (Bayside) and Tsuen Wan 5 (Cityside) Development Projects of Tsuen Wan West Station
Illustrative Diagram on Breezeways and Visual Corridors of the Revised Scheme
 (Information Source: MTR Corporation Limited)



Hong Kong Jockey Club Institute of Chinese Medicine

8. **MR RONNY TONG** (in Chinese): *President, the Innovation and Technology Commission (ITC) intends to disband the Hong Kong Jockey Club Institute of Chinese Medicine (HKJCICM) which has been in operation for 10 years, and set up a committee to be chaired by the Commissioner for Innovation and Technology to relaunch and promote efforts on the research and development (R&D) of Chinese medicine in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *given that the Government has recognized the HKJCICM as a "R&D centre for Chinese medicine in Hong Kong", whether it still considers the development of Chinese medicine a development item of SAR's society; if so, of its concept and objectives, and whether they are the same as those when the HKJCICM was established initially; if not, of the reasons for that;*
- (b) *how the decision-making process leading to the Government's proposal to disband the HKJCICM was conducted; whether serious studies and discussions were conducted in accordance with the relevant procedures stipulated by the Government; whether approval from the Commerce and Economic Development Bureau was obtained; given that the proposal has not yet been agreed to by the boards of directors of the two shareholders of the HKJCICM, namely the Hong Kong Applied Science and Technology Research Institute (ASTRI) and the Hong Kong Jockey Club Charities Limited (HKJCCL), whether the Government has, before making public the proposal, considered that if it is finally decided not to disband HKJCICM, the proposal will still have a negative impact on the public image of the HKJCICM;*
- (c) *given that the HKJCICM has been in operation for 10 years, whether the Government will consider allowing it to continue its work in academic research and professional support, so as not to waste the result of its work in the past 10 years; if not; of the reasons for that; and*

- (d) *given that when the HKJCICM was first established, the HKJCCL donated \$500 million to fund the research projects, and so far only \$180 million has been used, how the balance of the donation will be handled after the Government has disbanded the HKJCICM; if the Government gives up the balance, whether it has other funds for the R&D of Chinese medicine; if so, of the amount; if the balance of the donation is to be re-allocated for use by the new committee, whether such an arrangement is consistent with the purpose of the original donation?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President,

- (a) The HKJCICM was established in May 2001, with the mission to spearhead the development of Chinese medicine as a high value added industry for Hong Kong through promotion and co-ordination of related activities and strategic support for scientific and evidence-based development programmes. Government has been attaching great importance to the development of Chinese medicines (CM) in Hong Kong, and will continue to actively support and promote the R&D and testing of CM for the benefit of the community. Since there have been considerable new developments in the CM sector in the past decade, Government considers it opportune to conduct a comprehensive review on how to more effectively promote the development of R&D and testing of CM in Hong Kong.
- (b) In order to conduct the comprehensive review, upon the suggestion of the ITC, the HKJCICM Board engaged two consultants in 2010 to conduct the review. The scope of the review included the current situation and needs of the CM sector, the most effective way to integrate the efforts of Government, industry, academic and research sectors to cope with future development needs, and the role and cost-effectiveness of the HKJCICM after a decade of operation. The comprehensive review commenced in October 2010 and the Review Report was submitted to the HKJCICM Board and ITC for consideration in March this year.

The Review Report pointed out that in the past decade there have been considerable new developments and changes in the CM sector, indicating that more and more parties have become interested in and are capable of contributing to the development of CM in Hong Kong in various ways, for example, the establishment of the Hong Kong Council for Testing and Certification (HKCTC) in 2009 with CM designated as one of its four selected trades with good potentials, the research capabilities and infrastructures of local universities in CM area have been enhanced after years of development, the Hong Kong Science and Technology Parks Corporation actively developing a biotechnology (including CM and western pharmaceuticals) cluster in recent years. While the HKJCICM has made some contribution in the past 10 years, its overall cost-effectiveness was not satisfactory. In addition, due to its small establishment (with only some 20 employees), the HKJCICM has not been able to create a critical mass. Although it has tried to make changes in its strategic direction and work priorities at different stages over the years, the outcome was less than desired. Besides, the main reason for putting the HKJCICM under the ASTRI at the outset was that the HKJCICM could then benefit from ASTRI's administrative and financial support. However, with the passage of time, ASTRI has increasingly focused its work on information and communications technologies, which are not related in any way to the promotion of CM development.

The consultancy report has proposed three options for the future of the HKJCICM, including:

- (i) maintaining the *status quo*;
- (ii) a complete revision of the HKJCICM's roles and functions; and
- (iii) setting up of a new committee under Government to co-ordinate all relevant work. The new committee will be chaired by the Commissioner for Innovation and Technology while secretariat support will be provided by ITC. The new

committee will include representatives from Government, the industry, academic and research institutions in the CM sector. The HKJCICM will then be disbanded.

The ITC considers that Option (iii) is most desirable. Since the co-ordination of work on promoting CM development in Hong Kong has become increasingly complex, a new Government-led committee will be more effective in co-ordinating the collaboration of all parties in promoting the R&D and testing of CM to meet the future needs of Chinese medicine development of Hong Kong.

In considering the long-term development of CM of Hong Kong and the future of the HKJCICM, the ITC has consulted and exchanged views with different stakeholders, including the management of local universities relating to CM and CM industry associations. The ITC has explained to these parties the need for reform and the ITC's views. The Review Report has also been discussed in detail at the HKJCICM Board meeting held in March this year. Meanwhile, the ITC has been closely communicating with and is supported by the Commerce and Economic Development Bureau on this matter. Both shareholders of the HKJCICM, that is, HKJCCL and ASTRI, have also been kept abreast of the review progress. We wish to point out that in explaining Government's views and stance, we have all along been presenting relevant information and facts, and making objective and impartial analysis. The ITC will certainly submit all relevant information and views to the Boards of the HKJCICM's two shareholders for their detailed deliberation and final decision.

- (c) Regarding the HKJCICM's future development, Government has carefully considered different options, including maintaining the *status quo*, completely revising the HKJCICM's roles and functions so as to allow it to continue its academic research and provision of professional support. However, we strongly believe that these options cannot thoroughly resolve the problems that the HKJCICM is currently facing, including high operating cost, undesirable cost-effectiveness, and so on. Since mid-2010, a number of incidents have also revealed internal management problems of the

HKJCICM, for example, various complaint cases (including collective complaints from staff), missing of documents and about half of the Institute's staff resigning within a short period of time. These have inevitably further tarnished the reputation of the Institute and affected its operation. Having considered all relevant factors, ITC supports the recommendation of the Review Report, that is, setting up of a new committee under Government so as to more effectively co-ordinate the collaboration of various parties in promoting the development of R&D and testing of CM in Hong Kong and the HKJCICM will be disbanded.

If the final decision is to set up a new committee and disband the HKJCICM, the ITC will make appropriate arrangements for the HKJCICM's remaining resources (for example, laboratory equipment) and work results according to the views of the HKJCICM's two shareholders.

- (d) Of the \$500 million pledged donation of the Hong Kong Jockey Club (HKJC) to the HKJCICM, only some \$108 million has been utilized. As regards the use of the remaining funds, the HKJC will continue to reserve it for supporting the development of Chinese medicine in Hong Kong. The Innovation and Technology Fund (ITF) under Government will also actively support projects relating to CM R&D and promotion of local CM development. Currently, the ITF still has over \$2 billion. In addition, the HKCTC has designated CM as one of the selected trades for focused development. Government has allocated resources to the HKCTC to support the work of the testing and certification industry, including enhancing the accreditation of CM testing and other relevant services.

Regulation of Unauthorized Building Works

9. **MR WONG YUK-MAN** (in Chinese): *President, in recent years, the Government has continued to clear unauthorized building works (UBW) in buildings in the urban area, while the UBW problem in village houses in the New*

Territories, which include small houses, has become increasingly serious. In this connection, will the Government inform this Council:

- (a) in each of the past three years, of the respective numbers and rates of increase/decrease of UBW involving various kinds of buildings in the urban area and village houses in the New Territories;*
- (b) in each of the past three years, of the respective numbers of removal orders issued and prosecutions made in respect of UBW in village houses in the New Territories, as well as the total amount of fines imposed involving UBW;*
- (c) in each of the past three years, of the respective numbers of removal orders issued and prosecutions made in respect of UBW in various kinds of buildings in the urban area, as well as the total amount of fines imposed involving UBW; and*
- (d) given that the Government has cleared a large number of UBW in the urban area in recent years, whether it has any specific plan to implement measures to expedite handling of UBW in village houses, with the aim of making the same progress as that in the urban area; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to the four-part question is as follows:

- (a) The Administration has not conducted any detailed surveys on the numbers of UBW in the urban area and in the New Territories. It is therefore unable to provide the statistics requested.
- (b) The numbers of removal orders issued by the Buildings Department (BD) in respect of UBW in New Territories exempted houses (commonly known as "village houses"), the numbers of prosecution made in relation to non-compliance of such orders and the total amounts of fines imposed by the courts in each of the three years from 2008 to 2010 are listed below:

<i>Year</i>	<i>Number of removal orders</i>	<i>Number of prosecution cases</i>	<i>Total amount of fines (\$)</i>
2008	220	66	242,000
2009	155	132	476,000
2010	217	129	273,000

- (c) The numbers of removal orders issued by the BD in respect of UBW in the urban area, the numbers of prosecution made in relation to non-compliance of such orders and the total amounts of fines imposed by the courts in each of the three years from 2008 to 2010 are listed below:

<i>Year</i>	<i>Number of removal orders</i>	<i>Number of prosecution cases</i>	<i>Total amount of fines (\$ million)</i>
2008	25 685	2 502	5.717
2009	24 689	2 399	5.847
2010	17 496	2 141	4.079

- (d) Village houses in the New Territories have a long history. The control over these houses has all along been different from that for buildings in the urban area. In other words, while they are all "buildings", they are subject to different regulatory and control regimes.

We adopt a two-pronged approach in tackling the problem of UBW in village houses. On the one hand, we have stepped up enforcement action to curb the proliferation of new UBW. At the same time, we are drawing up a proposal for handling existing UBW in a progressive and orderly manner, on the fundamental premise of ensuring building and public safety. We will shortly apprise the Legislative Council Panel on Development of the details of the proposal and seek Members' views.

Cross-boundary Students

10. **MR CHAN HAK-KAN** (in Chinese): *President, recently, quite a number of school principals and parents in the North District have approached me for assistance, indicating that the Government has planned to reduce the number of*

Closed Area Permits (CAP) to be issued to Cross-boundary Students (CBS) for access to Lo Wu Station Road and Lok Ma Chau Spur Line (LMC SL) Public Transport Interchange (PTI) in the 2011-2012 school year, which will most affect Primary Three to Primary Five students; and they are dissatisfied that the Government has not formulated any specific solution for the transportation arrangements for CBS to attend school, but merely negotiates with schools each year on reducing the number of CAP, which not only increases the administrative workload of schools but also leaves the parents unsure of what to do. In this connection, will the Government inform this Council:

- (a) of the numbers of CBS attending kindergartens, primary schools and secondary schools in Hong Kong in each of the past three school years; among them, of the respective numbers of those attending schools in Hong Kong via various entry points, and the number of those who had been issued CAP;*
- (b) of the factors, apart from the passenger-flow of the entry points, being considered in deciding to reduce the number of CAP, and how such decision was reached; whether it has assessed the chances of students of younger ages involving in accidents on their way to school by other means of transport or other means after the reduction in the number of CAP;*
- (c) of the amount of increased vehicular flow after completion of the road improvement works at Lo Wu Station Road early this year; whether more school buses can be accommodated in the area to pick up CBS as a result;*
- (d) why at present, other cross-boundary passengers can access PTI at LMC SL Control Point and take public transport without holding a CAP while CBS must hold a CAP in order to take school buses there; whether it has assessed if this arrangement is unfair;*
- (e) whether it has ascertained if the demand of CBS for school bus services provided at entry points is higher than that for cross-boundary school buses; whether it will consider re-allocating the relevant quotas so that more school buses can access the entry points to pick up students;*

- (f) whether parking spaces for school buses and pick-up/set-down points for large school buses will be incorporated in the design of the Liantang Boundary Control Point at this stage to meet the needs of CBS in future; if so, of the details; if not, the reasons for that; and
- (g) whether any mechanism or inter-departmental working group, and so on, will be established to co-ordinate and handle the issue of CBS in the long run; if so, of the details; if not, the reasons for that?

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The numbers of CBS in the past three school years are as follows:

<i>School Year</i>	<i>Kindergartens</i>	<i>Primary Schools</i>	<i>Secondary Schools</i>	<i>Total</i>
2008-2009	1 780	3 910	1 078	6 768
2009-2010	2 681	4 090	1 267	8 038
2010-2011	3 786	4 575	1 538	9 899

The numbers of students attending schools in Hong Kong via various boundary control points in the past three school years are as follows:

<i>School Year</i>	<i>Lo Wu</i>	<i>Sha Tau Kok</i>	<i>Lok Ma Chau (Huanggang)</i>	<i>LMC SL</i>	<i>Shenzhen Bay</i>	<i>Man Kam To</i>
2008-2009	3 014	1 122	454	1 740	239	199
2009-2010	3 160	1 169	416	2 449	512	332
2010-2011	3 523	1 141	488	3 349	1 046	352

The Government has not reduced the total number of CAPs issued for each year. The numbers of CAPs issued in the past three school years are as follows:

<i>School Year</i>	<i>For access to Lo Wu boundary control point</i>	<i>For access to LMC SL boundary control point</i>	<i>Total</i>
2008-2009	2 138	1 723	3 861
2009-2010	2 269	2 173	4 442
2010-2011	2 334	3 033	5 367

- (b) The Government has always been flexible in issuing CAP to CBS who take nanny buses to school via Lo Wu Station Road or LMC SL PTI, and has accorded priority to students of tender age. However, Lo Wu Station Road is a country road and the only emergency vehicular access to the Lo Wu boundary control point. Currently, its traffic flow already far exceeds its designed capacity, which is undesirable as far as the safety of young students is concerned. As for LMC SL PTI, since it has limited space and is located within a conservation area, the Government has to limit the number of nanny buses that can gain access to the LMC SL PTI per hour in order to properly control its traffic flow.

In fact, the Government has always reminded and encouraged the parents concerned to choose suitable schools which are near to their residence for their children, especially those of tender age at kindergarten and primary school levels. If their children have to cross the boundary to attend schools in Hong Kong, they should personally or arrange for other adults to accompany their children on the way to and from school. If such an arrangement cannot be made, they should choose a suitable mode of transport, such as cross-boundary school coaches or other public transport services, instead of relying on the issue of CAP.

- (c) The works for widening a section of Lo Wu Station Road into a dual two-lane carriageway are currently in progress and scheduled for completion within the 2011-2012 school year. Since there are slopes and station platform on the two sides of the road near the passenger terminal building, widening works cannot be carried out along that section due to physical constraints. That section will continue to be a one-lane road for two-way traffic. In general, the widening of Lo Wu Station Road will enhance road safety, but will not increase the traffic capacity owing to the limitation posed by two-way traffic on a single lane. It is therefore undesirable to further increase the number of nanny buses entering or leaving the Lo Wu boundary control point.

- (d) Under section 38A of the Public Order Ordinance (Cap. 245), the Commissioner of Police may grant permission to persons of any category specified in the Frontier Closed Area (Permission to Enter) Notice (Cap. 245H) to enter or leave the Frontier Closed Area without holding CAP. These persons include train passengers and cross-boundary passengers of designated modes of public transport entering or leaving the PTI at a boundary control point, such as taxis, franchised buses, public light buses running scheduled services and cross-boundary school coaches under special quotas. CBS taking nanny buses to school via LMC SL PTI are required to apply for CAP because they do not belong to any category specified in the Frontier Closed Area (Permission to Enter) Notice.
- (e) At present, nanny bus operators provide service for CBS mainly via Lo Wu Station Road and LMC SL PTI. However, as explained in part (b) above, Lo Wu Station Road and LMC SL PTI have their respective constraints on traffic flow. For the safety of CBS, it is indeed necessary for the Government to limit the number of CAP to be issued to them.

With both of the above boundary control points reaching full capacity, the Government has already been using other land boundary control points, including Man Kam To, Shenzhen Bay, Sha Tau Kok and Lok Ma Chau (Huanggang), to meet the needs of CBS. However, since these boundary control points are different from Lo Wu Station Road and LMC SL PTI in terms of design and traffic arrangements, they can only complement but not replace the latter two. As such, it is not feasible to re-allocate the services and quotas among boundary control points.

- (f) The preliminary design of the Liantang boundary control point includes an area for cross-boundary school coaches to pick up and drop off CBS, but the details are still under study.
- (g) Since July 2007, the Education Bureau has been co-ordinating the transport arrangements for CBS and formulating related policy and

implementation details jointly with various departments (including the Security Bureau, Transport and Housing Bureau, Customs and Excise Department, Immigration Department and Hong Kong Police Force, and so on). The Government has been actively monitoring the transport needs of CBS and implemented a number of necessary measures. In the past four years, the inter-departmental group has introduced the following new initiatives for CBS:

- (i) To ease the traffic load of Lo Wu Station Road, the Government started a pilot scheme in April 2008 to allow nanny buses to enter LMC SL PTI to take CBS to and from their schools.
- (ii) To cater for the needs of CBS and relieve the traffic load of Lo Wu Station Road, the HKSAR Government, with the support of the Guangdong Provincial Government, issued on a trial basis 20 special quotas to cross-boundary coach operators in the 2008-2009 school year for operating cross-boundary school coach services for CBS at various land boundary control points (including Shenzhen Bay, Lok Ma Chau (Huanggang), Man Kam To and Sha Tau Kok). The number of special quotas was gradually increased to 42 and 65 in the 2009-2010 and 2010-2011 school years respectively. In addition, to meet the needs of students participating in extra-curricular activities, additional northbound trips have been offered for application by cross-boundary coach operators since the 2009-2010 school year.
- (iii) Apart from the above initiatives, front-line departments have been providing "on-board clearance" services for cross-boundary school coaches at the Man Kam To and Sha Tau Kok boundary control points in the past few years. In addition, during rush hours before and after school, a number of designated counters for CBS are made available at the immigration halls of land boundary control points in accordance with the actual demand, and a number of student e-Channels are provided at the Lo Wu boundary control point.

- (iv) The Student Financial Assistance Agency has been providing travel subsidy for CBS in need through a means-tested Student Travel Subsidy Scheme. The amount of subsidy is calculated on the basis of fares within the boundaries of Hong Kong.

Supply of Repair Parts for Public Transport Vehicles

11. **DR PAN PEY-CHYOU** (in Chinese): *President, earlier on, some practitioners in the public transport industry relayed to me that some repair parts for public transport vehicles had been in tight supply or out of stock since the earthquake in Japan, and given that quite a number of public transport vehicles were imported from Japan, the aforesaid situation may have different degrees of impact on their daily repairs. In this connection, will the Government inform this Council:*

- (a) *whether it knows for how long the stock of repair parts kept by the MTR Corporation Limited (MTRCL), franchised bus companies and the local agents of public light buses (PLBs) and taxis can last under normal circumstances;*
- (b) *whether it knows if the stock of repair parts for the transport vehicles in part (a) is still sufficient since the earthquake in Japan; if so, for how many months the current stock can last; if not, of the number of such repair parts which have been out of stock or experiencing disruption to their supply for more than a month;*
- (c) *whether it knows, among the existing repair parts for the various public transport vehicles, of the number of those which need to be imported from Japan, and if all such parts can be substituted by those manufactured elsewhere; and*
- (d) *whether the Government has assessed the impact of the tight supply or shortages of mechanical parts which are made in Japan on the operation and repairs of the various public transport vehicles in*

Hong Kong, and what measures the authorities have to address and monitor the situation?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government has all along attached great importance to the safe operation and service level of public transport vehicles, and kept in view the operation of the industry through regular meetings with public transport operators and the trade. As far as we know, immediately after the major earthquake that occurred in Japan on 11 March 2011, local vehicle agents once reflected to the trade that some vehicle manufacturers in Japan had suspended their production because of various problems such as aftermath of the earthquake and insufficient electricity supply. However, since the incident has happened for some time, vehicle manufacturers in Japan have generally resumed normal operation.

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

(a) and (b)

According to the MTRCL, under normal circumstances, the company keeps six to nine months' stock of various types of repair parts. Currently, about 700 types of the MTRCL's repair parts (7% of all types) are imported from Japan. After the major earthquake that occurred in Japan on 11 March 2011, the MTRCL has switched to procuring these repair parts from other countries or regions, and most of the parts can be purchased from countries or regions other than Japan. In fact, the MTRCL has been able to keep a normal stock of repair parts since the major earthquake in Japan occurred.

Buses manufactured in Japan represent less than 1% of the entire franchised bus fleet. According to the franchised bus companies, only a few of their bus spare parts are imported from Japan and they will generally keep not less than three months' stock of spare parts. Since the major earthquake occurred in Japan in March 2011, the franchised bus companies have not encountered any problem concerning shortage of spare parts.

In addition, we have also checked with local PLB and taxi agents about the supply situation of repair parts. In general, they keep one to two months' stock of frequently-used original repair parts. According to the agents, their stock remains sufficient and the supply of vehicle repair parts has not been affected by this major earthquake in Japan.

- (c) According to the MTRCL, some original spare parts of a small proportion of equipment purchased from Japan cannot be replaced by parts produced in other countries or regions and therefore still have to be ordered from the original equipment manufacturers in Japan. To ensure the availability of such spare parts, the MTRCL has contacted the suppliers in Japan immediately after the earthquake and obtained their confirmation of a sustainable supply of spare parts. In addition, for prudence's sake, the MTRCL has also placed additional orders for these parts from the suppliers in Japan and arranged for their early delivery to ensure that a sufficient stock can be maintained.

With regard to the supply of repair parts for PLBs and taxis, apart from the original spare parts imported from Japan, ample amount of replacement spare parts produced in other countries or regions are available as alternatives. The supply of these replacement spare parts currently remains normal. According to information provided by the PLB and taxi agents as well as the vehicle maintenance trade, at present, there is no problem with the supply of either the original repair parts produced in Japan or of those repair parts made in other countries or regions. As for the franchised bus companies, as mentioned above, only a few bus spare parts are imported from Japan and this major earthquake in Japan has not led to any shortage of spare parts.

- (d) Given that vehicle manufacturers in Japan have generally resumed normal operation, the MTRCL, the franchised bus companies as well as local PLB and taxi agents have indicated that the stock and delivery of repair parts remain sufficient and normal, and that replacement spare parts produced in other countries or regions are available in the market, the earthquake in Japan does not have any

impact on the operation or maintenance of public transport vehicles in Hong Kong. The Administration will continue to maintain close liaison with the public transport operators and the transport trade through regular meetings, and monitor the progress on recovery in Japan to ensure that the safe operation of public transport vehicles will not be affected by the shortage of spare parts.

Mobile Application "Tell me@1823"

12. **MR FRED LI** (in Chinese): *President, the 1823 Call Centre operated by the Efficiency Unit of the Government has recently launched the mobile application "Tell me@1823" to enable members of the public to reach the 1823 Call Centre via Wi-Fi or mobile phone network to make enquiries about and complaints against government departments. In this connection, will the Government inform this Council:*

- (a) *of the total number of downloads of the aforesaid application since its inception;*
- (b) *of the total number of the aforesaid enquiries and complaint cases received by the 1823 Call Centre via this channel so far, and the percentages of such figures in the respective total numbers of the cases concerned; and*
- (c) *as the whereabouts of members of the public may be disclosed when they use the aforesaid mobile application to make enquiries or complaints, whether the authorities have guidelines on handling such personal data; if they have, of the details; if not, the reasons for that?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President,

- (a) Between its launch on 11 April and 6 June this year, the mobile application "Tell me@1823" recorded 18 783 downloads.

- (b) From 11 April to 6 June this year, the 1823 Call Centre received 528 enquiry and 1 859 complaint cases through the mobile application. This accounted for 0.2% of all enquiries and 4% of all complaints received over this period.
- (c) "Tell me@1823" only records the location of reported cases with the citizens' consent at the time the report is made. It does not track the whereabouts of individuals. One of the functions of the mobile device is to make it easy for citizens to show the location of cases they report more accurately through the global positioning system (GPS). This in turn can make it easier and quicker for government departments to follow up on the report. Citizens can choose to switch off the GPS and input the location of their cases manually if they wish. The 1823 Call Centre strictly enforces personal data protection measures including system security. The business rules and staff code of conduct require that any personal data collected is only used for following up the cases. Staff training emphasizes the importance of this and management gives constant attention to maintaining the integrity with which the service operates.

Reception of Digital Terrestrial Television Signals and Analogue Television Signals

13. **MR ALBERT CHAN** (in Chinese): *President, I have recently received complaints from quite a number of members of the public that up till now many remote areas still cannot have clear reception of digital terrestrial television (DTT) signals and analogue television signals, causing great inconvenience to the residents of those areas. In this connection, will the Government inform this Council:*

- (a) *of the areas which up till now still cannot receive DTT signals; which areas the authorities received the most frequent complaints about not being able to have satisfactory DTT signal reception; the reasons why those areas cannot receive DTT signals or cannot have clear reception of such signals;*
- (b) *of the areas which up till now still cannot receive analogue television signals; which areas the authorities received the most*

frequent complaints about not being able to have satisfactory analogue television signal reception; the reasons why those areas cannot receive analogue television signals or cannot have clear reception of such signals; and

- (c) *whether the authorities will take measures to address the problem that some areas cannot have clear reception of DTT or analogue television signals or cannot even receive such signals; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, similar to overseas practice, the construction of the DTT network in Hong Kong follows a phased programme which allows the DTT signals to be received throughout the territory by phases. Currently, with DTT signals transmitted from a total of 20 stations, the coverage has reached over 90% of the population across the 18 districts. The coverage will be further extended when nine more transmitting stations are launched by the end of this year. We aim at an ultimate DTT coverage that is at least on par with that of the existing analogue television broadcasting.

Turning to the various parts of this question, my responses are as follows:

- (a) and (b)

Currently, areas where analogue television signals cannot be received or satisfactorily received include Lau Fau Shan, Sha Kong Tsuen, Lung Kwu Tan, Ta Shek Wu, Chuen Lung, Lin Ma Hang, Ta Ku Ling, some remote areas in Sai Kung and Lantau South, and so on.

For areas where DTT signals cannot be received, they include, apart from the abovementioned areas, certain areas within Shap Pat Heung and Tai Tong, Mui Wo, Pui O, Ying Pun, Lin Tong Mei, Sheung Ling Pei, Ha Ling Pei, Wong Ka Wai, Lung Tseng Tau, Sham Tseng and Pok Fu Lam Village, and so on.

The reception of analogue television at buildings in some areas of Hong Kong may suffer from varying degrees of "snowing" or "ghosting" due to the nearby buildings and hilly terrain. Currently, areas where analogue television signals cannot be received or satisfactorily received are found mostly located in remote areas with sparse population. The reception of television signals is weaker in these areas mainly due to long distance from the analogue television transmitting station or signal blocking by the hilly terrain, resulting in television reception problem.

As regards the reception of DTT signals, we have not seen any major problem since DTT was launched at end-2007. Generally speaking, reasons for unsatisfactory reception of DTT signals mostly came from problems related to the in-building communal aerial systems. Secondly, television antennae were at times found to be erected at improper location on the building roof top or antenna pointed to an inappropriate direction. Others may be related to signal interference or DTT signals were found partially blocked by nearby buildings or hilly terrain. As the reason for unsatisfactory DTT signal reception may vary on a case-by-case basis, the Office of the Telecommunications Authority (OFTA) will examine each individual case and follow up accordingly.

- (c) To address the issue of areas where there is no or unsatisfactory reception of analogue television signals, we are working with the OFTA to study with Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) on how to improve television reception in these areas during our planning for the DTT network. This will include consideration of optimizing the transmission parameters of the DTT stations in order to maximize the overall DTT coverage as far as possible. We will also examine with ATV and TVB any feasible and cost-effective solutions aiming for the improvement of television reception in these areas.

For areas where DTT signals are yet to be received, as described in the preamble of the reply above, ATV and TVB will further extend their DTT network coverage with nine more transmitting stations to be launched by the end of this year. The ultimate DTT coverage will be at least on par with that of the existing analogue television broadcasting.

Passenger Fuel Surcharges

14. **MR PAUL TSE** (in Chinese): *President, it has been reported in the press that the passenger fuel surcharges (surcharges) collected by airlines with the permission of the Civil Aviation Department (CAD) have increased for nine consecutive months since September last year, with surcharges for long-haul and short-haul flights increased by as high as 134% and 143% respectively, which far exceed the increase in fuel prices during the same period by over 50%. In this connection, will the Government inform this Council:*

- (a) *of the reasons for the increase in surcharges far exceeding that of fuel prices during the aforesaid period;*
- (b) *as it has been reported that since June this year, a maximum surcharge of \$1,124 per coupon is collected for long-haul flights, while the amount for short-haul flights is \$236, whether the CAD can explain in detail the factors considered in vetting and approving applications for increasing surcharges and the method by which the amounts of such surcharges are calculated (please explain clearly the calculation method which is considered to be reasonable by the CAD, even if the commercial information of airlines cannot be disclosed, together with the figures actually calculated or projected by the CAD, so as to address the concerns of the public);*
- (c) *what policies and measures it has to prevent individual airlines to shift other costs and expenses, which are not related to surcharges, to consumers by increasing surcharges, so as to protect the interests of consumers;*
- (d) *as the Travel Industry Council of Hong Kong estimates that conflicts between passengers and travel agencies are very likely to increase as a result of the surges in surcharges, what policies the Government has to help passengers understand that travel agencies are unable to influence the CAD's vetting and approval of applications from airlines for increasing surcharges, and as travel agencies do not receive any commission or benefit from surcharges, the surges in surcharges will not augment the profit margins of travel agencies;*

- (e) *as some airlines have ceased to collect surcharges since 2007, and the amounts of surcharges may also vary among different airlines, what policies and means the Government or the Consumer Council has to help enhance public awareness of such market phenomena, so that they can make wise choices; and*
- (f) *as some travel agencies have pointed out that surcharges take up an increasingly large percentage of airfares, which may probably mislead passengers and render them difficult to know the actual airfares on one hand, and pose an increasingly big impact on passengers' expenses on the other, whether the Government will explore imposing a requirement that airlines should not shift other costs and expenses, which are not related to fuel prices, to consumers again in the name of surcharges when the percentage of surcharges in airfares exceeds a certain level, and must incorporate the surcharges in airfares so that passengers know clearly the exact fares they need to pay when considering their travel or business trips, so as to avoid confusion; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President,

(a) and (b)

According to the bilateral air services agreements (ASAs) that Hong Kong has entered into with its aviation partners, the tariffs to be charged by the airlines for scheduled air services shall be those approved by the aeronautical authorities of both Contracting Parties and shall be established at reasonable levels, due regard being had to all relevant factors. Passenger fuel surcharges (fuel surcharges) are part of aviation tariffs which allow airlines to partially recover the increase in operating costs due to fluctuations in aviation fuel prices. The CAD considers and approves fuel surcharge applications from the airlines in accordance with the ASAs.

In considering the fuel surcharge applications, the CAD will consider the impact of the changes in aviation fuel prices on the

operating costs of the airlines. For instance, when the aviation fuel prices go up, the operating costs of the airlines will increase, and the approved fuel surcharges will only allow the airlines to partially recover the increase in the operating costs, rather than being linked to the percentage change in the fuel prices. During the period from June 2010 to May 2011, the CAD considered and approved fuel surcharge applications 12 times, of which nine involved upward adjustments to the fuel surcharges, and three involved downward adjustments. This reflected the changes in the fuel prices over the same period.

(c), (d) and (e)

In considering the fuel surcharge applications, the CAD will not consider costs and expenses which are not related to the changes in the fuel prices, and the approved fuel surcharges will only allow the airlines to recover part of (not all) the increase in the operating costs due to the changes in the fuel prices.

At present, the CAD approves fuel surcharge applications and announces the results on a monthly basis. It also publishes the approved fuel surcharge levels of individual airlines on its webpage which are available to passengers. Moreover, passengers may enquire about the airfares and the fuel surcharges with relevant airlines or travel agents before they buy the air tickets.

(f) Levying fuel surcharges on top of airfares is a general international practice. The CAD does not intend to require the airlines to include fuel surcharges in the airfares, nor does it intend to do so when the fuel surcharges exceed a certain percentage of the airfares.

Illegal Encroachment on Pavements

15. **MR LEUNG KWOK-HUNG** (in Chinese): *President, quite a number of members of the public have complained to me that food premises near to their residence illegally encroach onto the pavements so as to extend their operation,*

and some of those food premises on the ground floor of private buildings put eight to 10 tables on the public pavements outside their premises to serve hot pot dishes with Liquefied Petroleum Gas stoves or charcoal stoves from 7 pm to 1 am every night, thus seriously obstructing the pavements, and affecting street cleanliness, posing explosion and fire hazards and affecting the residents nearby. In addition, some members of the public have pointed out to me that some people and shops always place some used electrical appliances and garbage all over the streets, obstructing the pavements and causing serious environmental nuisances. However, such members of the public have pointed out that after lodging complaints through the government hotline 1823 in the evenings or outside office hours, officers of the Food and Environmental Hygiene Department (FEHD) did not follow up the cases immediately, but only carried out inspections after a few days during office hours in the daytime, condoning the persistence of such illegal acts. In this connection, will the Government inform this Council:

- (a) regarding the complaints lodged by members of the public through the government hotline 1823 in the evenings or outside office hours that food premises near to their residence have illegally encroached onto the pavements to extend their operation, whether the FEHD officers can, upon receipt of such complaints through the 1823 call centre, immediately go to the locations concerned to carry out investigations and take enforcement actions; if they can, of the implementation time frame; if not, of the reasons for that, and whether such street obstruction cases can be condoned outside office hours;*
- (b) apart from the government hotline 1823, of the avenues through which members of the public may directly contact the FEHD officers so that the FEHD may immediately handle street obstruction problems;*
- (c) of the number of prosecutions instituted by the FEHD against illegal encroachment on the pavements outside shop premises or street obstruction in various districts in the past five years (set out in the table below);*

	Central and Western	Eastern	Southern	Wan Chai	Kowloon City	Kwun Tong	Sham Shui Po	Wong Tai Sin	Yau Tsim Mong	Islands	Kwai Tsing	North	Sai Kung	Tai Po	Sha Tin	Tsuen Wan	Tuen Mun	Yuen Long	Total	
2010																				
2009																				
2008																				
2007																				
2006																				

- (d) of the number of prosecutions instituted by the FEHD against repeated offenders for illegal encroachment on the pavements outside shop premises or street obstruction in various districts in the past five years (set out in the table below);

	Central and Western	Eastern	Southern	Wan Chai	Kowloon City	Kwun Tong	Sham Shui Po	Wong Tai Sin	Yau Tsim Mong	Islands	Kwai Tsing	North	Sai Kung	Tai Po	Sha Tin	Tsuen Wan	Tuen Mun	Yuen Long	Total	
2010																				
2009																				
2008																				
2007																				
2006																				

- (e) of the existing number of the FEHD officers dedicated to handle cases of illegal encroachment on the pavements outside shop premises or street obstruction in the evenings or during non-office hours in various districts (set out in the table below);

	Central and Western	Eastern	Southern	Wan Chai	Kowloon City	Kwun Tong	Sham Shui Po	Wong Tai Sin	Yau Tsim Mong	Islands	Kwai Tsing	North	Sai Kung	Tai Po	Sha Tin	Tsuen Wan	Tuen Mun	Yuen Long	Total	
Number of the FEHD officers																				

- (f) under the existing legislation, of the legislation breached by food premises illegally encroaching onto the pavements outside their premises to extend their operation, and of the relevant penalty; and

- (g) *under the existing legislation, of the legislation breached by any person and shop obstructing the pavements by placing some used electrical appliances and garbage all over the streets, and of the relevant penalty?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, illegal extension of business by shops is a street management problem which falls within the purview of a number of government departments. The core function of the FEHD is maintaining environmental hygiene. Hence, the FEHD will accord priority to handling cases causing obstruction to scavenging operations or relating to illegal extension of food business, and will take enforcement action having regard to the actual circumstances. The FEHD will also actively participate in inter-departmental operations co-ordinated by the Home Affairs Department, such that relevant departments could take further action under their purview to stop such unauthorized activities. Depending on the circumstances, the FEHD will take enforcement action in accordance with the following statutory provisions:

- for shops which have extended its business without authorization and caused obstruction of public places, the FEHD may institute prosecutions under section 4A of the Summary Offences Ordinance (Cap. 228);
- if the shops have placed any article in public places and caused obstruction to scavenging operations, the FEHD may institute prosecutions under section 22 of the Public Health and Municipal Services Ordinance (Cap. 132); and
- regarding those licensed food premises that carry on business illegally beyond the confines of their premises, the FEHD may institute prosecutions against the licensees concerned under section 34C of the Food Business Regulation (Cap. 132X).

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

- (a) In general, upon receipt of a complaint about illegal extension of food premises, the FEHD will carry out investigation within six

working days as stated in its performance pledge. Based on the information provided by the complainant, such as the location and time of non-compliance, the FEHD will, wherever practicable, conduct investigation on site at the period reported in the complaint, including after office hours, for example, at night, at weekends and on public holidays. Enforcement action will also be taken in the light of the evidence collected on site. If serious non-compliance is involved in the complaint, the FEHD will expedite the investigation and follow up.

- (b) Members of the public may lodge complaints of obstruction of public places through the government hotline 1823 or the FEHD enquiry and complaint hotline at 2868 0000. They may also call the FEHD's District Environmental Hygiene Offices. The telephone numbers of these offices have been uploaded to the FEHD website. The FEHD will follow up on the complaints in accordance with its performance pledge.
- (c) Please refer to Annex 1 for the number of prosecutions instituted by the FEHD against illegal occupation of pedestrian walkways in front of shops or obstruction of public places (including obstruction to scavenging operations, illegal extension of food business and shop front extension) in the past five years by District Council (DC) districts.
- (d) The FEHD does not have the statistics on cases of repeated offences.
- (e) At present, the FEHD Health Inspectors take enforcement action against illegal extension and obstruction of public places by food premises, while the FEHD Cleansing Foremen are responsible for enforcement against obstruction to scavenging operations caused by illegal shop extension in accordance with section 22 of the Public Health and Municipal Services Ordinance (Cap. 132). As for prosecution concerning obstruction of public places, it is undertaken by both the staff of the Hawker Control Teams and Health Inspectors under section 4A of the Summary Offences Ordinance (Cap. 228). Please refer to Annex 2 for the strength of the relevant staff in the District Offices of the FEHD by DC district. The regulation of

illegal shop extension is just part of the routine duties of the FEHD staff mentioned above. The FEHD will follow up on complaints against illegal occupation of shop front pedestrian walkways and obstruction of public places according to its performance pledge. Blitz prosecution action will be taken during different time periods (including at night and early morning) as and when required.

- (f) If licensees carry on their business beyond the approved confines of their food premises, the FEHD will institute prosecutions against them under section 34C of the Food Business Regulation (Cap. 132X). Upon conviction, they are liable to a maximum fine of \$10,000 and imprisonment for three months with an additional daily fine of \$300. In addition, the FEHD will register corresponding demerit points against these premises in accordance with the Demerit Point System. If the demerit points have accumulated to a prescribed level, the FEHD will suspend or cancel the food business licences concerned under the existing policy. If food premises are found to have caused obstruction by placing any article in public places, the FEHD will institute prosecutions under section 4A of the Summary Offences Ordinance (Cap. 228). Offenders are liable to a maximum fine of \$5,000 or imprisonment for three months on conviction.

- (g) If any article (such as miscellaneous items like second-hand electrical appliances) placed on street is found to obstruct scavenging operations, the FEHD officers may issue a notice to the owner of the article under section 22 of the Public Health and Municipal Services Ordinance (Cap. 132), requiring him to remove the article within a specified period of time, failing which the FEHD may seize the article. The maximum penalty for contravention of the above provision is a fine of \$5,000 and a daily fine of \$50. For any obstruction of public places, the FEHD officers may institute prosecutions under section 4A of the Summary Offences Ordinance (Cap. 228), and offenders are, upon conviction, liable to a maximum fine of \$5,000 or imprisonment for three months.

Annex 1

The number of prosecutions instituted by the FEHD
against illegal occupation of pedestrian walkways or obstruction of
public places by DC district

<i>District</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Central and Western	326	345	495	904	1 041
Wan Chai	1 163	1 335	1 059	1 521	2 352
Eastern	1 675	1 892	2 261	2 886	3 475
Southern	175	222	476	559	543
Islands	17	34	37	53	25
Yau Tsim Mong	2 141	3 398	3 626	3 043	3 100
Sham Shui Po	1 090	579	552	811	1 400
Kowloon City	1 091	1 002	1 121	1 477	1 440
Wong Tai Sin	316	303	517	671	578
Kwun Tong	411	539	298	563	532
Kwai Tsing	45	123	86	64	105
Tsuen Wan	49	198	167	260	340
Tuen Mun	410	716	794	702	670
Yuen Long	302	295	258	345	516
North	195	118	101	126	182
Tai Po	776	1 547	1 872	1 563	1 489
Sha Tin	794	1 082	1 082	1 059	988
Sai Kung	41	64	94	55	65
Total	11 017	13 792	14 896	16 662	18 841

Annex 2

The strength of Health Inspectors, Cleansing Foremen and Hawker
Control Teams of the FEHD by DC districts

<i>District</i>	<i>Number of Health Inspectors</i>	<i>Number of Cleansing Foremen</i>	<i>Number of Staff in Hawker Control Teams</i>
Central and Western	19	41	154
Wan Chai	21	29	110
Eastern	24	32	134
Southern	8	26	53
Islands	8	43	62
Yau Tsim Mong	36	50	251

<i>District</i>	<i>Number of Health Inspectors</i>	<i>Number of Cleansing Foremen</i>	<i>Number of Staff in Hawker Control Teams</i>
Sham Shui Po	18	25	122
Kowloon City	20	29	92
Wong Tai Sin	10	15	84
Kwun Tong	16	23	86
Kwai Tsing	13	28	73
Tsuen Wan	15	29	63
Tuen Mun	16	32	71
Yuen Long	17	42	83
North	10	46	69
Tai Po	11	35	67
Sha Tin	18	35	83
Sai Kung	10	37	73
Total	290	597	1 730

Free Television Programme Service Licences

16. **MR FREDERICK FUNG** (in Chinese): *President, the Broadcasting Authority (BA) received applications for domestic free television programme service licences one after another from City Telecom (Hong Kong) Limited, Fantastic Television Limited and HK Television Entertainment Company Limited between end-2009 and early-2010. It has been reported that the Executive Council will soon discuss recommendations on the grant of such licences, and the two existing licensees have expressed concern in this regard. It has also been reported that if the Government decides to grant such licences, a licensee may even consider applying for judicial review. In this connection, will the Government inform this Council:*

- (a) *of the current progress in vetting the above licence applications; how the relevant licensing conditions and broadcasting mode, and so on, compare with those of the two existing licences; at present, the expected time of announcing the results; whether it has estimated the earliest possible time that new operators, if granted the licences, can officially launch free television programme services; and*
- (b) *whether it has received formal complaints or views from the two existing licensees, or has looked into their concerns; if it has, how it*

will respond to their views; whether it has assessed the possible reactions of the two existing licensees after announcing the results of the applications and has formulated a contingency plan; how it ensures that the vetting process of the aforesaid three licence applications will not be affected by any external pressure, and aims to provide more choices to viewers and break the existing monopoly, and vetting is based on public interest, and strictly adheres to the principles of fairness and impartiality?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President,

- (a) The BA has received applications for domestic free television programme service licences from City Telecom (Hong Kong) Limited, Fantastic Television Limited and Hong Kong Television Entertainment Company Limited. The BA is assessing the three applications in accordance with the Broadcasting Ordinance (BO) and established procedures, taking into account a number of factors such as the BO's requirements (with which the two existing licensees must also comply), assessment criteria set out in the BA's Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences, public opinions and the possible impact of new licences on the free television programme service market. Upon completion of the assessment, the BA will submit its recommendations on the three applications to the Chief Executive in Council in accordance with the BO. The outcome will be announced after a decision has been made by the Chief Executive in Council. As the assessment is still underway, it is not appropriate for us to speculate or comment on the outcome.
- (b) The BA conducted a public consultation exercise from July to September 2010 pursuant to the BO to collect public views on the three licence applications. We understand that the BA received a total of 256 submissions during the consultation period, including those from the two existing licensees, that is, Television Broadcasts Limited and Asia Television Limited (ATV). In their submissions, the two licensees have raised some concerns, including suggestions

that if new licences are to be granted, the new licensees should be subject to the same licence conditions, and that new licences should not be granted before the expiry of their current licences. The BA will give due regard to these views when formulating its recommendations, and will submit a summary of views received to the Chief Executive in Council for consideration. Separately, the Chief Executive in Council recently received an appeal against the BA's decision from the legal representative of ATV, and the appeal is being processed.

It is the Government's policy to promote the sustainable development of the local broadcasting industry and encourage competition and investment as well as the adoption of innovative technologies by the industry, thereby leading to the provision of more choices of quality programmes to the public. Under the BO, there is currently no pre-set limit on the number of free television programme service licences to be issued. Any interested and eligible organizations may apply to the BA for such licences. The BA, as an independent regulatory body established by statute, will handle the three applications in an independent, fair and impartial manner strictly in accordance with the BO and established procedures, having due regard to the impact of the proposed services on the free television programme service market, with a view to ensuring a level playing field for broadcasters. In deciding whether to grant a free television programme service licence, the Chief Executive in Council will take into account all relevant factors and be guided by the public interest.

Food Products Contaminated by Plasticizer

17. **DR LAM TAI-FAI** (in Chinese): *President, it has been reported that a study conducted by the Department of Biology of the Baptist University has discovered that over 90% of the blood samples from 200 Hong Kong people contain plasticizer, and some academics even suspected that this was related to the recent discovery of carcinogenic additive plasticizer in Taiwanese food products and drinks and believe that long-term consumption of food products or drinks containing plasticizer by Hong Kong people has caused their blood to contain toxic substances; and the incident has greatly undermined public*

confidence in food products imported from Taiwan, thereby seriously affecting the business of suppliers or retailers of Taiwanese food products or drinks. In this connection, will the Government inform this Council:

- (a) whether the Government has planned to conduct a territory-wide study to find out if the blood of all Hong Kong people contain substances of toxic food additives such as plasticizer, and so on; if it has, of the details; if not, the reasons for that;*
- (b) whether it had received complaints in the past three years about food products or drinks in Hong Kong containing toxic additives; if it had, of the details; if not, the reasons for that;*
- (c) whether it had taken the initiative to conduct sample tests on food products or drinks for sale in the Hong Kong market in the past three years to ascertain if they contained toxic additives; if it had, of the details; if not, the reasons for that;*
- (d) whether it will plan to extend the scope of testing to examine if imported food products and drinks contain plasticizer; if it will, of the details; if not, the reasons for that;*
- (e) whether it will introduce legislation to require imported food products or drinks to label the types and quantities of additives contained in the products so as to safeguard the right to know of members of the public; if it will, of the details; if not, the reasons for that;*
- (f) whether it has liaised with the Taiwanese authorities to request for the provision of more specific lists and sales information of local food products or drinks found to contain toxic additives such as plasticizer, and so on; if it has, of the details; if not, the reasons for that;*
- (g) given that the Taiwanese authorities have found that children's syrups used in clinics have also been contaminated by plasticizer, whether the SAR Government knows the market share of medicinal flavoured syrups imported directly from Taiwan, and whether the*

Government had conducted sample tests on such imported medicinal flavoured syrups in the past five years to ascertain if they complied with food safety requirements; if it had, of the details; if not, the reasons for that, and whether it has planned to conduct such tests;

- (h) whether it has assessed the impact of this incident of Taiwanese problem food products and drinks on the business of Hong Kong suppliers of imported food products from Taiwan; if it has, of the details; if not, the reasons for that; and*
- (i) whether it has planned to educate members of the public to differentiate between harmful and edible food additives and step up publicity on the impact of food additives on health; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, after the announcement by the Food and Drug Administration (FDA) in Taiwan on 23 May 2011 that a plasticizer di(2-ethylhexyl)phthalate (DEHP) had been detected in 16 samples of drinks at levels up to 34.1 parts per million (ppm), the Centre for Food Safety (CFS) immediately followed up and conducted inspections at retail outlets to see if the relevant Taiwanese food products were available in our market. Based on the information provided by the Taiwanese authority, the CFS has taken samples at the import, wholesale and retail levels for testing. In the light of the test results and risk assessment, the Director of Food and Environmental Hygiene, in exercise of his power under section 78B of the Public Health and Municipal Services Ordinance (Cap. 132), made orders on 30 May, 1 June, 8 June, 9 June and 13 June 2011 to prohibit the import of three specified sports drinks, one specified brand of Konjac coconut jelly, a drink premix, a mango syrup, a peach concentrated juice and fruit syrup of all flavours produced by a certain manufacturer, and prohibit the supply of these food products within Hong Kong. The orders also directed the trade (importers/distributors/retailers) to complete the recall of these food products from the market in a specified manner within a period of 30 days, unless the products were accompanied by a certificate issued by the relevant Taiwanese authority certifying that the levels of DEHP did not exceed 1.5 ppm or the levels of di-butyl phthalate (DBP) do not exceed 0.3 ppm.

While DEHP has low acute oral toxicity, it was found to affect the liver and kidney as well as the reproduction and development of experimental animals. The International Agency for Research on Cancer concluded that DEHP is possibly carcinogenic to humans. Therefore, DEHP should not be added to food. However, given that DEHP was found in Taiwanese food products, the CFS has specifically included DEHP in the surveillance for the food products concerned and take actions as appropriate to safeguard public health.

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

- (a) DEHP is widely used as a plasticizer for polyvinyl chloride (PVC) products. PVC is used in various consumer products such as imitation leather, rainwear, footwear, upholstery, flooring, wire and cable, tablecloths, shower curtains, food packaging materials, medical equipment and children's toys. Trace amount of DEHP may be present in food due to migration from food contact materials, or due to its widespread presence as an environmental contaminant in air, water, soil and food. Our exposure to DEHP is mainly through water and food.

At present, there are no internationally recognized testing methods and standards to determine the level of plasticizers in human body. The World Health Organization has not recommended any regional biomonitoring of the level of plasticizers such as DEHP in human body. As far as we know, testing DEHP in blood is not a common method to determine the level of plasticizers in human body, since blood DEHP level could be subject to variation due to other factors. There are also limited research studies on the use of blood samples for testing the level of DEHP in human. In some large scale regional surveys, such as the national studies conducted by the Centers for Disease Control and Prevention in the United States, urine test has been used to measure DEHP metabolites to provide reference data for scientific researches. Although animal studies showed possible health effects after long-term exposure to high dose DEHP, the United States survey results showed that finding a detectable amount of DEHP metabolites in urine did not indicate an adverse health effect on human.

According to scientific literature, plasticizers have been detected in blood or urine samples of most people in various parts of the world (for example, United States, Germany). The Administration will continue to keep abreast of the relevant local and international research results for follow-up action.

- (b) In the past three years, the Food and Environmental Hygiene Department (FEHD) has recorded a total of about 1 200 complaints relating to additives in food or beverages, including non-permitted colouring matters, sweeteners or preservatives. Upon investigation by the FEHD, 52 cases were found to be substantiated. The FEHD initiated prosecutions in six cases with sufficient evidence and issued 46 warning letters to the persons involved.
- (c) The use of additives in food is regulated under the Colouring Matter in Food Regulations (Cap. 132H), the Preservatives in Food Regulations (Cap. 132BD) and the Sweeteners in Food Regulations (Cap. 132U), while chemicals in food are regulated under the Harmful Substances in Food Regulations (Cap. 132AF), the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V) and the Mineral Oil in Food Regulations (Cap. 132AR). Regarding those chemicals for which there are no prescribed standards, the FEHD will make reference to international standards, such as those of the Codex Alimentarius Commission, or conduct risk assessment on the level of chemicals detected in tests. In addition, section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) provides that all food intended for human consumption for sale in Hong Kong, whether imported or locally produced, must be fit for human consumption.

The CFS's routine food surveillance programme adopts a risk-based approach and samples are taken at the import, wholesale and retail levels for testing, including testing for additives regulated by law and others involved in food incidents. The CFS will adjust the testing parameters under its routine surveillance programme having regard to the testing and risk assessment results. The food surveillance projects under the programme have also been endorsed by the Expert Committee on Food Safety.

In the past three years, under the CFS's food surveillance programme, more than 13 800 food samples have been taken for chemical testing, including testing for additives. The satisfactory rate of testing results was over 99%. Results on unsatisfactory samples have been made known to the public.

- (d) Before the adulteration of plasticizers in food was reported in Taiwan, the related chemicals were not included in our routine surveillance. At present, the targeted approach adopted by the CFS in monitoring, surveillance, sampling, testing, risk assessment, control and communication on the plasticizers has far exceeded the routine surveillance of any harmful substances in food in terms of manpower and resources deployed. These intensified actions are expected to last until such risk in food has been reduced to a reasonable level. In future, the CFS will include plasticizers in its routine surveillance programme to monitor those prepackaged food that may have used clouding agents in the manufacturing process.
- (e) According to section 2(2) of Schedule 3 to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), all prepackaged food sold in Hong Kong must be legibly marked or labelled to provide the relevant information, such as the name, the list of ingredients, the durability, and the count, weight or volume of the food.

According to the above Regulations, the ingredients must be listed in descending order of weight or volume determined as at the time of their use when the food was packaged. An additive constituting one of the ingredients of a food must be listed by its functional class and (i) its specific name; or (ii) its identification number under the International Numbering System for Food Additives; or (iii) its identification number under the International Numbering System for Food Additives with the prefix "E" or "e".

- (f) Since the onset of the incident, the CFS has been maintaining close liaison with the Taiwanese authority and a contact person has been assigned specifically for the incident to facilitate exchange of the latest information. Furthermore, the CFS has maintained close

liaison and met with the trade in Hong Kong to keep them informed of the latest development in Taiwan and urge them to take the initiative to suspend the sale of any drinks or food items that might be affected by plasticizers and notify the CFS accordingly.

The CFS will take immediate action upon receipt of information concerning the food affected. If any food product is found to be tainted with plasticizers, the CFS will, in accordance with the existing legislation, prohibit the import and supply of the food product concerned in Hong Kong and require the trade to recall and dispose of the food product concerned as soon as possible and publicize the information.

- (g) Flavouring agents are not categorized as pharmaceutical products. However, the addition of flavouring agents during the drug manufacturing process should meet the requirements in relation to safety and quality standards of the "Good Manufacturing Practice". At the initial stage of the plasticizer incident in Taiwan, the Department of Health had immediately reminded the healthcare professionals in writing that only the flavouring agents under pharmacopoeial requirements were to be used in preparing drugs. According to the pharmacopoeia, plasticizers shall not be added to flavouring agents as ingredients. Should any flavouring agents from Taiwan be added to orally consumed drugs, importers should prove that the drugs are free from DEHP or Diisononyl phthalate (DINP).
- (h) In 2010, Taiwan was Hong Kong's fourth largest trading partner, with total bilateral trade amounting to \$293.4 billion, amongst which the value of imports was \$224.8 billion. According to the statistics in 2010, the value of fruit juices, fruit jam/syrup, tea beverages, and edible products and preparations imported from Taiwan was about \$455 million, which accounted only for 0.2% of total imports from Taiwan. As a wide range of food and beverage items may be affected by the incident in question, it is difficult for us to assess the impact on the trade flows between Hong Kong and Taiwan at this stage. However, since Taiwan is not Hong Kong's main source of

food and beverages imports, we believe that the impact of the incident on the trade between Hong Kong and Taiwan is limited.

After the incident, the Administration has contacted major trade and industrial organizations to understand the impact of the incident on the food and catering trade. Some restaurants and beverage retailers (including those which mainly sell Taiwanese snacks and drinks) said that the incident had affected their business to a certain extent. Separately, the operating cost of food suppliers was said to have increased because some retailers required them to produce proof that their products (irrespective of whether they were of Taiwan origin) did not contain any plasticizer.

The Administration will continue to liaise with the trade and monitor the latest development closely, and provide support to the trade as appropriate.

- (i) Educating members of the public to differentiate between harmful and edible food additives and enhancing their awareness of food hazards have formed a crucial part of the CFS's routine education programmes. Through educational materials such as leaflets, booklets as well as publicity channels such as CFS website, periodicals, seminars and exhibitions, the CFS has introduced to members of the public various food additives and taught them to read food labels for the presence of additives. In recent years, the CFS has also strengthened its publicity efforts by launching a monthly e-publication "Food Safety Focus", which serves as a platform to introduce topics that cover holistically the safety concern of food additives like preservatives, colouring matters and sweeteners, and so on. Such information is available on the following website: <http://www.cfs.gov.hk/english/multimedia/multimedia_pub/multimedia_pub_fsf.html>.

In light of the recent public concern over food additives, the CFS will take a more proactive approach in its publicity and education efforts, with a view to enhancing public understanding of the issue.

Air Pollution Caused by Road Traffic

18. **MR KAM NAI-WAI** (in Chinese): *President, regarding air pollution caused by road traffic in Hong Kong, will the Government inform this Council:*

- (a) whether it knows the respective numbers of buses in the fleet of each franchised bus company (company) at present, together with a breakdown by emission standards; the numbers of old buses replaced each year by each company since 2005, as well as the replacement cost of each bus and the total replacement costs (with a breakdown by company name);*
- (b) whether the annual air pollutant emission inventory in respect of various types of vehicles (including franchised buses and other vehicles) since 2009 have been completed; if so, of the details; if not, the reasons for that and the estimated completion time;*
- (c) whether it will consider encouraging bus companies to advance the retirement of high-emission buses by means of financial subsidies or franchise extension; if it will, of the details, and the amount of funds required and the impact on bus fares; if not, the reasons for that, and whether it has more effective measures to encourage bus companies to advance the replacement of these buses;*
- (d) given that in reply to a question raised by a Member of this Council on 25 May this year, the Secretary for the Environment indicated that "the pilot low-emission zones (LEZs) to be designated in Causeway Bay, Central and Mong Kok seek to restrict the access of franchised buses to low-emission models", whether it has assessed the changes in the levels of air pollutants in these districts after the designation of LEZs; whether it will extend the scope of restriction of access to these zones from franchised buses to all other vehicles; and*
- (e) in the past five years, of the respective numbers of various types of vehicles in Hong Kong each year (with a breakdown by cylinder capacity, emission standards and vehicle type); and a breakdown of the emission figures of each vehicle type (including private cars (petrol), private cars (light diesel oil), goods vehicles and special*

purpose vehicles (except van-type light goods vehicles (LGVs)), LGVs, public buses, private buses, taxis, motor cycles and motor tricycles, public light buses, private light buses, electrically powered passenger vehicles) each year by cylinder capacity (set out in the format of the table below)?

<i>vehicle type and cylinder capacity</i>	<i>Year 2005 Year 2010</i>						<i>hybrid vehicles or electrically powered vehicles</i>
	<i>emission standards</i>						
	<i>Pre-Euro Euro V</i>						
<i>Private cars (petrol)</i>							
<i>below 1500cc</i>							
<i>1500 to 2500cc</i>							
<i>2500 to 3500cc</i>							
<i>3500 to 4500cc</i>							
<i>above 4500cc</i>							
<i>..... LGVs</i>							
<i>below 1.9 tonnes</i>							
<i>above 1.9 tonnes</i>							
<i>Public buses</i>							
<i>..... electrically powered passenger vehicles</i>							

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The number of buses owned by the franchised bus companies as at end-March 2011, classified by emission standards, is shown at Annex I.

The respective number of buses purchased and old buses retired by the franchised bus companies in each year between 2005 and 2010 is at Annex II. Currently, a new double-deck bus and a new single-deck bus costs about \$3 million and \$2 million respectively. The total cost of the franchised bus companies for procurement of

buses depends on the market prices at different points in time, the numbers and types of buses purchased, as well as foreign exchange rates, and so on.

- (b) We are still compiling the 2009 emission inventory of vehicles which is expected to complete within this year. For the preliminary 2009 emission inventory of vehicles, please refer to Annex III.
- (c) When considering bus franchises, the Government takes into account various factors, including the provision of proper and efficient public bus services; quality of services in terms of reliability, bus safety measures and passenger satisfaction; and commitments by bus companies to service enhancement and implementation of environment-friendly measures. In fact, we have already added in the bus franchises the provision to require bus companies to adopt, as far as reasonably practicable, the latest commercially available and proven environment-friendly technologies for acquiring new buses to reduce emissions and noise nuisance.

On the other hand, all franchised bus companies are required to operate their franchised bus services with buses under the age of 18, and have been replacing their serving buses accordingly. Based on this arrangement, about 35% of serving franchised buses (about 2 000 buses), including all pre-Euro and Euro I buses, as well as some Euro II buses, will retire by 2015.

Besides, we have been encouraging the bus companies to implement the following environment-friendly measures:

- (i) encouraging the bus companies to deploy cleaner vehicles along busy corridors;
- (ii) including the adoption of environment-friendly measures as a criterion in selecting operators for new bus route packages; and
- (iii) enhancing bus service rationalization to reduce roadside air pollution, noise nuisance, traffic congestion and energy consumption.

The ultimate objective of the Government is to have zero emission buses running across the territory. When the current bus franchises expire in the coming few years, we will impose additional requirements in the franchises for the bus companies to switch to zero emission buses or the most environment-friendly buses when replacing existing ones, taking into account the feasibility and affordability for bus operators and passengers.

Franchised bus companies will replace all their pre-Euro and Euro I buses by 2015. Nevertheless, at present nearly 70% of franchised buses (about 3 900 buses) are Euro II or III vehicles. Given their large numbers, it would be difficult to phase out all these buses in the coming few years. Therefore, we consider that retrofitting suitable emission reduction devices to Euro II and III buses would be more feasible and cost-effective than using financial subsidies to encourage bus companies to advance the retirement of Euro II or III buses. To this end, we are now working jointly with the franchised bus companies to undertake a trial to retrofit buses of these emission standards with selective catalytic reduction (SCR) devices to reduce their emissions of nitrogen oxides. Together with the diesel particulate filters already installed on the buses, this could upgrade the emission performance of the buses to the level of Euro IV or V buses. Subject to satisfactory trial results, the Government will fund the full cost of retrofitting Euro II and Euro III buses with SCR devices.

- (d) The Government is planning to designate pilot LEZs for franchised buses in busy districts such as Causeway Bay, Central and Mong Kok, with the target of having only low-emission buses (that is, those meeting the emission level of a Euro IV or above bus) in these zones by 2015 the latest. By that time, we estimate that the roadside concentration of the major air pollutants from vehicular emissions, including respirable suspended particulates and nitrogen oxides, would be reduced by about 14% and 26% respectively when compared with the 2008 levels. We would make reference to the air quality monitoring data measured at the roadside air quality monitoring stations to assess the effectiveness of the pilot LEZs in improving roadside air quality. Moreover, the experience gained in designating pilot LEZs would provide useful reference for us to consider whether to extend the restriction to other vehicle types.

- (e) The Transport Department has started to break down the numbers of licensed vehicles of different vehicle classes by cylinder capacity and emission standard (that is, the Euro standards) since 2007. The relevant information is at Annex IV.

Annex I

Number of buses owned by the franchised bus companies,
classified by emission standards, as at end-March 2011

	<i>The Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)^{Note}</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)^{Note}</i>	<i>New Lantau Bus Company (1973) Limited</i>	<i>Total</i>
Pre-Euro	49	9	7	0	0	0	65
Euro I	905	270	76	0	4	0	1 255
Euro II	1 506	370	481	116	166	13	2 652
Euro III	1 099	10	75	18	0	65	1 267
Euro IV	98	28	38	32	0	15	211
Euro V	104	78	33	0	2	9	226
Total	3 761	765	710	166	172	102	5 676

Note:

"Citybus Limited (Franchise 1)" refers to the franchise held by the Citybus Limited for the provision of Hong Kong Island and cross-harbour bus services, while "Citybus (Franchise 2)" refers to the franchise held by the same company for the provision of North Lantau and Chek Lap Kok Airport bus services.

Annex II

Number of new buses purchased by the franchised
bus companies between 2005 and 2010

	<i>The Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)</i>	<i>New Lantau Bus Company (1973) Limited</i>	<i>Total</i>
2005	42	5	0	3	6	4	60
2006	110	8	0	5	12	0	135

	<i>The Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)</i>	<i>New Lantao Bus Company (1973) Limited</i>	<i>Total</i>
2007	55	5	0	8	4	11	83
2008	21	5	18	2	0	10	56
2009	51	18	20	11	0	2	102
2010	133	73	20	21	0	9	256
Total	412	114	58	50	22	36	692

Number of old buses retired by the franchised bus companies between 2005 and 2010

	<i>The Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)</i>	<i>New Lantao Bus Company (1973) Limited</i>	<i>Total</i>
2005	163	10	25	0	10	4	212
2006	118	22	4	0	4	3	151
2007	29	0	4	0	0	1	34
2008	135	2	3	4	0	2	146
2009	104	9	18	1	0	0	132
2010	191	21	24	22	0	1	259
Total	740	64	78	27	14	11	934

Annex III

The preliminary 2009 emission inventory of vehicles

<i>Vehicle Type</i>	<i>Air Pollutant Emissions (Tonnes)</i>			
	<i>Respirable Suspended Particulates (RSP)</i>	<i>Nitrogen Oxides (NOx)</i>	<i>Volatile Organic Compounds (VOC)</i>	<i>Carbon Monoxide (CO)</i>
Motorcycles	10	220	840	7 530
Petrol Private Cars (including petrol LGVs)	10	860	1 190	20 980

<i>Vehicle Type</i>	<i>Air Pollutant Emissions (Tonnes)</i>			
	<i>Respirable Suspended Particulates (RSP)</i>	<i>Nitrogen Oxides (NOx)</i>	<i>Volatile Organic Compounds (VOC)</i>	<i>Carbon Monoxide (CO)</i>
Taxis	60	1 360	1 970	15 580
Public Light Buses	80	250	270	3 260
Private Light Buses	10	80	20	330
Diesel LGVs (including diesel private cars)	350	2 870	430	1 090
Heavy Goods Vehicles	710	9 690	700	2 550
Public Buses (Non-Franchised) and Private Buses	100	1 260	110	330
Franchised Buses (Single-deck and Double-deck)	70	2 110	70	250
Total	1 400	18 700	5 600	51 900

Annex IV

Number of licensed vehicles, breakdown by engine size and emission standard between 2007 and 2010

Year 2007

<i>Vehicle Class</i>	<i>Emission Standards</i>					<i>Electric Vehicles⁽¹⁾</i>
	<i>Pre-Euro</i>	<i>Euro I</i>	<i>Euro II</i>	<i>Euro III</i>	<i>Euro IV</i>	
Private Cars (Petrol)						3
<1500cc	11 611	25 373	19 314	27 613	9 043	
1501-2500cc	16 684	35 072	29 393	65 831	30 968	
2501-3500cc	4 948	12 268	11 385	32 902	14 603	
3501-4500cc	1 575	2 354	894	5 559	1 993	
>4500cc	1 759	1 235	1 734	3 485	2 803	
Private Cars (Diesel)						
<1500cc	3	0	0	0	0	
1501-2500cc	613	275	20	1	0	
2501-3500cc	422	408	48	2	0	
3501-4500cc	14	2	0	0	0	
>4500cc	0	0	0	0	0	

<i>Vehicle Class</i>	<i>Emission Standards</i>					<i>Electric Vehicles⁽¹⁾</i>
	<i>Pre-Euro</i>	<i>Euro I</i>	<i>Euro II</i>	<i>Euro III</i>	<i>Euro IV</i>	
Goods Vehicles						4
<1.9 tonnes	24	0	3	3	0	
>1.9 tonnes	32 286	23 560	25 931	28 137	7 438	
Public Buses	1 545	1 845	5 010	3 732	702	1
Private Buses	66	60	150	166	41	1
Public Light Buses	273	543	501	2 900	133	0
Private Light Buses	559	527	310	351	153	1
Taxis	1	2	15 882	1 559	721	0
Motorcycles	8 578	24 550	0	0	0	5

Year 2008

<i>Vehicle Class</i>	<i>Emission Standards</i>						<i>Electric Vehicles⁽¹⁾</i>
	<i>Pre-Euro</i>	<i>Euro I</i>	<i>Euro II</i>	<i>Euro III</i>	<i>Euro IV</i>	<i>Euro V⁽²⁾</i>	
Private Cars (Petrol)							1
<1500cc	8 868	23 182	18 732	27 327	14 737	-	
1501-2500cc	12 605	31 221	27 855	64 524	47 515	-	
2501-3500cc	3 792	10 590	10 757	32 125	22 323	-	
3501-4500cc	1 316	2 020	829	5 455	3 716	-	
>4500cc	1 481	1 089	1 682	3 408	4 236	-	
Private Cars (Diesel)							
<1500cc	2	0	0	0	0	-	
1501-2500cc	594	262	19	1	0	-	
2501-3500cc	415	398	46	2	0	-	
3501-4500cc	14	1	0	0	0	-	
>4500cc	0	0	0	0	0	-	
Goods Vehicles							4
<1.9 tonnes	25	0	2	4	0	0	
>1.9 tonnes	26 083	21 471	25 115	27 898	15 035	21	
Public Buses	1 248	1 471	4 910	3 723	1 397	2	1
Private Buses	56	46	140	163	88	0	1
Public Light Buses	110	515	499	2 884	256	86	0
Private Light Buses	422	459	307	346	315	87	0
Taxis	1	2	15 400	1 545	1 280	0	0
Motorcycles	7 419	22 809	0	0	0	0	5

Year 2009

Vehicle Class	Emission Standards						Electric Vehicles ⁽¹⁾
	Pre-Euro	Euro I	Euro II	Euro III	Euro IV	Euro V ⁽²⁾	
Private Cars (Petrol)							2
<1500cc	6 592	21 079	18 153	27 020	19 921	-	
1501-2500cc	9 788	27 900	26 729	64 101	61 203	-	
2501-3500cc	3 053	9 332	10 359	31 979	28 463	-	
3501-4500cc	1 093	1 766	780	5 429	4 680	-	
>4500cc	1 269	931	1 606	3 431	5 345	-	
Private Cars (Diesel)							
<1500cc	3	0	0	0	0	-	
1501-2500cc	591	250	20	1	0	-	
2501-3500cc	395	401	44	2	-	83 ⁽³⁾	
3501-4500cc	15	1	0	0	0	-	
>4500cc	0	0	0	0	0	-	
Goods Vehicles							4
<1.9 tonnes	18	0	1	4	0	0	
>1.9 tonnes	22 402	20 081	24 748	28 023	18 317	41	
Public Buses	1 081	1 258	4 808	3 708	1 861	38	1
Private Buses	46	30	128	165	122	1	1
Public Light Buses	76	471	498	2 872	256	74	0
Private Light Buses	385	440	298	342	446	81	0
Taxis	1	2	15 056	1 530	1 651	0	0
Motorcycles	6 540	21 390	0	0	0	0	5

Year 2010

Vehicle Class	Emission Standards						Electric Vehicles ⁽¹⁾
	Pre-Euro	Euro I	Euro II	Euro III	Euro IV	Euro V ⁽²⁾	
Private Cars (Petrol)							59
<1500cc	5 081	19 085	17 465	26 766	27 670	-	
1501-2500cc	7 630	24 457	25 208	62 810	79 544	-	
2501-3500cc	2 494	7 874	9 746	31 391	37 430	-	
3501-4500cc	942	1 514	731	5 322	5 793	-	
>4500cc	1 098	810	1 558	3 345	7 220	-	
Private Cars (Diesel)							
<1500cc	1	0	0	0	0	-	
1501-2500cc	578	238	21	0	-	-	
2501-3500cc	407	402	43	2	0	229 ⁽³⁾	
3501-4500cc	14	1	0	0	0	-	
>4500cc	0	0	0	0	0	-	

<i>Vehicle Class</i>	<i>Emission Standards</i>						<i>Electric Vehicles⁽¹⁾</i>
	<i>Pre-Euro</i>	<i>Euro I</i>	<i>Euro II</i>	<i>Euro III</i>	<i>Euro IV</i>	<i>Euro V⁽²⁾</i>	
Goods Vehicles							4
<1.9 tonnes	18	0	1	4	0	0	
>1.9 tonnes	20 106	18 613	23 856	27 936	23 797	981	
Public Buses	701	1 121	4 552	3 686	2 401	253	0
Private Buses	43	26	118	158	134	17	1
Public Light Buses	36	359	495	2 868	431	159	0
Private Light Buses	361	403	297	348	544	125	0
Taxis	1	1	14 678	1 520	2 029	13	0
Motorcycles	5 797	20 111	0	0	0	0	9

Notes:

- (1) Hybrid vehicles are classified as petrol vehicles. Thus, Transport Department does not have separate statistics for hybrid vehicles.
- (2) The data of Euro V diesel commercial vehicles is calculated from the number of diesel commercial vehicles that have received the tax concession under the Tax Incentives Scheme for Environment-friendly Commercial Vehicles. The incentive scheme was commenced on 1 April 2008. As the Scheme does not include franchised buses, the numbers of Euro V public buses in the above tables do not include franchised buses.
- (3) All newly registered diesel private cars in Hong Kong meet Euro VI emission standards.

Measures to Tackle False Self-employment

19. **MR WONG SING-CHI** (in Chinese): *President, with the commencement of the Minimum Wage Ordinance (Cap. 608) on 1 May this year, the working class worry that employers may attempt to evade their obligation to pay the minimum wage by means of "false self-employment", which turns employees into false self-employed persons. In this connection, will the Government inform this Council:*

- (a) *of the total number of complaints about false self-employment received by the Government since 1 May this year and among such cases, of the number of cases in respect of which prosecutions were instituted;*
- (b) *whether it will assess the relationship between the establishment of the statutory minimum wage and the problem of false*

self-employment; if it will, how it will carry out the assessment, and of the amount of resources to be injected; and

- (c) *in the long run, whether it will consider studying the feasibility of introducing legislation correspondingly to regulate false self-employment, consulting the public and community groups on the related details, and publicizing the phase-in outcome of the study; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President,

- (a) The Labour Department (LD) has all along been attaching great importance to protecting employees' rights and benefits. In combating false self-employment, the LD has adopted a three-pronged approach aimed at deterring the malpractices of evading liabilities by purposely and falsely labelling an employee as a self-employed person, and enhancing the knowledge of employers and employees on different contract types to facilitate their making the right decisions. Our measures include stepping up promotional and publicity efforts, provision of consultation and conciliation service to those involved in false self-employment disputes, and taking rigorous enforcement actions to combat illegal practices. In May 2011, the LD received 18 complaint and claim cases involving false self-employment disputes, which accounted for one percent of the total number of complaint and claim cases of the month. The figure is similar to that recorded before the commencement of the Minimum Wage Ordinance. At the moment, there is no information showing that the concerned cases arise from the commencement of the Minimum Wage Ordinance. As we are still following up the cases, no prosecution statistics are available at this stage.
- (b) The LD has been collecting statistics on cases and complaints involving false self-employment disputes since late 2009. We will continue to closely monitor cases involving false self-employment disputes, including the situation of these cases after the implementation of the Minimum Wage Ordinance on 1 May 2011. As the responsible officers are also tasked with carrying out other

duties, there is no separate breakdown on the resources involved in monitoring the situation of false self-employment.

- (c) At present, employers who purposely make use of false self-employment contracts to evade paying employment benefits to their employees already have to bear the consequences of failing to fulfil their legal liabilities under the relevant legislation. A person or company found to be an employer by a Court not only has to pay back the statutory rights and benefits retroactively to a worker who is falsely labelled as a self-employed person, he may also be liable to prosecution for failing to comply with the Employment Ordinance or the Employees' Compensation Ordinance as an employer.

To define self-employment by legislation is neither easy nor practical. Having regard to past court cases involving self-employment disputes, there is no single conclusive test to distinguish whether a person is an employee or a self-employed person. All the relevant factors of the case must be taken into account and there is no hard and fast rule as to how important a particular factor should be. Hence, it is difficult to list out all the possible scenarios clearly through legislative provisions. On the other hand, attempts to set out categorically in the law what constitutes self-employment may be counterproductive, as those who intend to exploit their employees can take this as providing guidance for evading the law.

We consider that the more effective ways to tackle the problem are through educating people and employers on the differences, pros/cons and the legal rights and obligations of the two contractual relationships of employment and self-employment, and reminding them to clarify the relevant modes of co-operation before entering into contracts. If people suspect that their own statutory rights and benefits as employees are exploited under the guise of false self-employment, they should report to the LD as soon as possible. We will conduct investigation at once and institute prosecution against the offending employers whenever there is sufficient evidence. We believe that the adoption of the three-pronged approach, that is, enhanced publicity, consultation service and enforcement action, is indeed the key to tackling the issue of false self-employment.

Discrimination Against Ex-mentally Ill Persons

20. **MS EMILY LAU** (in Chinese): *President, a number of ex-mentally ill persons have relayed to me that they are discriminated and alienated in employment and community life, which seriously hamper their rehabilitation and integration into the community. In this connection, will the executive authorities inform this Council:*

- (a) *whether they know the unemployment rate of ex-mentally ill persons at present and if it is higher than the overall unemployment rate; if they do, of the details; if not, whether they will conduct surveys and studies on ex-mentally ill persons' unemployment rate, causes of their unemployment and the support they need;*
- (b) *whether they know the number of complaints received by the Equal Opportunities Commission (EOC) which were lodged by mentally ill and ex-mentally ill persons under the Disability Discrimination Ordinance (Cap. 487) (DDO) last year, as well as the major areas involved; given that EOC previously studied cases of discrimination against mentally ill persons and put forward a number of recommendations, which recommendations put forward by EOC in the past have not been accepted and implemented, and whether EOC has any plan to take follow-up actions in this regard; and*
- (c) *of the expenditure of various government departments and public bodies on eliminating the public's discrimination against ex-mentally ill persons last year; since Members of this Council and deputations pointed out several times at the meetings of committees of this Council that the Government's efforts in public education to promote the public's acceptance of mentally ill persons were not enough, what new improvement initiatives the authorities will take; whether they will follow the examples of England and Australia and introduce programmes to encourage responsible and accurate depiction of mental illness and mentally ill persons in the media; as England has set up a Social Exclusion Unit under the Office of the Deputy Prime Minister to address the problem of social exclusion against mentally ill persons, whether the Government will follow suit and put in place a high-level mechanism of similar nature?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Government has been striving to provide equal opportunities for persons with disabilities (including ex-mentally ill persons) in order to facilitate their integration into society. As regards the legal framework, the DDO affords protection against discrimination on the ground of one's disability. The EOC, as the statutory enforcement agency of DDO, will ensure that the rights of persons with disabilities are safeguarded. Furthermore, the Mental Health Ordinance (Cap. 136) also safeguards the rights of mental patients. On the public education front, the Government strives to enhance public awareness on mental health and eliminate discrimination, thereby promoting public acceptance of persons with mental illness and assisting persons recovering from mental illness to re-integrate into society. My reply to Ms Emily LAU's question is as follows:

- (a) To facilitate formulation of policies and planning for services for persons with disabilities by the respective government bureaux and departments and service agencies, the Census and Statistics Department conducts a territory-wide "Survey on Persons with Disabilities and Chronic Diseases" (the survey) periodically. The latest round of the survey was conducted in 2006-2007. According to the results of the survey, the unemployment rate of persons with mental illness/mood disorder^{Note} was 14%. The overall unemployment rate for the Hong Kong population in 2007 was 4%. Relevant government departments, such as the Labour Department and Social Welfare Department (SWD), will make reference to the relevant data of the survey in providing suitable employment support for ex-mentally ill persons.
- (b) The number and area of the complaints lodged by mentally ill and ex-mentally ill persons under DDO received by EOC in 2010 are set out at Annex.

In 2002, EOC commissioned an in-depth study of mental health service users' perception and experience of discrimination in Hong Kong. The study concluded that the effectiveness of mental

Note:

According to the definition adopted by the survey, "Persons with mental illness/mood disorder" were defined as those who had been diagnosed as having mental illness/mood disorder under medical assessment tests (including ex-mentally ill persons) or had been/were being treated by psychiatrists or had received/were receiving some form of rehabilitation services provided for ex-mentally ill persons (such as psychiatric clinics, private psychiatrists, halfway houses and community psychiatric nursing services) at the time of enumeration. Separate figures for ex-mentally ill persons are not available in the survey.

healthcare service would hinge on a number of factors including public acceptance, effectiveness of the service, supply of effective drugs, provision of support and legal service, provision of occupational and rehabilitation service, and so on. The study made a number of recommendations. These included providing support to the family of persons with mental illness, providing medical care in an evidence-based and client-oriented approach, and wider use of new psychiatric drugs for persons with mental illness. The study also recommended the Government to set up a "Mental Health Council", which would co-ordinate all the policies, activities, researches and public education initiatives in mental health services, and protect the rights of persons with mental illness.

The Government accepted a number of recommendations from the study and has been continuously enhancing the medical and community support services for mentally ill persons, ex-mentally ill persons and their families along the same direction. Regarding the recommendation to set up a "Mental Health Council", at present, the Food and Health Bureau assumes the responsibility for co-ordinating policies and programmes on mental health. It works closely with the Labour and Welfare Bureau and co-ordinates the work of various government departments and agencies including the Hospital Authority (HA), the Department of Health (DH) and the SWD in the implementation of relevant measures. We seek to provide medical and rehabilitation services to patients with mental health problems through a multi-disciplinary and cross-sectoral team approach. We also have in place a cross-sectoral mechanism — the "Working Group on Mental Health Services" which keeps mental health services under review on a continuous basis. Chaired by the Secretary for Food and Health, the Working Group comprises academics, professionals and service providers. The Food and Health Bureau will continue to strengthen its co-ordinating role on matters relating to mental health and work closely with various departments and agencies in formulating appropriate policies and measures.

- (c) The Government is committed to promoting mental health through public education and publicity with a view to enhancing public awareness and understanding of mental health and public acceptance

of mental patients, thereby facilitating their re-integration into the community.

In 2010-2011, the expenditure incurred by the Labour and Welfare Bureau for public education activities in promoting mental health and enhancing public acceptance of mental patients was around \$3.2 million. The Labour and Welfare Bureau, in collaboration with more than 20 government departments, public organizations, non-governmental organizations and the media, has been organizing annually the "Mental Health Month" since 1995. During the "Mental Health Month", territory-wide and district-based publicity campaigns, including co-operation with the media to report on mental illness and mental patients in a positive manner, television and radio programmes, Announcements in the Public Interest, newspaper supplements, publicity programmes targeting residents in the community, and so on, are launched to enhance the general awareness of mental health and community support for persons recovering from mental illness. In 2011-2012, we will continue to organize the Mental Health Month as an on-going public education initiative. In tandem, to reinforce efforts in promoting the spirit and core values enshrined in the United Nations Convention on the Rights of Persons with Disabilities, the Labour and Welfare Bureau will continue to substantially increase the allocation for public education activities from around \$2 million annually to \$12.5 million in 2011-2012. Themes of these public education activities include promotion of mental health and full integration of persons recovering from mental illness into the community.

Furthermore, in 2010-2011, the SWD allocated a total of \$135 million to set up Integrated Community Centre for Mental Wellness (ICCMW) across the territory to provide one-stop and district-based support services ranging from prevention to crisis management to discharged mental patients, persons with suspected mental health problems, their families and carers and residents living in the community. These services include public education and publicity programmes to enhance community understanding of mental health and to eliminate discrimination of the public against ex-mentally ill persons. As at 31 March 2011, the ICCMWs had organized a total of 1 075 public education and publicity

activities/programmes to enhance public awareness of mental health, and the number of participants totalled about 79 000.

The HA has also been promoting the importance of mental health through its provision of psychiatric services. For example, through its child and adolescent health service, the Child and Adolescent Mental Health Community Support Project and the Early Assessment Service for Young People with Psychosis, the HA has been inculcating minors and their parents with an awareness of mental health. Meanwhile, the DH has produced a variety of health education materials to promote mental health. It also disseminates mental health information covering emotional management, stress management and development of self-image through its 24-hour health education hotline and website, so as to promote the mental health in social life.

Regarding the proposal of setting up a "Social Exclusion Unit", as mentioned above, the Government will continue to enhance public education for the development of an inclusive society and to eliminate discrimination. Meanwhile, EOC, being the statutory enforcement agency of DDO, will continue to ensure that the rights of persons with disabilities are protected and enhance public education to promote the equal opportunities of persons with disabilities.

Annex

The Number and Area of Complaints Lodged by Mentally Ill and
Ex-mentally Ill Persons under DDO Received by EOC
During January to December 2010

Classification by Nature of Discrimination

<i>Nature of Discrimination</i>	<i>Number</i>
Disability Discrimination	76
Disability Harassment	17
Disability Victimization	1
Disability Vilification	0
Total	94

Classification by Field

<i>Field</i>		<i>Number</i>
Employment	Dismissal	34
	In employment	10
	Other detriment	27
	Recruitment	2
Non-employment	Education services	10
	Government services	2
	Goods, services and facilities	9
Total		94

BILLS**First Reading of Bills**

PRESIDENT (in Cantonese): Bills: First Reading.

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 2011**SUPPLEMENTARY APPROPRIATION (2010-2011) BILL****COPYRIGHT (AMENDMENT) BILL 2011**

CLERK (in Cantonese): Guardianship of Minors (Amendment) Bill 2011
 Supplementary Appropriation (2010-2011) Bill
 Copyright (Amendment) Bill 2011.

Bills 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): Bills: Second Reading.

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 2011

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I move the Second Reading of the Guardianship of Minors (Amendment) Bill 2011 (the Bill).

The Bill seeks to amend the Guardianship of Minors Ordinance (the Ordinance) (Cap. 13) for implementing the recommendations of the Report on Guardianship of Children (the Report) published by the Law Reform Commission of Hong Kong (LRC). The recommendations aim at facilitating parents in making guardianship arrangements for their children in the event of their deaths.

Under the Ordinance, a parent may by will or deed appoint another person to be a guardian of his/her child in place of himself/herself in the event of his/her death. The Ordinance also authorizes the Court to appoint a person as the guardian of a minor under specific circumstances. The Report sought to review the legal arrangements in relation to the appointment, removal and power of guardians for minors under the Ordinance. The review was premised on the LRC's belief that children are born dependent, so provision must be made for their daily care and upbringing from the time they are born till their adulthood, and in the event that one or both of a child's parents die(s), appointment of guardians will be beneficial to the child as it can help achieve continuation of the provision for the child's daily care and upbringing.

In reviewing the relevant provisions of the Ordinance, the LRC has made reference to the Children Act 1989 of England and Wales and the Children (Scotland) Act 1995 of Scotland and proposed nine reform recommendations, eight of which shall be implemented through legislative amendments. The recommendations proposed by the LRC mainly seek to simplify the procedures for appointing guardians and to enhance and clarify related ordinances, in a bid to further protecting the interests of children. The recommendations include

allowing parents to appoint guardians by a document in writing; obviating the need to make a formal will or deed; requiring prior consent of the appointed guardian before the appointment can take effect; specifying when the appointment of a guardian shall take effect, and allowing a guardian to appoint a guardian for the child in the event of the guardian's death.

The Administration completed examination of the Report and presented its response to the Report to the Chairman of the LRC in October 2009. As stated in the public response, the Administration accepted all the recommendations of the Report and proposed that the law reform recommendations of the Report be implemented by introducing to a Bill to amend the Ordinance. Moreover, we also proposed to adopt, with modifications, a few other provisions in the Children Act 1989 of England and Wales with a view to enhancing the clarity of the Ordinance. For example, we proposed to specify how a parent/guardian can revoke or replace a guardian appointment that he/she made under the Ordinance before it takes effect. We also proposed to give the Court the power to appoint guardians for minors under specified circumstances in any domestic proceedings even if no application has been made, and to make it clear that a guardian appointed under the Ordinance is to have parental rights with respect to the minor.

With respect to other recommendations which do not require implementation by way of legislative amendments, such as the recommendation of introducing a standard appointment form for appointing guardians to facilitate parents and guardians in appointing guardians for children, we shall work in conjunction with other relevant departments to implement them by administrative means.

President, we believe the approach of implementing the recommendations of the Report through the Bill is in line with public expectation and shall be able to secure their support. The LRC had conducted consultation on its reform proposals in relation to guardianship and custody of children before publishing the Report. In drawing up the Administration's public response to the Report in October 2009, we had considered the outcome of the LRC's consultation as reflected in the Report. We also met with some social workers in the family and child welfare field in early 2009 to collect their views on the recommendations.

They were generally supportive of the recommendations. Moreover, after issuing the public response, we briefed the Legislative Council Panel on Welfare Services (the Panel) on our stance on the Report at its meeting on 8 February 2010, and consulted the Panel on our legislative proposals at its meeting on 14 March 2011. The Panel expressed support for our proposals.

President, the Administration is of the view that the recommendations of the LRC Report can help further improve the legal arrangements in relation to the appointment, removal and power of guardians for minors under the Ordinance and facilitate parents in making guardianship arrangements in the best interest of their children. Here, I would like to thank the LRC and the committee chaired by Ms Miriam LAU for examining the issue of guardianship of minors and proposing in the Report useful law reform recommendations. I earnestly urge Members to support the early passage of the Bill, with a view to implementing the Report's recommendations as early as practicable.

With these remarks, President, I so submit. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Guardianship of Minors (Amendment) Bill 2011 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.

SUPPLEMENTARY APPROPRIATION (2010-2011) BILL

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move the Second Reading of the Supplementary Appropriation (2010-2011) Bill.

Section 9 of the Public Finance Ordinance provides, "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance,

the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates."

The annual accounts for the 2010-2011 financial year have been finalized. The expenditure charged to 16 of the 83 heads is in excess of the sum appropriated for the respective heads under the Appropriation Ordinance 2010. The relevant increase in expenditure was mainly caused by the 2010 Civil Service pay adjustment, the injection of funds into the Arts and Sport Development Fund and the Beat Drugs Fund, the implementation of the Fifth Matching Grant Scheme and the two months' rent payments for tenants/licensees living in the rental units of the Hong Kong Housing Authority and the Hong Kong Housing Society. The amount of supplementary provision for all the expenditure in excess has been approved by the Finance Committee or under powers delegated by it.

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

I hereby introduced the Supplementary Appropriation (2010-2011) Bill into the Legislative Council to seek final legislative authority for the supplementary provision in respect of the 16 heads totalling about \$9.6 billion.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Supplementary Appropriation (2010-2011) 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.

COPYRIGHT (AMENDMENT) BILL 2011

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I move the Second Reading of the Copyright (Amendment) Bill 2011 (the Bill).

In order to tie in with technological developments and enhance copyright protection in the digital environment, the SAR Government has conducted two rounds of public consultation over the past few years to forge a consensus among stakeholders, with reference made to relevant overseas practices. In drawing up the legislative proposals, we have prudently assessed the impact of the Bill, ensuring that while copyright protection is strengthened, the free flow of information across the Internet and the protection of personal data privacy are not compromised and that a favourable environment is created for the development of Hong Kong into a regional Internet hub.

In December 2006, we issued a consultation document to seek public views on how to strengthen copyright protection in the digital environment. The consultation exercise mainly covered six issues:

- (a) whether unauthorized file sharing of copyright works and unauthorized downloading should be criminalized;
- (b) whether protection of copyright works transmitted to the public should be made technology neutral, rather than being tied to certain modes of transmission (such as broadcasting);
- (c) what role online service providers should play in combating online piracy;
- (d) whether simplified proceedings that are not subject to scrutiny by the Court should be introduced to facilitate copyright owners in confirming the identity of and taking civil actions against online infringers;
- (e) whether statutory damages should be introduced into the copyright law to address the problem of difficulties in proving actual loss in online infringement cases; and

- (f) whether the scope of copyright exemption for temporary reproduction of copyright works should be expanded to better enhance the process of data transmission on the Internet.

After taking into account the views received, we proposed a set of preliminary proposals in April 2008 for further public consultation. The proposals covered four directions:

- (a) introducing a right of communication with related criminal sanctions against unauthorized communication of copyright works by any mode of communication technologies in the course of conducting a business for profit, and unauthorized communication of copyright works by "streaming" to such an extent as to affect prejudicially the copyright owner;
- (b) introducing a copyright exemption for temporary reproduction of copyright works by online service providers, which is technically required or indispensable for efficient data transmission;
- (c) facilitating the drawing up of a voluntary code of practice in combating online infringements, the compliance with which or otherwise will be prescribed as a factor that the Court shall take into account when determining whether an online service provider has authorized infringement activities on his service platform; and
- (d) while deciding not to introduce statutory damages, additional factors are proposed to assist the Court in considering the award of additional damages for copyright owners.

In addition to the four proposals above, we have made it clear that the existing regime will continue to be used. In other words, a copyright owner is required to obtain a court order before he can obtain the personal particulars of the online infringer from the online service provider concerned, so as not to infringe on personal data privacy. We have also made it clear that we would not introduce new criminal liabilities pertaining to unauthorized and peer-to-peer file-sharing activities. We have also taken the opportunity to seek public views on whether or not an exception as regards media shifting should be introduced, so

as to enhance the clarity of the law and the flexibility for the legitimate use of copyright works.

Having considered the views collected from the second consultation exercise, we announced the refined proposals in November 2009 which were largely the same as the preliminary proposals announced in April 2008, only with further adjustments or proposals made in respect of the following three issues. First, having considered that the public and the industries have misgivings about limiting the criminal liability to communication using a particular mode of technology ("streaming" technology), we decided not to peg the criminal liability with a particular mode of technology and followed the practice of some overseas jurisdictions to make the criminal liability "technology neutral", but the circumstances which delineate the criminal liability would remain unchanged. Second, we decided to take the voluntary code of practice a step further and proposed to establish a statutory "safe harbour" regime, prescribing that online service providers shall only be subject to limited liability for copyright infringements provided that they comply with certain conditions. Third, we proposed a media shifting exception for sound recordings.

In November 2009, we briefed the Legislative Council Panel on Commerce and Industry (the Panel) on the refined proposals and drafted the Bill on the basis of the proposals.

I will now turn to the underlying rationale of the major proposals in the Bill.

In order to strengthen copyright protection in the digital environment, an exclusive communication right is introduced in the Amendment Bill. Copyright owners who communicate their works to the public through any mode of electronic transmission shall be accorded copyright protection. The Amendment Ordinance will provide adequate and timely protection to copyright works communicated in the digital environment in spite of new electronic transmission technologies in future and pre-empt the situation of inadequate copyright protection due to the need for another time-consuming legislative amendment.

The criminal liability that seek to give this right adequate protection will mirror the delineations and principle of the liabilities adopted in the existing Ordinance. In simple terms, the act of unauthorized communication of

copyright works to the public entails civil liability. If the act of copyright infringement has reached such an extent "as to affect prejudicially the copyright owner", or is committed for profit, it will fall into the criminal net. In other words, the delineations that will be adopted to govern whether certain infringement acts shall be subject to criminal sanction are the same as the existing delineations.

This standard is not a new criterion introduced by the Bill to set the criminal net, nor is it unique to the Copyright Ordinance of Hong Kong. Other common law jurisdictions such as the United Kingdom and Australia have introduced a similar communication right and corresponding criminal liabilities in their local copyright laws, so as to combat copyright infringements which have reached such an extent "as to affect prejudicially the copyright owners".

The purpose of laying down this criminal liability is to combat large-scale infringement activities. In respect of the definition of the extent which "affects prejudicially the copyright owners", netizens are concerned that they may inadvertently fall into the criminal net due to the ambiguous definition. In this connection, the Bill has introduced a host of factors to further clarify this idea. We believe this measure, together with appropriate public education, can substantially alleviate their concern of inadvertently falling into the criminal net.

Moreover, having considered the users' views and overseas experience, we provided in the Bill appropriate exemptions to libraries, archives and museums, so that they can reasonably use copyright works for, among others, e-learning and preserving valuable collections.

A statutory "safe harbour" regime is introduced mainly to provide a fair operating environment and an incentive for online service providers to co-operate with copyright owners in combating online piracy activities. In simple terms, if online service providers, after ascertaining that copyright infringements have occurred on their service platforms, have taken corresponding actions compliant with the prescribed conditions (including adopting reasonable measures to stop the infringement activities and not having any direct pecuniary benefits in the activities), they shall be qualified for the "safe harbour" protection. In this case, they only have to assume limited liability for the copyright infringements occurring on their service platforms.

In order to tie in with the statutory "safe harbour" regime, we will engage related stakeholders in formulating a code of practice. Online service providers who have complied with the code of practice after ascertaining the occurrence of copyright infringements on their service platforms shall be regarded as having taken appropriate actions to stop the infringement activities, and will thus meet one of the major conditions which will make the online service providers qualified for the "safe harbour" protection.

For the process of data transmission to function smoothly, it is necessary for online service providers to make temporary copies by caching. We have proposed an exception for temporary reproduction of copyright works by online service providers subject to certain technological conditions.

In order to give greater certainty to users and allow greater flexibility for the use of copyright works, we have made reference to similar statutory exemptions in overseas jurisdictions and proposed an exception for media shifting of sound recordings for private or domestic use, such as the copying of songs from an audio compact disc to the embedded memory of a MP3 player, subject to compliance with prescribed conditions.

Given that copyright owners have relayed to us the difficulties in proving their loss in online piracy cases, two additional factors are proposed in the Bill to assist the Court in considering the award of additional damages after considering the merits of individual cases.

A sound copyright protection system can facilitate the development of creative industries. We seek to strengthen copyright protection in the digital environment through the proposed amendments to the Copyright Ordinance, so as to meet the challenges that advances in information technology have posted to copyright protection. The Bill will also create conditions for copyright owners to co-operate with online service providers in combating online infringement activities, it facilitates the reasonable use of copyright works in the digital environment for, among others, e-learning and enables media shifting of genuine copyright music recordings by the public.

With these remarks, Deputy President, I urge Members to support the Bill. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Copyright (Amendment) Bill 2011 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 Dutiable Commodities (Amendment) Bill 2011 (the Bill).

DUTIABLE COMMODITIES (AMENDMENT) BILL 2011

Resumption of debate on Second Reading which was moved on 13 April 2011

DEPUTY PRESIDENT (in Cantonese): Dr Joseph LEE, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

DR JOSEPH LEE (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Dutiable Commodities (Amendment) Bill 2011 (the Bills Committee), I report on the deliberations of the Bills Committee.

The Bill seeks to amend Part II of Schedule 1 to the Dutiable Commodities Ordinance to increase the duty rates of various types of tobacco by 41.5%.

The Bills Committee has held two meetings with the Administration. Members of the Bills Committee generally supported the legislative intent of the Bill to increase tobacco duty as a measure to protect public health and prevent youngsters from picking up smoking.

During the deliberations, some members questioned the justifications for raising the tobacco duty and criticized the Administration for failing to seriously examine the social and economic impacts thus produced. A member opined that the duty increase could only achieve short-term effect in reducing tobacco

consumption and smoking prevalence. The Administration has advised that since the early 1980s, tobacco duty has been increased many times at a rate as high as 100% to 300%. Through successive tobacco duty increases, together with progressive tobacco control efforts on various fronts, cigarette consumption has been on a general trend of decline and smoking prevalence has gradually declined from 23.3% in early 1982 to 12% in end 2009. The Administration has also pointed out that, according to a territory-wide school-based study conducted by the School of Public Health of the University of Hong Kong, the 50% increase in tobacco duty in 2009 had resulted in a drop of 51% in adolescent smoking in Hong Kong, thus preventing 13 452 adolescents from smoking and hence at least 6 726 future cases caused by tobacco-induced diseases. As the total annual costs of diseases caused by tobacco amounted to \$5.3 billion in Hong Kong, the Administration considers that there is a need to continue to strengthen tobacco control including taxation to curb proliferation of tobacco use.

A member questioned the effectiveness of the smoking cessation services and the adequacy of the resources available for the provision of cessation services. The Administration has pointed out that, since the proposal was raised in the budget to increase tobacco duty, the number of cessation counselling telephone enquiries has increased substantially. More financial resources have also been made available by the Government for tobacco control in recent years. In 2011-2012, the total expenditure of the Tobacco Control Office (TCO) of the Department of Health (DH) is estimated to amount to \$113.3 million. An additional \$21 million has been earmarked for strengthening the cessation services provided by the DH and non-governmental organizations (NGOs). An additional \$19.6 million has also been earmarked for the Hospital Authority (HA) to provide services for smoking cessation in primary care.

Some members of the Bills Committee considered that the tobacco duty increase would prompt smokers to switch to consuming illicit cigarettes, making the smuggling of illicit cigarettes more rampant. They urged the Administration to deploy sufficient manpower and resources to combating illicit cigarette peddling. The Administration has indicated that the Customs and Excise Department (C&ED) has redeployed its manpower to closely monitor illicit cigarette activities at various control points and at street level. If necessary, additional resources will be deployed to strengthen enforcement.

Some members of the Bills Committee expressed grave concern about the impact of the increase in tobacco duty on the livelihood of newspaper hawkers. A member proposed that the Administration should relax the licensed newspaper hawker policy to allow newspaper hawkers to display advertisements at their stalls. The Administration has advised that after the last tobacco duty increase in 2009, the commodity list of licensed newspaper hawkers was expanded from eight types of items to 12. The Food and Environmental Hygiene Department (FEHD) also relaxed the restriction on the total space used for the sale of additional commodities to not more than 50% and further endorsed these hawkers to display within the confines of their stalls advertisements related to the commodities permitted for sale under the licence. The Administration has advised that permitting the display of advertisements other than those related to the commodities permitted for sale is in breach of the licensed newspaper hawker policy. It may also cause inconveniences to the shops nearby as many of the newspaper stalls are located in busy commercial districts. Nevertheless, the Administration remains open and will explore with these hawkers possible ways to help them adjust to the changes in their business environment.

Deputy President, I will next present my personal opinions on the Bill. Obviously, the Bill seeks primarily to reduce cigarette smoking among members of the public through substantially increasing tobacco duty in the hope of reducing the desire of the public in buying and smoking cigarettes, thereby discouraging them from smoking as far as possible, and even prompting smokers to quit smoking because of the tobacco duty increase and rise in cigarette prices. I believe this is the policy objective.

As I pointed out in the report just now, views were greatly divided during the implementation of this policy objective by the Government. Nevertheless, I would like to express some of my personal opinions. In the area of education, we can see the Government's inadequacy. Given its commitment to encouraging the public to quit smoking or reducing their desire to buy cigarettes through adjusting tobacco duty, should it not do more than purely telling the public that smoking is hazardous to health — a cliché known to everyone? However, we can see that there are no specific targets for the existing anti-smoking or tobacco control publicity and even efforts to educate the public not to smoke. For instance, we do not see any advertisements specifically targeting adolescents, men, women, the elderly or grown-ups. I hope the Administration can, after this substantial tobacco duty increase, carry out more extensive publicity and

undertake some targeted health education efforts pinpointing different age and gender groups to bring home the hazards of smoking and the choice of not smoking. This must be done. The Government's past efforts appear to be relatively vague and inadequate.

The second point I would like to make is that there is a saying that many elderly people might have smoked for decades, and it is relatively difficult for them to quit smoking. Nevertheless, I believe it is very important for these people to strike a balance. Do they prefer good health or smoking? It is indisputable that the higher the age, the poorer the pulmonary function will be. If a person keeps smoking several packs of cigarettes a day, his pulmonary function will worsen and he will develop breathing problems. Such being the case, in addition to the fact that second-hand smoke will affect others, these people might also need healthcare services, be they public or private healthcare services.

In this respect, it is his own choice should he opt to buy exorbitant cigarettes after the substantial tobacco duty increase, or should he think that he needs to smoke to relieve the stress in his life. However, I believe this substantial tobacco duty increase can indeed give the elderly or people having a smoking habit an opportunity to contemplate whether they should quit smoking. Besides reducing their financial burden, it is most important that doing so will have a positive impact on their health. Hence, the Government should target this key point in education rather than saying vaguely that increasing tobacco duty can control or reduce the number of smokers.

As for the smoking cessation services, the Government has always been criticized for doing a lot of talking but taking little action in this regard. The smoking cessation services, provided by both the DH and NGOs, appear to be very comprehensive. However, we have often heard voices from various communities pointing out that it is relatively difficult for the Government or NGOs to promote the smoking cessation services. For instance, registration is required. People have to wait after registration and pay a registration fee, too. Since 1980, the Government has been making use of increasing tobacco duty in the hope that members of the public will quit smoking or refrain from smoking. Is it now opportune for the Government to consider waiving the cessation services fee completely to give more people the impression that these services have become more friendly and convenient, so that they will use the services?

Of course, I have heard some people say that it may not be so good if these services are free, because the situation will be unstable as people might come and go as they wish. However, if people really find it necessary to quit smoking, I think the Government is obliged to remove the barrier to give smokers the impression that it is now easier to quit smoking, and it is a good thing for them to do so. We must not paint smoking cessation in a bad light, depicting it as a very troublesome act to quit smoking, as smokers may prefer buying one more pack of cigarettes to making telephone bookings and paying money. I also once heard someone express his wish to quit smoking. But in the end, he would rather buy one more pack of cigarettes than to take the trouble to pay the registration fee. Actually, this might not be the case. If there were more channels for him to consider and enjoy free services, he might be very pleased to come to you for a chat and quit smoking.

A colleague providing smoking cessation services in a nurse clinic thinks that smokers are very happy to go to the clinic to quit smoking because it is good for their health. Moreover, their financial burden might be slightly relieved after kicking the habit. As for the smoking cessation services, the Government should indeed step up the efforts. Of course, the Government might say that it has already earmarked funding for such purposes. But my opinion is, though the Government may not find this pleasant to its ears, there must be "a specific purpose for a specific tax", the last thing the Government would like to talk about. Given that the Government has forcibly raised the tobacco duty, is there not a real need for all the duty collected after the tobacco duty increase be ploughed into education and smoking cessation services to enable more people, whether they are smokers, non-smokers or people intending to quit smoking, to enjoy more convenience in using such services or strike home the message that more resources are available to help them use such services? I hope the Government can think twice and do a more satisfactory job in providing cessation services.

Just now, the problem of illicit cigarettes was raised. Sometimes, the Government would mention duty-paid cigarettes. For me as a non-smoker, I know that there are two types of illicit cigarettes, one is genuine cigarettes and the other one, counterfeit cigarettes. Genuine cigarettes might be duty-paid cigarettes. As for counterfeit cigarettes, it does not really matter whether or not they are duty-paid cigarettes. People might feel very happy and smoke more cigarettes if the cigarettes they smoke are added with such substances as DEHP.

These must be counterfeit cigarettes. Regardless of what sort of cigarettes they are, I believe if more people prefer not to smoke or if people smoke less because they cannot afford to smoke or choose to buy less expensive cigarettes, I believe the Government should step up the efforts in this respect in collaboration with colleagues in the C&ED to combat all cigarettes, be they illicit or counterfeit, at street level to make it safer for members of the public and prevent the inflow of these cigarettes at street level.

Of course, it is now rumoured that illicit cigarettes are very often shipped into Hong Kong by cigarettes traders through other channels. Hence, increasing tobacco duty will not cause them any loss. I think this issue is outside the scope of discussion today. But obviously, we can see that, if this is really the case, the C&ED Of course, this has nothing to do with the Secretary. However, the Secretary might need to notify colleagues in the C&ED or the departments under Secretary Ambrose LEE to step up the efforts to combat illicit cigarettes in a comprehensive manner to really make members of the public reduce their smoking desire and quit smoking altogether. This is a better approach.

Lastly, I would like to say a few words about the newspaper hawkers. Members have some opinions on this issue on different occasions when discussions were held on the Bill or other questions. Insofar as this issue is concerned, how can the livelihood of the newspaper hawkers be addressed? The Government should face up to this issue squarely. I raised this question at a meeting of the Panel of Food Safety and Environmental Hygiene in the hope that Members could sit down and present very clearly good proposals acceptable to Members, so that a win-win situation could be achieved.

Generally speaking, the Government has raised tobacco duty over the years to control the number of smokers in Hong Kong to primarily reduce the smoking desire of some people, such as the elderly and even youngsters. Did it succeed in doing so? The data might present different views. However, as a nurse, I think this is what the Government should do from the angle of public health. But the question is the Government should do more than just increasing tobacco duty. As for other complementary measures, such as education, smoking cessation services, the livelihood of the people concerned and the work of the C&ED, as I mentioned just now, additional resources should be provided to enable the entire policy to be implemented in a more satisfactory manner. Otherwise, if anything goes wrong, the policy objective may not be achieved.

The Government will also be accused of failing to stop people from smoking and achieving its original goal through increasing tobacco duty.

Thank you, Deputy President.

MR WONG TING-KWONG (in Cantonese): Deputy President, the Government has actively stepped up tobacco control in recent years. Although I have been a smoker for more than four decades, I know very well the hazards of smoking to health. Hence, I agree to the Government's effort in promoting the tobacco control policy in order to create a cigarette-free city and build a healthier living environment as well as its goal and direction of protecting public health.

Nevertheless, in formulating the relevant policy, the Government should, apart from paying attention to the effectiveness of the new measures, not neglect the side-effects produced by the measures. Therefore, the Government must carefully study the evaluation of the effectiveness and adverse impact of the measures and the assessment of the adequacy of the complementary measures in formulating new policies.

This year, the Financial Secretary proposed substantially increasing tobacco duty by 41.5% to further reduce the smoking population. In fact, the Government has increased tobacco duty many times before. It appears that raising tobacco duty has become a usual means for the Government to exercise tobacco control. However, I doubt whether increasing tobacco duty substantially can achieve the desired effect. After the 50% tobacco duty increase in 2009, the smoking population, on the contrary, slightly rose from 11.8% in 2008 to 12%. Even though the Government increased tobacco duty substantially in 1991 by 100%, the smoking population in 1993 merely dropped slightly by 0.8% compared to 1990. This shows that the effectiveness of a tobacco duty raise on tobacco control was indeed limited. The Government's belief over the years that increasing tobacco duty is a good method of tobacco control is really a cause for concern.

Furthermore, the Government has failed to feel the pulse of the people and understand the conditions of the illicit cigarette market in its consideration of increasing tobacco duty substantially. Cigarettes are the mental support for some grass-roots smokers. To increase tobacco duty substantially when

inflation runs high nowadays will only make their burden of living even heavier, thereby resulting in "poor people paying for expensive cigarettes". As high tobacco duty will result in a substantial increase in the difference between duty-paid cigarettes and illicit cigarettes, the lucrative profits derived from smuggling will only make illicit cigarette activities even more rampant. It is pointed out in a recent report that some unruly elements can make nearly \$1 billion in profit from illicit cigarettes a year. Some people who crave for "making fast bucks" are even prepared to get involved in trading in illicit cigarettes out of desperation, thereby reducing Hong Kong to an illicit cigarette port. Hence, some smokers who cannot quit smoking or afford expensive cigarettes can only switch to less expensive illicit cigarettes. Nevertheless, some people in the tobacco trade have indicated that 40% of illicit cigarettes are counterfeits. The quality of illicit cigarettes also varies greatly. The ingredients of some illicit cigarettes are even more frightening, with some illicit cigarettes even found to contain refuse, waste paper, and so on. It can therefore be envisaged that increasing tobacco duty cannot reduce the smoking population in concrete terms. On the contrary, it will create a hotbed for the illicit cigarette market and even further jeopardize the health of smokers.

In addition, I am also very concerned about the impact of the tobacco duty increase on the trade. The tobacco trade has quite a long history in Hong Kong. From importers, dealers to traders, it is estimated that 6 500 retail businesses, the viability of 1 300 newspaper hawkers and the livelihood of 35 000-odd practitioners will be seriously affected by the tobacco duty increase. Can traders who are making meagre profits continue to operate their business? Will the relevant practitioners lose their jobs at any time? For them, it is all doom and gloom. Neither do they know where to go. It is indeed necessary for the Administration to give an account of its long-term policy for the tobacco trade in the future to let the trade know whether the Government intends to allow it to decline or help it transform, so that the trade can have a better understanding of its prospect and make planning and preparations.

Although the Government has indicated that in addition to increasing tobacco duty, it will also implement the smoking cessation policy on numerous fronts, I still think that the Government's efforts are seriously inadequate. The complementary measures are also far from sound. First of all, in the meetings on the Bill, I repeatedly raised the point that although the existing smoking cessation services were free, a registration fee was still required, thereby deterring

people intending to quit smoking. As the Government indicated that it has put a lot of resources into smoking cessation services, why should it still care about this small sum of money, reluctant to waive the relevant registration fee? What is more, the Government should review whether or not the existing cessation services and programmes can cater to the needs of quitters and effectively help them quit smoking rather than engaging in empty talk on paper, as it always does.

Furthermore, the present increase seeks primarily to reduce the number of youngsters joining the rank of smokers. I also agree that efforts must be made to deter youngsters from becoming smokers. Although both the statistics provided by the Census and Statistics Department and the study conducted by the University of Hong Kong indicate a decline in smoking prevalence among young people after the tobacco duty increase in 2009, we cannot dismiss the possibility that some of them would have switched to smoking illicit cigarettes or even ketamine. Given that there is legislation prohibiting the sale of cigarettes to youngsters aged below 18, why does the Government not consider enacting legislation to prohibit youngsters aged below 18 from smoking in order to step up tobacco control on young people? Let us imagine this. An obedient child is arrested for buying cigarettes for his father because he has not reached the age of 18; a bad child is not found guilty even though he was found smoking his father's cigarettes secretly. How ridiculous is this policy!

Meanwhile, I also agree that tobacco control should start from the basics by strengthening anti-smoking education under co-operation between schools and parents to instil knowledge of the hazards of smoking into youngsters at a young age. Only by doing so can the smoking problem be addressed at root. As regards the problem of illicit cigarettes, the C&ED has all along been enforcing the law relentlessly and vigourously. However, illicit cigarette activities are still very active, and illicit cigarettes are traded blatantly in different manners. In the face of illicit cigarette activities managed in a syndicated manner, the C&ED, with only 40-odd staff members, is like a drop in the ocean. Its task is extremely formidable. How can the illicit cigarette market be exterminated?

In conclusion, given that the past experience in substantially increasing tobacco duty has failed to show obvious results but, on the contrary, produced a negative impact, coupled with the Government's inadequate complementary measures, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) will abstain from voting on the Bill.

As for the amendment proposed by Mrs Regina IP to gradually increase tobacco duty in phases, it is, on the face of it, milder than the proposal of increasing tobacco duty in one go, for smokers are not required to bear exorbitant cigarette prices immediately. However, as the increase eventually effected as proposed by the amendment accounts for 75% of the retail price, which is even higher than the Government's proposed increase which will ultimately account for 70% of the retail price, the tobacco duty eventually payable by smokers as proposed by the amendment is even higher than that proposed by the Government. This would, on the contrary, aggravate the burden of living on smokers. Moreover, the phased implementation of tobacco duty increase will prompt cigarettes hawkers to hoard cigarettes for profits. Therefore, the DAB finds it impossible to support this amendment.

With these remarks, Deputy President, I will abstain from voting on the Bill and vote against Mrs Regina IP's amendment. Thank you, Deputy President.

MRS REGINA IP (in Cantonese): Deputy President, I rise to speak against the Second Reading of the Dutiable Commodities (Amendment) Bill 2011 as well as the substantial increase in tobacco duty by virtue of the Bill by a rate of 41.5% with retrospective effect from 23 February. The tobacco duty will then be increased from \$1,206 per every 1 000 sticks of cigarette to \$1,706 per every 1 000 sticks, and the rate of the tobacco duty as a share of the selling price will be increased from 62% to 70%.

First of all, I have to declare that I do not have any interest with any tobacco merchants and I do not hold any shares in any business related to the tobacco industry. I wish to declare also that I am in full support of the aim of the Government to protect the health of the public. My father died of lung cancer. He had to smoke four packs of Camel or Lucky Strike every day. There was not any publicity on the ban on smoking 40 years ago and, had he seen the shocking confession made by Yul BRYNNER before his death, he might quit smoking earlier. Therefore, I am convinced of the importance of publicity efforts.

In addition, my partner in the New People's Party, Dr Louis SHIH, told me that his father also died of lung cancer caused by smoking. So we do oppose the

aim of the Government to protect the health of the public at all. What we disagree with is Secretary Dr York CHOW using the taxation measure as the major means to encourage people to quit smoking.

I do not know if Dr CHOW is too busy to do any reading. I understand that he has to care about how the Hospital Authority handles pregnant women from the Mainland, and he has to spend a lot of time and efforts on the moratorium on trawling, the culling of chickens and ducks, and so on. There is this book entitled *Freakonomics* and it is exactly about the idea that human behaviour is affected by many incentives.

Such incentives can be divided into a number of types. Some of these are financial incentives, but some are social incentives and even ethical incentives. Sometimes we cannot use financial incentives alone to change human behaviour. Rightly as Mr WONG Ting-kwong said just now, if the tobacco duty is raised significantly by 41.5%, just how can elderly smokers like my father be able to quit smoking immediately? If he fails to do so, then what can he do? All he can do is cheating, that is, he may need to buy contraband or counterfeit cigarettes. So the use of tax measures alone to solve problems will actually distort many kinds of human behaviour. The market is distorted as well. As a result, many queer phenomena will emerge in society.

I have been to the local communities and talked with the newspaper vendors. As a newspaper which is commonly known as "The Fruit" points out, what are the victims who will suffer as a result of this hike in tobacco duty by the Secretary? Apart from the grassroots, those who will suffer also include the newspaper vendors. This is because the tobacco merchants would, every year before a budget is delivered, expect the tobacco duty to increase and so they would keep all the cigarettes and hoard them for more profits. The newspaper vendors therefore have no cigarettes to sell. Then when they learn that the amendment by the Secretary may be voted down, they will withhold some of the cigarettes and make profits by "hedging". In other words, these tobacco merchants know exactly every move of the Secretary. So in the end, it is the newspaper vendors and the smokers who will suffer.

Moreover, this kind of hike in tobacco duty by you, Secretary, will also bring along some counterproductive effects. Since tobacco duty is increased greatly, what we can see in the streets are not only contraband and counterfeit

cigarettes but also a situation which is more dangerous, and that is, a pack of cigarettes is sold on the stick. Each stick of cigarette is sold for \$2.5. When people can buy one cigarette at \$2.5, the young people may be driven by curiosity to buy one and try it, like kids buying popsicles. They will smoke by the stick.

When the financial incentive alone is used to induce the people to give up smoking, another effect could be that after they have paid the heavy tobacco duty and used \$50 to buy a pack of cigarettes, they will not care about the ethical and social incentives at all. They may forget ethical incentives like smoking is hazardous to health or second-hand smoke will harm others, and so on. They will think that they can smoke freely because they have paid the tax.

As some Honourable colleagues have pointed out, ever since the Secretary substantially increased the tobacco duty in 2009, the number of smokers has actually levelled off. There is no significant fall in the number of smokers. And the number of cigarettes they smoke every day has not come down significantly as well. The only thing that the Secretary can assert with confidence is that there is a drop in the number of smokers among the young people by a percentage point or two.

However, if only we can go to the Soho or Lan Kwai Fong on weekdays or Fridays, we can easily find many fashionable young boys and girls enjoying pulling puffs on cigarettes. Does this not show that the publicity efforts of the Government are not enough? This is why I think that the sole reliance on raising the tobacco duty significantly as the only means to induce the people not to smoke may backfire.

I understand that the Secretary has said that if my proposal of spreading out the increase in phases is adopted, it will lead to a problem of hoarding by the tobacco merchants. As a matter of fact, we know that these tobacconists are in fact hoarding right at this moment. Moreover, this idea of spreading out the increase in tobacco duty has proven to be successful in the United Kingdom.

I have checked the measures proposed in the budgets of the United Kingdom and found that when it comes to increasing the tobacco duty, the United Kingdom has been very moderate during the past 10 years when compared to what the Secretary has done. Under the leadership of Gordon BROWN in the last decade, the budget for 2000 in the United Kingdom only raised the tobacco

duty by 5%. Tobacco duty was raised thereafter in line with the inflation rate. In 2010, the Chancellor of the Exchequer Alistair DARLING even announced that the increase in tobacco duty was to be the prevailing inflation rate plus 1%, and for the years from 2011-2012 to 2014-2015, the rate of increase is only the inflation rate plus 2%.

In other words, this kind of practice of announcing the rate of increase in advance is already in use in the United Kingdom. Nothing problem has ever arisen. This move enables the smokers to have a longer time in getting use to the increase in tax. It is much better than what the Secretary is doing, that is, raising the tobacco duty all of a sudden, thus enabling tobacco merchants to spread rumours and hoard for profits.

Deputy President, I support the aim of protecting the health of the public. As Mr WONG Ting-kwong has said, my amendment will achieve the result of making the tobacco duty take up 75% of the selling price five years later. It would be a stern warning to smokers. In my opinion, my amendment will achieve a more desirable effect and it will not lead to any distortion of the market and behaviour of the people.

Deputy President, I will vote against the Second Reading of this Bill. Thank you.

MR VINCENT FANG (in Cantonese): Deputy President, the topic of tobacco control has been discussed in the Legislative Council for a countless number of times. I have pointed out the effects of the increase in tobacco duty on smokers who are less well-off and also on the business of the newspaper vendors. I have raised a countless number of questions, but what I hear are replies that are bureaucratic, piecemeal, sweeping, obstinate and repetitious. There are no replies which are objective, still less able to balance the concerns and needs of various stakeholders. Nor is there sincerity to resolve disputes and conflicts in society. Therefore, I wish to make use of the 15 minutes of speaking time today to pose a few questions to the Secretary. I hope that he, after listening to them, can make a sincere response.

The first question is that the Under Secretary for Food and Health has said in a meeting of the Bills Committee that with respect to the tobacco control

policy, the Government hopes that Hong Kong will become a smoke-free city ultimately. May I ask the Secretary, is this a confirmed objective of the SAR Government? If it is, what plans are there to achieve it? Will tobacco products be classified as contrabands as is heroin? Will smoking be outlawed? Will smokers be treated as drug addicts and will they have to undergo compulsory smoking cessation programmes? What is the timetable to achieve this aim? Hong Kong is one of the freest economies in the world and it is an international financial and commercial centre, so if we are to be the pioneers and become the first international city which fully bans smoking, then we should inform all the international enterprises and visitors, so that they will have a chance to choose other cities as their destination for sightseeing or engaging in commercial activities. If the Government does not have any plan to turn Hong Kong into a smoke-free city, then can it tell us what kind of long-term plan it has on tobacco, smoking and smoking cessation? I think all the smokers in Hong Kong do have a right to know how much room is still left for them.

Both the authorities and the few academics who support this tobacco control policy always emphasize that every year there are close to 7 000 people will die from smoking tobacco. So the question is: Do these people all die of lung cancer? If it is the case, can the authorities prove that all these 7 000 people are smokers or do they get lung cancer because of second-hand smoke? Is there any medical evidence showing that there are other causes for lung cancer than smoking tobacco? If the authorities are really raising the tobacco duty all the time and significantly in order to prevent smokers from killing themselves, then will the authorities resort to the same means to combat other materials or foods that can also cause cancer? I read a report some time ago and it pointed out that the WHO has classified cigarettes as well as salted fish as both carcinogenic foods. Then in this case, will the authorities take the same kind of action against salted fish?

The third question is: Have the authorities ever consulted legal advisers on the possibilities of, after the hike in tobacco duty, those who are better off continuing smoking while those who are less well off having to forgo their right? Will this cause discrimination? Will this lead to division among social classes and will this intensify hostilities in society?

Some tobacco control groups say that ever since the substantial raise in tobacco duty in 2009, the number of young smokers has dropped by nearly half.

These groups attribute all the achievements to the increase in tobacco duty. I would think that these groups which have arrived at such a conclusion are wrong because the fact that there are fewer smokers among the young people is not because of the great job done by these tobacco control groups and the education on tobacco control. Nor is it due to the excellent publicity work. Nor is it because the quality of the students in Hong Kong has been upgraded. It is because of the high-handed move taken by the Government to raise the tobacco duty. How can we give our support to the Government to continue to give funding to these tobacco control groups?

On the other hand, however, there are pessimistic people who say that after the hefty increase in tobacco duty, ketamine is cheaper than cigarettes and so some young people will switch from smoking cigarettes to taking ketamine. So the fourth question I wish to ask the Government is: In 2009 after the increase in tobacco duty, how did the authorities carry out any surveys on the smoking population and the age of smokers? What is the accuracy of these surveys? This is because the young people do not want to be known as smokers. Also, were any surveys done during the same period of time on the trend of drug abuse among the young people? Apart from ketamine, we know that there is still another substitute, that is, illicit cigarettes. This is a grave problem indeed. Provided that this cheap substitute is still available in the market, no matter how many times the Secretary will raise the tobacco duty in the hope of pushing up the price of cigarettes to force people to quit smoking, the effect of this measure will be watered down.

I have asked the authorities many times about whether any statistics have been compiled on illicit cigarettes, including duty-not-paid cigarettes and counterfeit cigarettes, and what their market shares are. But the authorities have always said that such figures cannot be obtained. If this is the case, then the Government's statistics on how a duty increase can induce smokers to quit smoking are completely unreliable. This is because if there is no way the Government can know about the prevalence of these contrabands in the market, then all these surveys done by the Government are only self-deceptive and fabricated.

Some tobacco merchants once picked up the cigarette butts discarded in the roadside ashtrays and then determined whether they were authentic or counterfeit. In this way, they estimated that one third of the market in Hong Kong was taken

up by illicit cigarettes. The fifth question I want to ask the authorities is: Will the authorities undertake any study and compile statistics on the market share of illicit cigarettes in Hong Kong so as to ensure that statistics compiled on the smoking population in Hong Kong and the consumption of cigarettes can reflect the realities? Members should know that if the sale of illicit cigarettes continues in Hong Kong, no increase in tobacco duty can ever manage to make smokers quit smoking. This is because the smokers can turn to illicit cigarettes which may contain more harmful substances. What would be the result? Not only will the Treasury lose its revenue because the sale of duty-paid cigarettes is reduced, but the smokers are also exposed to greater health hazards.

The sixth question I wish to ask the Secretary is: Will the authorities test and inspect proven counterfeit cigarettes seized so as to examine what are the more harmful substances contained in them? Come to think about this. If these tests can prove that counterfeit cigarettes are more harmful to health, those smokers who think that authentic cigarettes are too expensive will not dare to smoke counterfeit cigarettes. If these two approaches can be taken at the same time, would this be more effective in achieving the goal set by you, Secretary?

So Secretary, if this Bill on tobacco duty increase can be passed, I hope that you can make a pledge to undertake these tests so that the public will not patronize the black market.

Lastly, the seventh question. The authorities have repeatedly said that the aim of raising the tobacco duty substantially is not to increase public revenue but purely for the sake of the health of the smokers. Then why can the revenue generated by tobacco duty not be used specifically to encourage smokers to quit smoking? Or as Mr WONG Ting-kwong has just said, why can it not be used to waive the registration fee for smoking cessation programmes? Or alternatively, the revenue can be used to give cash awards to those who have successfully quit smoking, just like the case of the United Kingdom. Or funding can be made to the Customs to set up an office for combating illicit cigarettes of the same nature as the Tobacco Control Office. I have emphasized many times that when I do not support the increase in tobacco duty, it does not mean that I am against tobacco control. This is because, as I have said, as long as illicit cigarettes still exist, any increase in tobacco duty will be a futile measure in tobacco control. If we can eliminate illicit cigarettes, the other kinds of tobacco control measures would be made more effective. On the major premise of opposing the

Government's encouragement of illicit retail activities, I cannot support this Bill which seeks to increase tobacco duty.

We in the Liberal Party will not support the amendment by Mrs Regina IP because we do not agree to the aim of increasing tobacco duty in phases. Is it aimed at enabling smokers to adapt to the increase in cigarette prices? This will not help reduce the financial burden of the smokers, nor can it eliminate illicit cigarettes. More so, it will not help in furthering the tobacco control work.

The headline of a newspaper story yesterday had it that those against the increase in tobacco duty were the enemies of public health. The person who made this remark is a scholar in public health studies. I would not blame him because it is his duty to make such extremist remarks. Secretary, you are also a medical doctor and you cannot help to be gravely concerned about personal and public health matters, but please do not forget, the role you are playing now is a policymaker for this world city of Hong Kong. When you are to make any policy decision, you must not only do so from the angle of a medical doctor, you must also consider things from a broader perspective. This includes the question of the impact of the policy in question on the overall environment in Hong Kong, its economy, society and on the public and all the stakeholders.

Deputy President, every time when we Members from functional constituencies express our opinion on social and economic issues in Hong Kong, we are often criticized as caring for nothing but the interests of our sectors. We admit that we work for the interests of our sectors, but what in fact are these sectors made up of? Actually, such sectors refer to people who make regular contribution to the economy of Hong Kong. They are citizens who play the role of importers, retailers or simply consumers. Both you and I have another identity and that is, we are the people of Hong Kong. We are part of this territory. Any policy bias will definitely do no good to Hong Kong. So I hope very much that any policy introduced by the Government can be a well-balanced policy.

I so submit. Thank you, Deputy President.

MS LI FUNG-YING (in Cantonese): Deputy President, at the beginning of last month when this Council debated the repeal of the Public Revenue Protection

(Dutiable Commodities) Order 2011, I stated my position of opposing the increase in tobacco duty. On this occasion when we examine the Dutiable Commodities (Amendment) Bill 2011, I looked up the position of the Government in the Bills Committee and the explanation given by it, and found that the Government was still holding onto its views. Therefore, my position of opposing the increase in tobacco duty remains unchanged.

The main reason for my opposition to this increase in tobacco duty is that a hefty increase in tobacco duty is not an effective means to reduce the number of young smokers. Ever since April 1995, the Smoking (Public Health) Ordinance has prohibited the sale of rolled tobacco to persons under the age of 18. Therefore, an increase in tobacco duty aiming at the young people is ineffective. To prevent young people from picking up the habit of smoking, the most effective way is to enforce the Smoking (Public Health) Ordinance better, instead of making a sharp increase in tobacco duty. An increase in tobacco duty will only have a direct impact on people who are sensitive to the price of tobacco products. And by people who are sensitive to price, a more straightforward reference is the grassroots. Those who are nearer the bottom of the social strata are more sensitive to prices. The result is, objectively speaking, an increase in tobacco duty has become a law targeting the grassroots.

I do not encourage people to smoke. The grassroots are no exception. But I do respect a fact and that is, for many grass-roots people, smoking is the only way of relaxation after a hard day's work and an escape from the burden of life. And there are some elderly smokers who have retired and do not have much income. They are the so-called smokers who are sensitive to prices. And many of them are living a hard-up life, feeling distressed by this increase in tobacco duty. However, there is no causal relationship between an increase in tobacco duty and their quitting smoking. I know many grass-roots people who have the habit of smoking. They would rather cut their expenses in other areas and save more, instead of quitting smoking. As a matter of fact, in the information furnished by the Government to this Council, there is no mention at all of the relationship between the increase in tobacco duty and middle-aged or elderly persons above the age of 30. I do not know if this is an omission on the part of the Government or if this is due to the fact that the relationship between increasing the tobacco duty and curbing the habit of smoking among the middle-aged and elderly persons is not so marked. But the effect of this is that it

has rendered the justification for a hefty increase in tobacco duty very weak indeed.

Deputy President, the Government emphasizes that the aim of the increase in tobacco duty is only to protect public health. But it is inevitable that an increase in tobacco duty will certainly give an incentive to the grassroots to buy illicit cigarettes. It is hard to tell whether smuggled cigarettes are authentic or not. If the people buy illicit cigarettes of a poor quality, their health will be jeopardized. The Government emphasizes that the Customs have increased the resources in intercepting illicit cigarettes after the tobacco duty is raised. I do not doubt the Government's determination to combat illicit cigarettes, but criminals can always think up ingenious ways to circumvent the law. It is close to an impossibility to stop the import of illicit cigarettes into Hong Kong. I do not want to see a policy claimed to have been devised for the protection of public health cause an adverse impact on people's life and hence ultimately backfire.

On Mrs Regina IP's amendment which suggests increasing the tobacco duty in phases, by first appearance, this will cause a lesser impact on the grassroots than making a hefty increase in tobacco duty in one go. But this raise of the tobacco duty in phases will not solve the crux of the problem. The justification presented by the Government to increase the tobacco duty is still not strong enough.

Deputy President, I so submit.

MR WONG YUK-MAN (in Cantonese): Deputy President, the SAR Government has increased tobacco duty twice in three years by 50% in 2009 and 41.5% this year. Let me make a calculation. After tobacco duty has been increased twice, it is even cheaper to have a lunch or dinner in a bistro café than buying a pack of cigarettes. Many people may not know that this is tantamount to encouraging young people to take ketamine instead of smoking because the price of ketamine is almost even cheaper than cigarettes. Illicit cigarettes are as readily available as at people's fingertips. As for the justifications put forth by the Government to support its proposal of increasing tobacco duty, many Members will refute them. But the Government will certainly substantiate its policy by citing some grand principles.

A certain Prof LAM Tai-hing, who may now be sitting in the public gallery, said two days ago that those who opposed the increase in tobacco duty are the enemies of public health. Let me tell the professor, there are many opponents of the raise here. The remark, which has elevated the issue to the political plane, made by a professor who is sitting in an air-conditioned office has only shown that he is detached from the reality. What does it mean by saying that those who oppose the tobacco duty raise are the enemies of public health? Those who oppose the increase in tobacco duty have also considered other factors, apart from public health, and I will discuss it in detail later as I do not have to worry about any time constraint today for we can speak on the issue again when amendments are proposed later. The sight of him just now, however, made me feel agitated.

Members who oppose the increase in tobacco duty are the enemies of public health? Please write a thesis on this instead of plagiarizing others' research papers or writings in your office. This academic, so to speak, has conducted such a research at the huge expense of public purse and arrived at a conclusion which is an exaggeration that pins a bad name on others. Those who oppose the increase in tobacco duty can also put forth numerous justifications and speak on them one by one. Why do you not refute them one by one? It is most surprising that the Government happens to appoint such people to important positions, no wonder the Government is in a mess. It is precisely because it has appointed such academics.

Deputy President, sorry, I have to make use of the issue under discussion to put across my own ideas. He is not protected by the Legislative Council (Powers and Privileges) Ordinance, but I am. I can speak whatever I want freely. So, sorry, professor. Having made such a remark which is elevating the issue to such a level, he is indeed the enemy of the people. Who is the enemy of public health? Even the Secretary dares not make such a remark. Dr YORK CHOW, do you dare make such a remark? Do you dare say that those who oppose an increase in tobacco duty in this Chamber are the enemies of public health? You certainly dare not because this is an allegation that elevates the issue to a political plane rather than a ground.

Today, I have in fact written a very long speech entitled "The increase in tobacco duty has highlighted the mentality of paternal politics" given that I can speak for 15 minutes. Originally, I intended to talk about the principle or

theory, but I became agitated on seeing him. The demerits of a substantial increase in tobacco duty can be said to outweigh the merits, as many Members have already stated. Insofar as the grassroots are concerned, smoking is a cheap and convenient way of relieving stress. Having set up the "Raymond WONG Friends of the Elderly" in my four ward offices, I often have the opportunities to come into contact with the elderly. Whenever I met them in the district, I would persuade them to smoke less. But they would ask me in turn what they could do if they did not smoke. They even asserted that their days were numbered as they were over 60 or turning 70. The professor said that given that one in every two smokers would die of smoking-related diseases, we should do our best to minimize the mortality rate due to smoking. In making that remark, he is really great. If he is really so great, why does he not request the Government to impose a total ban on cigarettes, thus prohibiting the import of cigarettes as if they were drugs? In that case, I would agree to his claim that we should do our best to minimize the mortality rate due to smoking. However, does he have such an ability? No, absolutely not. Neither does the Government. Dr York CHOW, could you introduce a total ban on cigarettes?

I have just received some information from the Commissioner of Correctional Services. It is because a couple of months ago, some prison inmates contacted me, saying that they faced great difficulties. I made some detailed enquiries then and was told that their wages had not increased but the prices of cigarettes had soared. I would like to tell the professor that if smoking is totally banned in prisons, riots will break out. Sometimes, cigarettes are one of the means to maintain order in the prisons, and many people may not know that cigarettes are a kind of currency there. Inmates spend money mainly on buying cigarettes, candies and snacks and the price of snacks has been adjusted according to inflation. While the price of cigarettes has also been increased, their wages have remained the same. That is why they approached me for assistance. I have written to the Correctional Services Department (CSD) to reflect their situation after meeting with them. In reply, the CSD explained that the inmates' wages have been adjusted according to inflation. Since the CSD does not encourage inmates to smoke but hopes that they can smoke less by all means, the wages have not been increased in tandem with the tobacco duty raise. These are the justifications given by the CSD.

I have discharged my responsibility because I have discussed the matter with the CSD after visiting the inmates to understand their situation upon request.

Even the CSD cannot impose a total ban on smoking in prisons. It can only tackle the smoking problem by not adjusting the prisoners' wages upward with a view to causing them to bear a higher cigarette price. Is this useful? In fact, it is useless. Inmates who can afford it will ask their families to give them money so that they can buy cigarettes in the prisons as there are some non-smoking inmates. So, such an approach basically does not work. I have cited this example as an illustration because inmates are also grassroots although they are now behind bars. They may have a meteoric rise in the future after release and that is another issue. As for the elderly, smoking, reading newspapers and chatting with people are their most important spiritual life. The professor certainly does not know this. Sitting in an air-conditioned office, he enjoys high salaries and high status even though he is also an elderly person. Engaged in such research studies, he may plagiarize others' articles occasionally and then say that those who oppose the increase in tobacco duty are the enemies of public health. You might as well say that I would go down in history as a sinner. He even said that some people had violated the provisions of the World Health Organization. This is entirely an attempt to elevate the issue to the political plane, rendering us enemies of world health. It is really astounding. Mr WONG Ting-kwong is one of these enemies. So is Mr Vincent FANG. Mrs Regina IP can be regarded as half an enemy for she supports the enforcement of the duty increase, but in phases. We are all enemies of public health, enemies of world health. It is really irritating.

I have to tell the public that precisely because of the advice by such egghead academics, the Government is in a mess, "dangling in the air" and blunder-ridden. One will suddenly realize what has happened to the Government by merely pondering the reasons and taking a look at those who have been appointed by the Government. As a wise person, the Secretary will not be so stupid and should certainly beware of crooks. He must not assume that all academics and professors are extremely talented. Some are just mediocre and good at blaming others. I have thought that only I know how to elevate an issue to the political plane, as some people have criticized me as such. Amazingly, the professor is well-versed in this and has accused us of being the enemies of public health, stopping short of stating that those who die of passive smoking in Hong Kong have been victimized by us. Nevertheless, it seems he has said something like that.

Should we feel compunction and as a result, suffer insomnia? I used to smoke, but have now kicked the habit. I have not pulled one single puff for eight or nine years. I have the right to oppose the increase in tobacco duty irrespective of whether I am a smoker or not. We do not look at the issue purely from the perspective of public hygiene and health. Of course, we absolutely agree that smoking is hazardous to health. But drinking is also a health hazard. Compared with smoking, the harms of alcoholism are even more serious as not only the digestive system will be hurt, psychiatric illnesses will be developed. Some people may commit drunk and disorderly conduct, fights, and even manslaughter because of drunk driving. Moreover, a lot of domestic violence is caused by drunken husbands who beat their wives at home. And this is often the theme of television drama. Will people beat their wives at home after smoking? Will people beat their wives at home because they have smoked three packs of cigarettes a day? However, people who are drunk will certainly abuse their wives, leading to domestic violence. You want to discuss this issue with me? I have enough time to do so. I have already spoken for nine minutes, and yet I have not finished the first page of my speech. It does not matter, however. When Mrs Regina IP moves her amendment later, I can speak for a second time. He can sit here and listen carefully.

In Britain, there were also discussions on a ban on smoking in 2004. The former Health Secretary John REID pointed out that "people from those lower socio-economic categories have very few pleasures in life and one of them they regard as smoking." He added, "We want everyone to live a healthy lifestyle but not everyone lives in the same circumstances. If we wish to change people's habits we will often have to help change the circumstances in which they live." Secretary, the original version of these words in English has been included in my speech. Have the circumstances in which we live been changed? To change our habits, we have to change the circumstances in which we live. But has there been any change to the circumstances in which we live?

Many youngsters and elderly people have no choice given the high tobacco duty. If they continue to smoke, they have to buy illicit cigarettes. To curb the smuggling of cigarettes, the Customs and Excise Department (C&ED) has set up a task force, which I guess comprises dozens of revenue officers at the most. However, any one cigarette smuggling syndicate will comprise more than 100 members. How can you eradicate them? In an oral question I raised earlier, I asked the Government about the handling of confiscated illicit cigarettes. In its

reply, the Government said that all illicit cigarettes were destroyed since 1999 for fear that the conditions of the illicit cigarettes had deteriorated. The Government has a little bit of conscience, but it can be described as a hypocrite. Before 1999, confiscated illicit cigarettes would be sold in order to increase government revenue. In that case, why does the Government not sell confiscated drugs and ketamine?

This has been the practice since 1999 because there are lots of illicit cigarettes which are counterfeit cigarettes made of shredded newspaper. What a sin. While the Government claims that the increase in tobacco duty is made in the interest of public hygiene and health, it has led to an undesirable situation where those who cannot afford duty-paid cigarettes and wish to buy illicit cigarettes have mistakenly bought counterfeits. As a result, their health is jeopardized. Just as Mr Vincent FANG pointed out just now, the effect and intent run counter to each other. Has the Government collected data in this regard? The answer is that neither survey nor research has been conducted. People have to bear the consequences of their own action. Why should the Government be responsible if they have bought illicit cigarettes? The Government claims that it seeks to protect public health by increasing tobacco duty so that people cannot afford cigarettes. How hypocritical such an approach is. You people are really unbearable. Why do you not protect the health of those who have bought illicit cigarettes? Is it because they should face the music for having bought illicit cigarettes and nobody should be responsible for that?

The truth is that since 1999, the Government has realized that sooner or later the quality of the cigarettes sold will be exposed and therefore decided to destroy all the seized illicit cigarettes. I suspect that it was due to the shortage of manpower. Who should be assigned the duty of examining the brand authenticity of the illicit cigarettes after seizure? Given that there are only dozens of revenue officers, how can the Government get sufficient manpower to examine the illicit cigarettes? Is it possible to repack the cigarettes for sale after unpacking them? In the past, the Government was indifferent and seized illicit cigarettes were sold by auction even though public health might be adversely affected or even jeopardized. So, the question I raised the other day is somehow constructive. But unfortunately, owing to my assistant's mistake, I was out of town and unable to ask the question myself. As a result, the question had to be asked in my place by a Member who supported the increase in tobacco duty. He

felt very uncomfortable reading out the question. I feel very sorry and should offer an apology to him for making him read out a question to which he does not agree. Nevertheless, members of that party are used to it. They keep saying something in which even they themselves do not believe. So, it gave him an opportunity of practice.

How rampant is the smuggling of cigarettes? Those who have acquired the habit of smoking or those who are so deeply addicted to smoking that they have to buy a large quantity of illicit cigarettes will naturally know the answer very well. What has the Government done? Each time the Government will reply as a ritual that the C&ED will make every effort to combat cigarette smuggling. But there are only dozens of revenue officers in the C&ED. While selling illicit cigarettes is a most lucrative business, it will certainly attract a lot of people to engage in it as people will even risk their lives for profits rather than engaging in a business which will incur losses. Such a highly profitable business will certainly be run by many people. So, cigarette smugglers will benefit from the Government's measure of increasing tobacco duty. They are really grateful to you, Dr York CHOW. They even want to give you a hug and a kiss. But you will certainly dare not dine with them for you are a civil servant, or else the ringleaders will certainly be pleased to treat you to dinner so as to thank you for allowing them to make such gratuitous wealth. In spite of the Government's arrest operations, there are too many smugglers compared its manpower responsible for law enforcement because, as the saying goes, "the law is not enacted to punish the majority".

It made me laugh when reading a news report a couple of days ago. It was reported that even Mrs Carrie LAM, who is regarded as a "good fighter", had to kneel down when she encountered "Uncle Fat" because the latter, who is so formidable, claimed to resort to a bloody revolution. As a result, she was so scared that she knelt down. Even though the issue in question is illegal structures, no one dares to remove them. This is the significance of the principle that the law is not enacted to punish the majority. Do you have any means to deal with it? No, you are at your wits' end.

The Government, when proposing an increase in tobacco duty, presented a large amount of data with the main intention of convincing the public that it will help the smokers quit smoking. I was infuriated on hearing that. How can the Government help them quit smoking? They will buy illicit cigarettes rather than

smoking less due to an increase in tobacco duty. How can you help them quit smoking? The most important thing is to combat and eradicate the smuggling of cigarettes. Does the Government have such an ability? No, absolutely not. Furthermore, in order to help people quit smoking, the Government should not resort to an increase in tobacco duty only. There are a lot of measures that the Government can adopt within its scope of authority, at the bureau level and by the Hospital Authority (HA) itself, in addition to organizing talks and seminars. Secretary, I, being a smoker with decades of experience in smoking, have helped the HA shoot a quit-smoking advertisement so as to persuade people not to smoke by sharing my personal experience with them. You can verify this with the staff of the HA. This is the only effective way to help people quit smoking. However, what effort has been made by the Government in this aspect?

Thank you, Deputy President, because my speaking time is up.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, Mrs Regina IP pointed out earlier that opposing the tobacco duty increase does not mean caring little about public health. She said that her father died of lung cancer due to excessive smoking.

After listening to Mrs Regina IP's remarks, I share her feelings. What I have gone through was worse because not only my father died of lung cancer, my mother also died of lung cancer. Although my parents picked up smoking when they were young and had smoked for a very long time, they had quitted the habit for more than a decade before they passed away. In spite of this, the doctor said that as they started smoking at the early stage of their life, damages were already done to their lungs and they eventually died of lung cancer.

Although I appreciate the theory of smoking being hazardous to health, I oppose the increase of tobacco duty by the Government. The main reason is that I do not support smoking. Please do not think that I support smoking, and please do not accuse me of being the enemy of public health. This is no different from arbitrarily putting labels on other people. I oppose the tobacco duty increase because I think the duty increase will give rise to a myriad of social problems and cannot achieve the effect of encouraging smokers to quit smoking. I hope Members can understand this point.

I do not intend to repeat the statistics cited by a number of colleagues earlier. As already pointed out by Mr WONG Ting-kwong, the statistics show that despite an increase in the prices of cigarettes, the number of smokers will not be reduced and on the contrary, their number will remain stable and even slightly rise. This is the actual situation we cannot deny. Therefore, we cannot turn a blind eye and a deaf ear to it and lie that a tobacco duty increase can cause more people to quit smoking, for this is not true in reality.

The number of smokers among the young people seems to have dropped, but what is the reason for that? It is because they have more choices. If they choose not to smoke If they have no other choices, they will continue to smoke even after the Government has increased the tobacco duty. In the past, as young people had less choices, coupled with the fact that ketamine is expensive and less popular, the number of young smokers still recorded an increase despite a tobacco duty raise by the Government. This shows that raising the tobacco duty cannot achieve the desired result.

On the contrary, if we are genuinely determined to make more smokers kick the habit, I think it is more important to carry out work in other areas. I remember that I once mentioned in this Chamber what my son had told me before. He said that schools in Canada attached great importance to anti-smoking education. Well, how important is it considered by the schools there? I have mentioned an example here before. The teachers will display two models of a lung, one of which shows the damages done by smoking to the lung whereas the other shows a lung not damaged by smoking, so that students can see the actual difference with their own eyes.

But tell us, Secretary Dr York CHOW, have you ever visited schools to convey to students the message of smoking cessation? Have you ever talked to the students about the health hazards of smoking? Have you ever inspected how your colleagues in the Department of Health (DH) promote anti-smoking education in schools? Your colleagues would give a presentation to some 300 students using a projector to present the relevant information, supplemented by pictures (the information and pictures have been in use since a few years ago and the same materials are being used now). During the presentation, most students would be dozing off and basically, they are not listening. It is imaginable that the contents are entirely not interesting. In spite of this, the Government has still

presented statistics to prove that they have been to schools to conduct anti-smoking publicity and education, but they never care about the results.

According to other statistics, 60% of the adult smokers started smoking during adolescence. Therefore, in order to prevent the public from smoking, it is most important to stop or prevent young people from smoking, and this is the most effective way. However, how much work have we done to help young people quit smoking?

I am still a teacher by profession, but I have not seen any result achieved in this respect. Perhaps it is because I have taken up the office as a Member of this Council that I do not know about it too clearly! I have not seen any staff from the DH coming to my school to carry out publicity and education work to discourage young people from smoking. I really have seen none. I have been a teacher for over three decades, having seen only once people from the DH conducting publicity in school. As I said just now, the materials they use are obsolete and the quality of pictures is bad. It really beats me as to how this can be interesting to the young people.

Members often say that public health must be taken into consideration I think the most important thing is what support measures are taken by the Government. If the Government does not put in place any support measures, thinking that the problem can be solved simply by raising the tobacco duty, I think the Government is only deceiving itself as well as other people. Worse still, an increase of the tobacco duty will lead to many social problems. The Government has just stated these problems one by one without taking actions to resolving them.

Ms LI Fung-ying said earlier that the grassroots do not have too many choices of activities for entertainment, adding that a glass of beer and a stick of cigarette may almost be their greatest enjoyment in life. The older male workers who engage in manual labour work (whose number has declined though) generally do not have many choices of activities for entertainment. Other than playing mahjong, all they can do is to smoke a cigarette and drink a beer. This is all they can do for entertainment. Such being the case, how will the Government face them after increasing the tobacco duty?

Today, an elderly uncle accused me of supporting the tobacco duty increase and said that he knew that I would support it. I replied that I do not support the tobacco duty increase and that I have been opposing it in the past few years. Over the years, I have opposed using an increase in tobacco duty as a means to curb the trend of smoking because I think it is not effective. Rather, I think it is most important to adopt other means to achieve the same objective. And for that matter, I think the promotion of family education will be helpful. Why did I mention that my parents had started to quit smoking more than a decade before they passed away and cite this as an example? Because my family members and I had always advised my parents to quit smoking as we could see that they had difficulty in breathing. We kept on exhorting them to quit, and I think repeated exhortations or advice was necessary before any result can be achieved. Similarly, publicity and education should be carried out through various channels in order for results to be achieved. The public now consider that in proposing the tobacco duty increase, the Government is discriminating against them and suppressing them.

Mr WONG Yuk-man mentioned just now another issue which reflects a situation in reality. Yesterday, we met with a group of imprisoned persons in the Complaints Division of the Secretariat of the Legislative Council. They said that if the tobacco duty was increased but their wages were not increased, grave problems would be resulted.

Deputy President, this is true. When I visited the imprisoned persons, I saw that there was nothing for them to do, and the choices of non-staple food (including biscuits, and so on) are limited. The types of non-staple food will be changed only at long intervals. Given the lack of choices, they have virtually no other alternative because even if they want to replace smoking by taking other kinds of food, there is no food for them to choose. Such being the case, what can they do? All they can do is smoking. Smoking is the one and only thing they can do when there is nothing for them to do in prison.

The situation of the imprisoned persons is the same as that of the elderly which I have just mentioned. They basically do not have many entertainment activities, and smoking is their only entertainment. But if we do not increase their wages and if cigarettes are expensive, the consequences may be deteriorating crime problem and worsening order in prisons.

The authorities have not considered these problems, thinking that increasing the tobacco duty is a solution once and for all. In fact, the problems will remain, just that the Government has refused to consider the problems, acting like an ostrich that only buries its head in the sand. The problems will not only remain As a number of colleagues have said earlier, illicit cigarettes are one of the problems but the Government has ignored it. The Government only said that actions would be taken to combat them, invariably giving the same response every time. I believe colleagues in this Chamber all know that after increasing the tobacco duty, the Government will vigorously take actions to step up the enforcement against illicit cigarettes but the same problem will emerge again afterwards. We all know that this is a common phenomenon that happens in a never-ending cycle.

Therefore, when the public see the way in which the Government has worked, they cannot but question the determination of the Government. Does the Government want to do something practical or merely to make some window-dressing gestures? This cannot be clearer. The Government only wishes to answer the public, telling the community that a lot of efforts have been made in smoking cessation (such as increasing the tobacco duty), so that it can openly claim that it has already made efforts. But what exactly has the Government done? We all know it only too well.

Increasing the tobacco duty cannot really convince smokers to quit smoking willingly. Although some smokers may reluctantly kick the habit because of the hefty increase in tobacco duty and while this may give the community the impression that this measure of the Government is quite effective, the smokers are only forced to quit smoking unwillingly.

Members may say that this is, after all, a good thing because the smokers eventually manage to rid themselves of their addiction to smoking. Although this is true, they still nurse a grudge in the course of smoking cessation, and they will question the Government why it has to suppress even such a humble entertainment activity, and they will question the authorities why they do not respect even such a humble human right and way of living of theirs. If the authorities are truly committed to helping smokers quit smoking, why do they not come up with a blueprint and measures to help smokers adapt to the smoking cessation programme? Now, there is almost no initiative to help smokers.

Although the authorities have stated that there are other methods, how many methods are there? How many people will use these methods?

In fact, as these methods are basically neither appealing nor effective, which can hardly convince the smokers that these measures can really help them, they have not availed themselves of these methods. Although I do not know the rate of the tobacco duty increase, is a substantial increase in tobacco duty the most effective measure? As Members can see, smokers have reacted very strongly to the proposal. Their strong reaction has built up from the past and will cause greater disharmony in society. What good does it do to society?

Deputy President, here, let me advise Members to cherish their health and not to smoke, and I will certainly uphold this principle myself. I all the more hope that young people will shy away from cigarettes and drugs. This is a consensus in society. I oppose the tobacco duty increase today because I oppose adopting this measure as a means to encourage smoking cessation by the public. I think this is not a desirable measure. I hope that the Government can provide more channels and measures to help smokers quit smoking.

Deputy President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Deputy President, after this year's Budget was released, I have once stated my views on the Budget at a meeting of the Legislative Council. I think that since the SAR Government recorded a huge fiscal surplus (standing at over \$70 billion) in the past year, the Government is indeed financially capable of introducing measures to vigorously relieve the people of their plights and to keep wealth in the people. Regrettably, there are two major defects in this year's Budget: Firstly, a substantial increase of the duty on tobacco, and secondly, an increase of the first registration tax for motor vehicles.

Since the release of the Budget, I think these two revenue measures have aroused the most discussion and a fairly high degree of dissatisfaction among the public. Frankly speaking, the Government has advanced high-sounding, well-justified reasons for the tax increases. In proposing to increase the tobacco duty by 41.5%, the authorities certainly hope to further contain the smoking population in Hong Kong.

I fully agree that the Government should step up its tobacco control efforts to improve the health conditions of the people of Hong Kong. The tobacco control measures taken by the authorities in recent years have achieved quite a lot of results, and the achievements made in tobacco control have earned the recognition of the World Health Organization. Having said that, can a one-off increase of 41.5% in tobacco duty really achieve the objective of tobacco control? This is open to question.

I have reservations about the point that a tobacco duty increase can reduce the number of smokers. At a number of meetings of the Bills Committee on Dutiable Commodities (Amendment) Bill 2011, I had examined the statistics provided by the Government. Of course, many doctors from hospitals and professors had come to the Legislative Council to express their views, and even representatives of committees against smoking had come to lobby us. But looking back, after the Government had increased the tobacco duty substantially in 2009, the total number of smokers actually increased rather than decreased. In 2008, the smoking population accounted for 11.8% of the total population in Hong Kong and in 2010, 12% of the population still had the habit of smoking, with nearly 700 000 of them being daily smokers.

These statistics show that raising the tobacco duty cannot reduce the number of smokers. Moreover, the effect of a duty increase is short-lived, as smokers normally will cut down on or even stop smoking in the first few months after the duty increase has come into effect but shortly afterwards, they will resume the habit again. From this we can see that a tobacco duty raise cannot produce a significant effect in tobacco control.

Many smokers have smoked for a long time, and it is impossible for them to succeed in quitting smoking in one go. Substantially increasing the tobacco duty will only add to the financial burden on grass-roots smokers, especially as the Government already gave effect to a one-off increase of 50% in tobacco duty in 2009. Only two years have passed and the Government has now proposed to increase the tobacco duty by 41.5%. Smokers certainly have strong views about it, and this is understandable. We are only worried that smokers will not quit smoking after the duty increase and in the end, what will probably happen is that smokers are made to consume expensive cigarettes on the one hand while they criticize the Government on the other.

Many grassroots have even complained that it is already not easy for them to work day in day out to make a living and all they are asking for is just a moment of humble enjoyment in smoking a cigarette after a meal. After the tobacco duty increase, they have to either consume expensive cigarettes or run the risk of buying illicit cigarettes. They feel so helpless even in seeking their only enjoyment. Some people even said that they are really deprived of the pleasure of life.

Of course, I am not saying that it is right to harbour such negative thoughts; nor am I encouraging the public to smoke. As a matter of fact, I strongly oppose smoking. Over the years, in the industries with which I have made contact, many people have the habit of smoking, but I have never smoked.

In fact, I all the more hope that the Government can realize that apart from adding to the financial burden on smokers, the tobacco duty raise can cause negative effects on the emotions or mental state of smokers in their living and cause public discontent to accumulate, especially as the public consider it unnecessary for the Government to control tobacco by increasing the duty on tobacco when the current economic conditions are not too bad.

We can see that society has imposed increasingly great control on the room of living of smokers, and there is now less and less room for them to smoke. Smoking is basically prohibited in public space areas in all buildings and now, it is not allowed even at bus stops, swimming pools, beaches and parks. Where can they smoke then? They smoke on the streets and in alleys. As Members can now see in Central, large groups of smokers would often gather in the back alleys of buildings and smoke around litter bins with ashtrays.

The tobacco duty in Hong Kong is, in fact, lower than that in most European countries and the United States, and smoking prevalence in Hong Kong is also lower than that in most European countries and the United States. According to the statistics of 2007, among the European countries and the United States, the tobacco duty was the lowest in the United States as their tobacco duty was only 37% of the cigarette price while the smoking prevalence was only 19.8%, which was even lower than that in such countries as Ireland, the Netherlands, Finland, Belgium, Germany, Britain and France where the tobacco duty rate exceeded 75%. Particularly, we can see that smoking prevalence is very high in France and while their tobacco duty rate was as high as 75% to 80%,

smoking prevalence also stood high at 25%. From these statistics we can see that a high tobacco duty may not necessarily mean that the number of smokers will drop. On the contrary, despite a high tobacco duty, the number of smokers may still be high, and with a low tobacco duty, the number of smokers may not necessarily be high.

This is also the case in Hong Kong. Our tobacco duty is only about 60% of the retail price, which is quite low, but we have a smoking population of 12% only. It shows that the objective of tobacco control may not necessarily be achieved only by an increase in tobacco duty. We can also see that as smokers cannot quit smoking in a short time, they can only bear the tobacco duty which will be increased considerably. What if they do not quit smoking but continue to smoke? I am sure they will certainly turn to the illicit cigarette market for cigarettes because the prices of illicit cigarettes are at least 30% or even 50% cheaper than those sold in supermarkets or newspaper stands.

Let us review some past statistics. After the tobacco duty was increased in 2009, illicit cigarette seizures kept on increasing. In the first three months of 2011, illicit cigarette seizures increased by 160% over the corresponding period last year. Even officials in the Customs and Excise Department (C&ED) have admitted that illicit cigarette seizures will increase considerably after an increase of the tobacco duty. Of course, they have to look into how more manpower and resources can be deployed to deal with the problem of illicit cigarettes. Paradoxically, the more operations taken against illicit cigarettes, the greater the volume of seizures. What we have seen is that illicit cigarettes can never be stamped out.

We have heard many voices in society, claiming that the number of illicit cigarettes seized by the C&ED is related to the vigour of anti-smuggling operations taken by the C&ED. When less anti-smuggling operations are taken by the C&ED, the number of illicit cigarettes seized will be less and the figures being released will not seem to be too substantial and may show an increase or a sharp decline compared with previous years. But in any case, we can see that illicit cigarettes can never be eradicated.

According to the views expressed and the statistics provided by the Coalition of Hong Kong Newspaper and Magazines Merchant, after the policy on a high tobacco duty was introduced, their business has been hard hit as their sales

turnover has dropped nearly 30%. Think about this: If the number of smokers has not dropped but the sales of cigarettes have fallen sharply (I mean the sales of duty-paid cigarettes dropped significantly), where do smokers buy cigarettes? Have smokers ceased to smoke? Things do not turn out in the way as they are expected. Therefore, it is imaginable that after increasing the tobacco duty, the Government may have actually dealt a blow at legitimate businesses, rather than curbing the real with regard to curbing smuggling activities and the control of tobacco, the effect of this measure is questionable.

Since the release of the Budget, we can see that illicit cigarette activities have become more rampant than they were before. Some time ago, many newspapers carried out investigations both openly and in secrecy There have been many reports made in newspapers. We have learnt from the press reports that "illicit cigarette convenience stores" which operate round the clock have long existed in public housing estates and there are even truck drivers delivering the goods now. What is more, at some illicit cigarette sales points, every day we can see young people with plastic bags in their hands looking around cautiously, and after a while, they will take a call from the cell phone and then deliver the goods to the buyers. There are many such sales points and according to the press reports, dozens of similar sales points can be found in the old districts all over the territory. Whether in public housing areas or Yue Man Square, Kwun Tong, a lot of these illicit cigarettes sales points can be found. This shows that most buyers of illicit cigarettes are low-income earners.

Let me talk about the situation of smokers below 18 years of age. Originally, they should not be able to buy cigarettes from legal cigarette sales points, but illicit cigarette syndicates do not bother to find out whether their customers are 18 years old or above and whether or not they are permitted to buy cigarettes. Whoever goes to them for cigarettes will be sold the cigarettes indiscriminately, disregarding whether they are secondary school students or primary schoolboys. Moreover, many young people engage in the trafficking of illicit cigarettes on a part-time basis to make "quick bucks". From this we can see that illicit cigarettes have very far-reaching effects. It is indeed not our wish to see that an increase of the tobacco duty will turn out to be giving a boost to the illicit cigarette market.

Another problem that warrants concern is that the quality of illicit cigarettes varies greatly, and there are many counterfeit cigarettes. As Mr

WONG Ting-kwong said earlier, 40% of the illicit cigarettes are counterfeits. In this connection, should the Government not dial up the vigour of its measures? If a tobacco duty increase cannot reduce the number of smokers and worse still, if it will drive smokers to the illicit cigarettes or counterfeit cigarettes market, we would think that this measure is in no way beneficial to public health, and it is even hazardous to the health of smokers.

All in all, we think that for the purpose of tobacco control, increasing the tobacco duty may be one of the measures. But what the authorities should do is to make greater efforts in publicity and education and also in the improvement of the smoking cessation services, with a view to achieving the objective of encouraging smokers to quit smoking.

Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, the tobacco duty increase is a small move that can affect the entire situation. Those who are most affected are certainly people who like to smoke as well as tobacco traders and newspaper hawkers who are closely related to the sale of cigarettes. Many colleagues have clearly stated earlier the reasons for opposing the increase in tobacco duty and drawn a comparison with alcoholism and drug abuse.

To me, one of my personal feelings about smoking is that this habit can cause great sufferings to people who are forced to take in second-hand smoke. We only have to talk to smokers' family members or children who are non-smokers and we will understand the reasons. Smoking is a bit different from other bad habits in that people who are in the same place as smokers cannot be spared second-hand smoke. As I often worked and attended meetings in the Mainland some years ago, I came to know many people who smoke and sometimes, I was exposed to second-hand smoke for the whole day and even for several days.

In the past, as I was younger, I was not worried at all and I thought there was nothing wrong about it as it is a personal habit. I even became accustomed to it after working in the Mainland for a long time because all the people around me were smokers. But eventually, I really could not stand it. Some people then told me to smoke together with them. They said that this would be the only

way to counteract it because non-smokers would be exposed to even greater hazards taking in second-hand smoke. That was the situation back then. In recent years, perhaps as I grow older, when I run into people who smoke, I feel As my colleagues and I are engaged in legal services involving the laws of Hong Kong and the Mainland, we understand that many professionals in the Mainland are smokers. Very often, even when our eyes were reddened by the smoke, we still had to endure it and hold meetings with them in the same room. Some people chose to give up business opportunities for this reason, for they really could not stand it. Yet, I think there is always an opposite view on every issue. I absolutely understand that overseas universities are more open, and it is particularly easy for young people to pick up the habit of smoking. But how should we look at this issue from the angle of being people who have had this experience? Is an increase in tobacco duty effective? I am not a healthcare professional, but I tend to believe in professional statistics.

The University of Hong Kong, which was severely criticized by Mr WONG Yuk-man earlier on, has worked very hard recently in publishing many reports, and let me briefly mention some relevant figures. The Tung Wah Group of Hospitals (TWGHs) Integrated Centre on Smoking Cessation has since February this year collected some statistics. Results show that the TWGHs Integrated Centre on Smoking Cessation received a total of 1 664 telephone calls for assistance between January and March this year, which has increased by 4.4 times over the 371 callers during the corresponding period last year, while the number of people who were willing to join the smoking cessation programme also increased from 243 in the corresponding period last year to 615 this year, representing an increase of 2.5 times. According to an integrated study on 2 000 cases of smoking cessation conducted by the DH, 44.7% of the participants wanted to quit smoking in order to save money. This is information provided by the TWGHs Integrated Centre on Smoking Cessation and the DH. Of course, the DH is a government department, and its information may be open to challenge.

However, from my personal experience, when some of my friends from the Mainland whom I always receive were first told that smoking is prohibited in local restaurants, they said that it was difficult for them to get accustomed to it and it was impossible for them to stand it. In fact, I appreciate their hardships as they are long-time friends of mine. But once in Hong Kong, and as I often held meetings with them, chatted with them or dined with them, I found that they can

actually get used to it. They said that they would abide by the rules of the game since they were in Hong Kong because Hong Kong is a society where the rule of law prevails. So, they did not smoke in restaurants and they would smoke on the streets. As such, will a change in the rules result in more people buying illicit cigarettes? I believe there is a certain possibility for this to happen. On the one hand, members of the medical or health services professions opined that an increase in tobacco duty will provide a greater incentive for smokers to quit smoking, but on the other, people who smoke and oppose the duty increase hold that more people will turn to illicit cigarettes after the tobacco duty is increased. I think both scenarios are predictions and for this reason, insofar as these two views are concerned, I tend to choose to believe in the professional statistics relating to deaths resulted from diseases caused by smoking. Although at a certain stage, some people may buy illicit cigarettes because they cannot quit smoking, let us not forget that as many Members opposed to the tobacco duty increase said earlier, there are many ways to quit smoking, such as education, setting an example to others, and so on. I personally consider it best for people who used to be smokers and are victims of smoking to share their personal experiences with others. I think this is the most effective way.

However, I fail to see why education on smoking cessation cannot co-exist with an increase in duty on tobacco. Why can they not co-exist? In fact, Members have put forward a myriad of reasons which are also clearly expounded. Many people consider that the duty increase will most directly affect the grassroots. Actually, I think smokers in whichever social stratum will be affected. Therefore, to put the matter in the correct perspective, those who are most affected should be people who like to smoke, and I do sympathize with them. But in any case, tobacco traders definitely will not face the greatest difficulty. Rather, the livelihood of newspaper hawkers may be affected as a result. If their livelihood will really be affected, I sincerely hope that the Government Since the Government has been so determined in taking vigorous actions against this problem with the objective of discouraging the public from smoking, it should, during the transitional period, provide as much assistance as possible to the affected newspaper hawkers whose livelihood is hard hit by the tobacco duty increase. I think this is what the Government can do, and the resources required may not be too substantial.

Second, I have known many acquaintances who are smokers, and one of them is a close friend of mine. I know him very well, and every time when he

had an urge to smoke after dinning with us, he would go outside to smoke beside a litter bin. We can also see on the streets many smokers smoking around litter bins. Such being the case, we may be forced to smoke passively more often when we walk on the streets.

In this connection, I wish to raise a point in passing here. I agree that the financially strong restaurants or catering establishments should be allowed to provide smoking rooms. Pubs and bars should also be allowed to do the same, as people who go there are mostly smokers and they should be allowed to smoke indoor, rather than driving them all onto the streets. Sometimes when I passed Some people said to me that smokers who gather around litter bins on the streets to smoke are actually causing obstructions on the streets. This is not good to both smokers and non-smokers, and smokers may also find it embarrassing to smoke beside litter bins. In this regard, I think the Government can think about it and give consideration to the actual situation.

I personally support the duty increase on tobacco by the Government. According to my judgment, it should be able to reduce the incentive of the public to smoke. Given my personal views, I do not agree with the view of Mrs Regina IP. I think since she supports an increase of the tobacco duty and even proposes an increase of 75%, it is unnecessary to give effect to the increase over five years. I think this is unnecessary. If an increase has to be effected, it should be effected boldly and vigorously in one go. People who like to smoke will definitely be unhappy. They will certainly feel so, and I very much appreciate it.

Therefore, I think what the Government should do instead is to provide assistance to newspaper hawkers, because they are doing only some small-scale business with a very small profit margin. The Government should provide them with assistance during the transitional period. Furthermore, as long as smoking is not totally banned in Hong Kong, there will still be smokers in Hong Kong and there will be smokers in all social strata. For this reason, can there be pubs and bars where smoking is allowed indoor, so that smokers will not have to smoke on the streets? These are some of my personal views. I shall stop here.

Deputy President, I so submit.

MR ALBERT CHAN (in Cantonese): Deputy President, when tobacco duty was discussed on various past occasions such as the panel or Council meetings, I had indignantly accused the Secretary and the Government of their failure in giving thorough consideration to their policies. One of the implications of increasing tobacco duty is the adverse effect on the household incomes of newspaper vendors, whose families have to lead a hard life as their incomes are even lower than the minimum wage. Meanwhile, I have also accused the Government of ignoring the plight of elderly smokers, who have to scrimp on their two daily meals in order to buy a pack of cigarettes.

I was originally prepared to continue to condemn the Government in this tune. But just now I saw a news report in the Ante-Chamber that when a chick transporter staged a protest on the top of a footbridge, a sergeant fell to his death in an attempt to climb up the footbridge so as to deal with the situation. First of all, I would like to mourn over the death of the sergeant and express my deep condolences to his family. After watching this news reports, Yuk-man said to me that I should ask Secretary Dr York CHOW whether he had any guilty feeling because of this incident, as an old saying goes, "I did not kill Boren, but Boren died because of me".

Deputy President, the same problem has to be dealt with in formulating a policy of increasing tobacco duty and other public policies. In other words, the Government has to consider the implications of these policies before formulation. I have time and again criticized the Government for this in this Chamber. Before 1997, papers on major policies provided to me in the former Legislative Council would certainly contain information on impact assessment of the economic, social and political aspects. However, in recent years, such impact assessments have completely disappeared. Such impact assessments had gradually diminished in the era of TUNG Chee-hwa and have completely disappeared after Donald TSANG came to power. In the absence of impact assessments, the Government has become too confident and even fearless in formulating its policies. Without considering these factors, it has implemented its policies in an arrogant manner.

Why is the death of the sergeant I mentioned just now related to Secretary Dr York CHOW? Because the chick transporter has unceasingly aired his grievance over the past few years, claiming that it is unreasonable of the Government not to make compensation to him. He already mentioned that he

would commit suicide during an interview with me in October last year. He said that he could not sleep every night. In great frustration, he suffered from mental stress. A few weeks ago, he said that he would commit suicide by leaping off a bridge and requested a meeting with Secretary Dr York CHOW. He said to me, "Please help arrange for a meeting between me and Secretary Dr York CHOW. I will explain my case to him face to face when he is willing to see me. I will not pursue my case any further if he remains unwilling to resolve the matter after I have presented my case."

Two weeks ago, I submitted a letter to Secretary Dr York CHOW in the hope that he would arrange for a meeting with him. I have repeatedly asked his deputy whether the Secretary could have a meeting with the chick transporter. I also said that as a government official, it was unreasonable of him to refuse an interview with a person who had claimed to commit suicide. Finally, the request was turned down all the same. Until a few days ago, I personally asked Gabriel M LEUNG about this and he still refused the transporter's request. Today's accident or tragedy would have been avoided if they were willing to see him.

As an official, or a public policy maker, he is so unscrupulous and so shameless that he has even refused to see a person who claimed to commit suicide. In formulating a public policy, he should consider the extent to which the parties concerned would be affected under the policy. The same applies to an increase in tobacco duty. The Government should not merely mention the justification of public health which is stressed by Prof LAM Tai-hing. As Prof LAM is so experienced in dealing with issues related to public health, why does he not propose a substantial increase in alcohol duty? He has not uttered a word and even shut his mouth on the issue of alcohol duty. Regarding an increase in tobacco duty which is proposed by the Government, he has added fuel to the flames for fear that the elderly smokers and newspaper vendors would not suffer. The Government, in considering any public policy, should cater for those who will be affected, in particular, the plight of the disadvantaged. How can the Government totally ignore them? How can it stand on the moral high ground and claim that it is in the interest of public health?

Many Members just now have made long speeches. But in fact their points were raised by me three years ago. Three years ago, only a few of us put forth our own points. Mr Tommy CHEUNG had also spoken in support of us while other Members simply adopted an apathetic attitude. This time around,

even the DAB and the Hong Kong Federation of Trade Unions have stated that they would abstain from voting on the duty increase because they have seen its impact at the district level. However, Secretary Dr York CHOW, who is arrogant and autistic, indeed suffers from severe autism. According to Mr Tommy CHEUNG, he has refused to receive anyone and confined himself to his room. When a policy has been formulated by his staff, he, as a political appointee, will give a green light to it and entirely turn a blind eye to the miseries and difficulties faced by society and other social groups, particularly the disadvantaged.

Just now, Members have mentioned that an increase in tobacco duty would lead to problems faced by newspaper vendors and elderly smokers. But Secretary Dr York CHOW has simply said with detachment that the elderly smokers should quit smoking. He even said that he had time and again urged them to quit smoking. As for the newspaper vendors, he said that he was thinking of any measure which could help them and called on the newspaper vendors to suggest what assistance could be provided to them policy-wise. But this is his responsibility! He should put forth options to address these issues in the formulation of policy. In respect of illicit cigarettes, Secretary Dr York CHOW has also said with detachment that the C&ED will crack down on them.

Elderly smokers who cannot quit smoking will continue to save money for buying cigarettes, thus affecting their daily two meals. Owing to lack of means to buy duty-paid cigarettes, they have to violate the law and buy illicit cigarettes, or counterfeit cigarettes, which will further jeopardize their health. This has nothing to do with the Secretary? Secretary Dr York CHOW does not have any responsibility? This is just the problem of smokers, does it not have anything to do with him? Does it have nothing to do with the tobacco duty increase proposed by him? However, smokers will commit certain acts because of the tobacco duty increase proposed by him. How can he unscrupulously and shamelessly say that this has nothing to do with him and ignore these problems completely? Do the acts committed by "Tong the chick transporter" who protested, staged a demonstration and attempted suicide have nothing to do with the Secretary? The Secretary has determinedly refused to receive him or did not like to receive him because he wanted to put on an official air. We can do nothing about it. He will continue to be a high-ranking official and continue to get his pay. Even if "Tong the chick transporter" had committed suicide, it had nothing to do with the Secretary.

Last week, I counselled "Tong the chick transporter" that he ought to desist from committing suicide. I said that if he really must kill himself, he might think about dragging York CHOW down with him. Anyway, it is stupid to commit suicide. You may call in the police to arrest me for inciting others to infringe York CHOW's personal safety. However, I still have to get this message across to the people of Hong Kong: Do not commit suicide, no matter what. I have in fact reiterated myself in this Chamber for years. There was a time when suicides were so frequent in Tin Shui Wai. I often told the residents there that suicide was nothing but a stupid act. A couple of years ago, three suicide cases happened near my office in just one week. One resident jumped down and landed right in front of my office. Another jumping happened right behind my office. The third one jumped off the building and died next to my office. There was a total of three jumpings in one single week. I convened a meeting with the residents and asked them to come forward when they faced any problem so that I could fight together with them, be it a hunger strike or taking actions to lash the Government. They have to fight for their legitimate rights. Suicide by burning charcoal in an enclosed room or jumping off a building does not help. If the residents do not come forward to fight for their rights, these shameless arrogant highly-paid senior officials will become delusional, thinking that they are not only high and mighty but also self-important. Those professors who confine themselves to an air-conditioned room and brag about how great they are simply do not care about the sufferings of the general public, not to mention the luxury of "saving as many as we can". If so, why does he not save the drinkers? Why does he not save those killed by drink driving? Why does the Government not ban alcohol altogether? Why does he only mention a tobacco ban? He is only paying lip service, a verbal expression of agreement that is not supported by real action.

When formulating a policy, the Government should look at the objective circumstances and reality, apart from setting out its policy objective, which is a mere subjective wish. The objective reality often runs counter to the subjective wish. The Government has turned a blind eye to it and the Secretary even thinks that the objective reality has nothing to do with him. In his opinion, these are the mistakes of those stupid and ignorant people and his policy of increasing the tobacco duty is not the cause of all these problems. Even though the protest of "Tong the chick transporter" has led to the death of a sergeant, he acts in a way as if nothing has happened at all.

I have seen so many problems in Tin Shui Wai over the past few years that I sometimes cannot sleep at night. I have time and again mentioned people's sufferings to some high-ranking officials who seem to be thinking that I am talking nonsense. When I talked about "Tong the chick transporter" with Secretary Dr York CHOW, I could see that he did not want to hear it, feeling irritated. He has neither the sincerity nor any sense of responsibility. As a high-ranking official, he should care about people's well-being, happiness and life-and-death issues. He has the basic responsibility. But he is entirely indifferent. He has only bragged about his success and how responsible he has been in front of his peers, alumni and friends. He is entirely indifferent to the suffering and hardship of the public.

I hope Secretary Dr York CHOW will personally give a reply in respect of this tragedy and do some soul-searching. Had he been willing to receive "Tong the chick transporter", the tragedy could have been avoided

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please come back to the question of tobacco duty.

MR ALBERT CHAN (in Cantonese): It is the same for tobacco duty, Deputy President. The problems concerning the elderly smokers will arise soon. Then there will be problems concerning youngsters who are arrested for selling illicit cigarettes, which will result in far-reaching impacts on their whole life. There will be a lot of these problems because selling illicit cigarettes is a highly profitable business which is very attractive to many people. They will find it very easy to make money and convenient, too. Secretary Dr York CHOW has created an illicit market by raising the tobacco duty. The Government will certainly be unable to combat or control such an illicit market, which will spread from one person to another. As a result, all schools, all districts and all housing estates will become a free zone for the illicit cigarettes market.

I have cited this example many times. Over the past few years, I have been handling a case which is about the sale of illicit cigarettes in Tin Shui Wai. I have notified the C&ED in writing the exact location of a housing estate where trading of illicit cigarettes had been conducted for years. I have lodged a complaint for many years, but no one has been arrested to date. The complainant, who was very angry, put the blame on me and the C&ED because

he had provided the exact location in the housing estate where illicit cigarettes were sold but nothing was found. The reason is that no one will be arrested for this because illicit cigarettes will not be sold to any stranger. Those who sell cigarettes in the housing estate are familiar with all people there. They know who are residents there and who are not. They know them well. To arrange for an arrest operation, the department concerned should make a very long-term deployment by assigning an elderly person, who will serve as an undercover agent, to live in the estate for some period of time so as to get familiar with all people in the park in half a year or so. Only in doing so will the arrest operation be successful. If an officer is assigned to conduct observation, they will not sell cigarettes to him. Moreover, the payment and delivery of illicit cigarettes occur at two different locations rather than "payment on delivery". After receiving the money, they will tell the purchasers from which planters they can get the cigarettes. So, how can the Government manage the problem of illicit cigarettes? The C&ED said that illicit cigarettes imported from overseas would be combated. However, given that there are hundreds of thousands of people crossing the border in Hong Kong and millions of people travelling between Hong Kong and the Mainland at sea and on land every day, the border is almost unguarded. How can the smuggling of illicit cigarettes be curbed?

Deputy President, I believe the proposal on a substantial increase in tobacco duty will be passed in this Chamber this time around. While there are much more dissenting voices compared with three years ago, the negative impact of a substantial tobacco duty increase on society, and the heavy blow and impact on the grassroots, the elderly smokers and newspaper vendors are also more serious compared with three years ago. Secretary Dr York CHOW will also bring more harm to society.

Prof LAM Tai-hing said that we are enemies of public health. Then I have to say that Secretary Dr York CHOW is the enemy of Hong Kong people. He has time and again stifled the livelihood of pig farmers and a number of industries. Now he is going to propose a substantial tobacco duty increase. As a result, the ordinary people will live a more miserable life and more ignorant youngsters will be at risk and even commit crimes, thereby affecting their whole life. These are the implications brought about by Secretary Dr York CHOW's autistic and arrogant personality and attitude in dealing with public policies. No wonder — Sorry, the Honourable Regina IP has advised him to study economics (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR ALBERT CHAN (in Cantonese): so as to acquire some basic common sense.

MR ANDREW CHENG (in Cantonese): Deputy President, today's question has in fact been discussed in this Chamber for many years. Whenever the issue of whether tobacco duty should be increased is discussed, views are always diverse. In Hong Kong, which is a pluralistic society where tobacco companies have huge financial capacity, coupled with various other resources, the lobbying for support of opposing the increase in tobacco duty by the Government will be all pervasive.

I have listened very attentively to the justifications raised by some Honourable colleagues who oppose the increase in tobacco duty by the Government, and I would like to express my views on each of those points. However, before doing so, Deputy President, I hope this Council can be rational. Of course, everyone will say that he is rational and no one would say he is not. Those who speak very loudly will say that they are rational, so will those who speak in a soft voice. Each Member will say that his view is correct. And this is the role of Members because all Members are subjective and have their own views. This is normal, but I hope that they will not cause harm to their health because to speak too loudly or in an agitated manner will not only do harm to themselves but also the ears of those who are sitting around them, and indeed it will make us feel a bit melancholy.

Today, the phrase "to elevate the matter to the political plane" has been mentioned again and again. Mr Albert CHAN has just mentioned a tragedy that occurred this morning. The tragedy has provided a good opportunity for the Government and Members, particularly some opinion leaders and officials, to reflect on their ways of doing things.

I believe the man who stood on the top of a footbridge claiming to commit suicide in an attempt to challenge the Government with his life this morning must have summoned up a lot of courage. However, is it the wisest and most effective way to challenge the shortcomings of a public policy with such courage? This warrants reflection.

It is the same for tobacco control or the increase in tobacco duty. Our opinion leaders or those voices which are leading the public if we say that the remarks of the Government or the pro-government camp are elevating the matter to the political plane, then, should we, when facing the people, be mindful of the possibility that we may overlook some irrational behaviour due to our over-emphasis on mainstream public opinion?

Prof LAM Tai-hing is on the lips of many Members in this Council today. Very often, Deputy President, we have to rely on some experts in order to gain a better understanding of some public policies. Insofar as this topic is concerned, the most popular view I can hear is that a public policy should be able to cater for all sectors, and it should be objective rather than too subjective.

Deputy President, speaking of objectiveness, I, as a veteran Member, look forward to hearing from some experts other than Members, officials and the Government that this policy is appropriate or not. So, if some academics or university professors who have spent a lot of time and resources on conducting a research before presenting certain evidence are criticized as elevating a matter to the political plane, then on what basis should our objective criteria be founded?

Prof LAM Tai-hing said that Members who opposed the increase in tobacco duty were the enemies of the public health policy. When his remark is criticized as unsound, partial and sweeping, are those who say that the Secretary who does not support universal suffrage is a "eunuch" not making an even more sweeping remark? Frankly speaking, I think they are expressing their views from their own perspectives. Deputy President, is our community not being very unfair if those who can say such words disallow others to say something which are less humiliating and not specifically targeted at anyone?

So, I will listen to all Members' views. I will only shake my head and sigh on hearing somebody accuse the Secretary as a "eunuch". I will not say that he is wrong because we have to respect each other. Regarding the remark by an academic that those who oppose the increase in tobacco duty are the enemies of public health policy, Deputy President, I concur with that. Nevertheless, I think it is preferable that we express our own views from our own perspectives rather than pouring out a torrent of abuses or irrational curses. I am absolutely disappointed at these abuses, and I believe many Hong Kong people are also disappointed on seeing our parliamentary process.

Deputy President, there are two arguments against the increase in tobacco duty by the Government. I must take the trouble to refute these arguments today. The first one is that grass-roots smokers have to bear the high prices of cigarettes. Frankly speaking, the current prices of cigarettes are no longer cheap and for some grassroots, a pack of cigarettes is very expensive. Some people say that these people will be all the more worse off after the tobacco duty increase because they have to bear high prices of cigarettes, and smoke illicit and counterfeit cigarettes. If Members think that smoking is no good or I have heard Members who oppose the increase in tobacco duty eventually add that "they do not like people to smoke and they oppose smoking, but". Whenever I hear the word "but", I am puzzled. If they think that smoking is not good to health, they should advise the Government to step up its efforts in combating illicit cigarettes and provide more resources for smoking cessation services. When the Government proposes to increase tobacco duty, we should oppose it because an increase in tobacco duty may lead to insufficient revenue for the provision of smoking cessation services. Deputy President, such an argument is illogical.

So, are these Members really speaking in the interest of the smokers' health? Only they know the answer. If Members really think that smoking is no good and hazardous to health, then all smokers will suffer from bad health regardless of whether they are people of great wealth or poverty-stricken elderly. If people of great wealth suffer from lung cancer, they may need to receive treatment by private doctors in the Hong Kong Sanatorium and Hospital every day. But the poor can only rely on public healthcare services. As this may involve a huge amount of public healthcare resources, the Government should consider whether it is necessary to put in place a public health policy as a precaution. This should be the logical thinking to be adopted by us. As Members, we have to consider whether a public policy can cater for all sectors rather than blaming the Government for increasing the tobacco duty.

Deputy President, as a veteran Member in this Council, I appreciate most the Government's anti-smoking and tobacco control efforts although there are many flaws. I think Secretary Dr York CHOW also understands this. When I served as the Chairman of a bills committee on indoor smoking ban, I had a strong argument with Secretary Dr York CHOW at a preparatory meeting. I believe he will still remember it. I considered that we should take a few more steps forward, but Secretary Dr York CHOW thought that we should not be so

radical. But at least indoor smoking has now been banned. At that time, I proposed that smoking be banned in parks and bus stops. Although many smokers said that I had forced them into a corner, making them unable to smoke at all. I think the effect can be gradually seen. Of course, some Honourable colleagues, in refuting what I said, have pointed out that the number of smokers has been increasing. However, Deputy President, this has just shown the power of tobacco companies. The Government has devoted so much effort to tobacco control of course, it has to make further efforts in tobacco control so that the number of smokers can be reduced further. But we should not hold the view that the grassroots have to bear high cigarette prices as a result of an increase in tobacco duty by the Government.

We have even heard some views claiming that this is class discrimination and there are queries why the professors have not voiced their views in the discussion on waiving the wine duty. According to my impression, the professor did voice his views, so did some academics. But somehow, wine duty was eventually waived. Some have also queried why these professors have not proposed a total smoking ban. I remember that they seemed to have made such suggestion. It is most preferable that Hong Kong can be the second city in the world following Bhutan in imposing a total ban on the sale of cigarettes. I, Andrew CHENG, will be the first one to support such an idea because I have also been advocating this. In my opinion, the Government should implement the measure if it has the courage to do so.

Of course, as a policy implementer, the Government has to consider a lot of factors. Here I would like to give some advice to the Secretary: If you really think that smoking is hazardous to health, this will be the way forward. You should loudly tell those Members who have criticized you that your goal is to transform Hong Kong into a smoke-free city in the next five to 10 years. Secretary, you should be bold enough to speak up. However, owing to the fact that you are not bold enough to speak up, your work on tobacco control is not perfect which has resulted in the rampant problem of illicit cigarettes, and the smoking cessation services are ineffective, thus those who oppose you can find a lot of justifications against you.

Deputy President, regarding this issue, I have always said that I have all along been a royalist and will definitely support whatever measures proposed by the Government. Even though there is some inadequacy, I will still support it.

But I will continue to give it advice so that it can address the inadequacy and make further improvements. I will not raise objection in the first place because the logic of doing so does not tally with the criteria upheld by us Members all along.

Deputy President, regarding the business turnover, I remember that we had a long debate at a bills committee meeting and eventually all left except I and Mr Tommy CHEUNG. I served as the Chairman and he was one of the attendants. There had been a long exchange between us on a subject which had been debated for a long time. He asked me a question: In case some bistro cafés were closed down in the future and a bunch of operators came forward to seek help from me, could I hire them all? Now let us take a look around us. Have bistro cafés been closed down? Are there any restaurants which have been closed down due to the smoking ban? Of course, I hold Mr CHEUNG in high esteem because he also enjoys the freedom of speech. As a representative of the industry, he can express his views. But at that time I had already pointed out that he had too much worries and the scenario mentioned by him would never occur.

Similarly, with regard to newspaper vendors, I often think that newspaper vendors are selling newspapers and magazines. I believe they will sell cigarettes, too. Nonetheless, newspaper vendors are newspaper vendors. We, as Members, will certainly understand that their business turnover will dwindle as a result of the increase in tobacco duty. But I believe Hong Kong people are so smart and flexible that they will know how to replace a sunset industry by a new one. They will not live a miserable life because of the tobacco duty increase. Deputy President, even so, as I always say, we have to take into account the public health as a whole. So I absolutely support the measure of increasing tobacco duty, the stronger the measure the better, so that Hong Kong can transform into a smoke-free city. Thank you, Deputy President.

MR WONG SING-CHI (in Cantonese): Deputy President, many Members have said that the recent outbreak of widespread application of plasticizers has caused a public outcry. The public is dismayed to find that many things carry plasticizers. The public requested the Government to ban those plasticizers upon being told that long-term consumption of such substances will cause damage to the reproductive organs or certain organs of both male and female. Compared with the earlier incidents of formula milk containing melamine and

fish containing malachite green, the general public will always feel that cigarettes pose more serious hazards to their health. Many Members seem to have accepted the hazards of smoking on health, but they are not readily accepting that plasticizers, melamine and malachite green are equally detrimental to health. I am not saying that malachite green is unimportant, so the impact is acceptable. Those are equally unacceptable, but it is a fact that smoking is hazardous to health.

I once surfed on the Internet and found some interesting data. According to a study of the University of Hong Kong, smoking has caused an enormous economic loss every year, but it is not the loss of any tobacco company. The tobacco companies continue to make huge profits — it is the general public who are suffering from the economic loss, including the Government which has to take care of people suffering from serious ailments due to long-term smoking.

I am going to quote the following figures from 1998 and I believe the current situation must be much more serious. According to the data, smoking accounted for 57% of those who died before the age of 75 — the average death figures in Hong Kong should be higher — I believe these people died an early death as a result of smoking. Passive smoking accounted for 20% of the death toll. Provision of hospitalization services for patients with smoking-related ailments caused nearly \$2 billion. The additional expenditure on children hospitalized for passive smoking reached \$30 million. These 1998 figures were not small amounts. I hope the Secretary can provide us with more recent figures later on.

I think everybody knows clearly that smoking is hazardous to health. According to studies and researches, smoking can induce various cancers like hypo-pharyngeal carcinoma, lung cancer, esophageal cancer, bladder cancer, renal carcinoma, cancer of pancreas, gastric carcinoma, liver cancer, cervical cancer, leukemia and breast cancer. Among them, lung cancer complications can cause a variety of very serious conditions. The heart and circulatory system will also be damaged. Heart rate will suddenly increase when you begin to smoke. Long-term smokers' blood pressure will rise with possible symptoms of hypertension. Smokers bring carbon monoxide from a burning cigarette into their blood stream, reducing their level of oxygen in blood, and affecting their physical fitness as well as mobility.

I watched "Long Hair" playing football the other day. His performance was different from before. Getting old is one of the reasons. For many times, I saw him getting exhausted after playing for only a while. Therefore, I warned him against smoking too much because smoking had affected his performance in the football pitch.

Deputy President, smoking is hazardous to health. About 20 to 30 years ago, Yul BRYNNER made a propaganda film, advising people not to smoke. The publicity caused a huge row, for he told the public that he would not be sitting in front of the television screen telling people that smoking could cause lung cancer had he not smoked. I watched that propaganda film when I was young and it deeply impressed me. Decades later and to my dismay, there are still so many people coming forth to say things like "I would not be telling you the fact that I am suffering from lung cancer if I were not a smoker".

There is a lot of trash in a stick of cigarette. You may feel that smoking is smashing for it helps to refresh your mind, but you are actually inhaling junk. Cigarettes contain tar. What is tar? It comes from burning cigarettes after some sort of filtering by coal. It is tantamount to swallowing the dirtiest thing when you smoke. Furthermore, tar in the lungs can cause lung cancer. Moreover, cigarettes contain nicotine, a very toxic substance which is addictive and may lead to hypertension. Strictly speaking, nicotine is categorized as a kind of drug and stimulant. Deputy President, tobacconists will definitely put nicotine in the cigarettes. I cannot imagine what kind of cigarettes it is if there is no nicotine content because nicotine is a kind of stimulant. Most importantly, it will become habitual once you started smoking.

I have repeated myself time and again here that we support the grassroots. We respect human rights and freedom. We fight for democracy. We hope that everyone has the liberty to act according to his free will. Why are there people who have to smoke for the rest of their lives once they have lit their first cigarette? The answer is nicotine. Yet we continue to encourage the public to be controlled by it. What are behind the cigarettes? The major tobacco manufactories and tobacconists.

Some Members are dissatisfied, opining that an increase in tobacco duty will only lead to rampant illicit cigarette trading activities, giving illicit cigarette traders an opportunity to make a big fortune. They will only keep putting the blame on illicit cigarette traders. I am not trying to say anything in their defence

because I think they should all go to jail. They are nothing but criminals, wicked to the extreme. They are demons, but there is a devil behind them. For centuries, tobacco manufactories and tobacconists have been using cigarettes to control people, causing numerous deaths. Why do those Members not scold them in good round terms? Instead of lambasting the illicit cigarette traders, why do they not heap reproaches on those who produce cigarettes to the detriment of the public? Does it mean that they are all guilty except the major tobacconists?

I can hear from time to time some remarks about which I do not know whether I should laugh or cry. Those who deserve to be scolded are not blamed while those who should not be held responsible are reproached. Radio stations and newspapers reported the remarks by Prof LAM Tai-hing. I think he meant to protect the health of the grassroots. He did not say that illnesses were curable with money. He said that we should maintain the habit of leading a healthy lifestyle since childhood. To get sick easily would cost the patient a lot of money and even aggravate the burden of the Government. The patient might even die simply because of not having enough money for proper medical treatment.

Prof LAM Tai-hing did not only mention a tobacco ban but also say something about problems arising from red wine. People always tell me that it is fine to drink a little bit of red wine. But I heard him say the other day during a radio interview that even one or two sips of red wine would be bad enough to cause illnesses. He was telling the truth, contrary to the television advertisements, which advocate drinking red wine as a manifestation of quality living. Television advertisements publicize that drinking quality red wine is healthful and an intake of two glasses every day can promote blood circulation and mental health. Prof LAM Tai-hing told me that some people might contract liver cancer or other illnesses even the daily intake was small. He was telling the truth, but many people do not speak from their heart for the sake of promoting red wine or the so-called quality of life.

Prof LAM Tai-hing said that smoking is hazardous to health. Telling the truth, he even suggested a tobacco ban. If you ask me whether I support a tobacco ban, I can assure you that I am second only to Mr Andrew CHENG in absolute support of a tobacco ban. Although a full tobacco ban is not possible at present, I feel that this is our direction.

Deputy President, why are there some Members who do not take time to read the meticulous studies done by scholars and refrain from listening to those who tell the truth, unwilling to accept the comprehensive ideas from academia? Why do they only bombard one or two sentences that they quote out of context to suit their purposes?

Our speeches in this Chamber should be comprehensive. Deputy President, I am very angry at criticisms against Prof LAM Tai-hing. If a person who has made meticulous efforts in a research is bombarded because of having mentioned something unpopular I really hope that Prof LAM Tai-hing is not scared. Anyway, I think he will not be frightened. As he was telling the truth, he offended many people in the business sector as well as senior government officials like Mr Henry TANG, who has proposed to reduce wine duty so as to encourage more drinkers.

I opine that we should provide ample space for the public, academics and others to express themselves. No one should be bombarded and attacked under the circumstances of special privilege merely because of having advanced a certain view. I think it is only fair if the issue can be discussed at an open forum.

Deputy President, the Democratic Party fully supports an increase in tobacco duty. But we can also see that there are still a lot to be done on current control measures. This may not belong to the jurisdiction of the Secretary Dr York CHOW. It may be the duty of the Secretary for Security instead. We can see the gravity of the illicit cigarettes problem as such cigarettes can easily be bought in many districts of Hong Kong. Despite insufficient manpower to perform such duties as tobacco control and anti-smuggling activities, they should be carried out in on fuller scale still.

(THE PRESIDENT resumed the Chair)

I think illicit cigarettes are coming from the Mainland, which is our own country, rather than the United States, Japan or Europe. Why is there not more frequent intelligence exchange between the two places (that is, Hong Kong and the Mainland)? The answer is simple. I have no idea whether the Government

is still performing its anti-smuggling duties against illicit cigarettes. I went to Shenzhen the other day and saw, after security clearance, a bunch of women gathering at the exit of Shenzhen MTR station. Their huge red-white-blue striped nylon bags were full of cigarettes. I did not think they had smuggled the cigarettes into the Mainland from Hong Kong. It might be the case more than two decades ago, but I do not believe that it is possible today. I saw people stuffing the red-white-blue striped nylon bags with cartons of cigarettes one after another before heading towards Hong Kong side. If the cigarettes are legal to carry, I really have no idea how they are going to distribute them. We are only allowed to carry 19 sticks of cigarette upon entry, but there were several huge red-white-blue striped nylon bags containing hundreds of cartons of cigarettes.

I have on many occasions mentioned the information in the Legislative Council. Besides discussing the issue with the Secretary for Security personally, I have also demonstrated to reporters the photos taken by me. I have no idea if the Government is currently dealing with the issue. If Dr York CHOW knows, I hope he can tell me that the Government is in fact tackling the problem. If it is the case, okay, I can accept it because you have taken precautions against illicit cigarettes.

President, there are many people who have been smoking for years, so it is quite difficult to ask them to quit smoking immediately. I have a few good friends who are social workers; they started smoking when they were young. They told their wives that they have already quitted smoking. Sometimes when we chatted over tea, they would go outside the premises allegedly for some fresh air. They were actually going out for a puff. You can imagine the difficulty in kicking the habit. I have said that the addiction is the reason why it is hard to quit smoking. It has nothing to do with the willingness. Cigarettes contain toxic substances — I think nicotine is one of them — which make people addicted. Under such circumstances, it is simply like harming them if we keep on allowing or encouraging them to smoke.

Hoping them to cease smoking is difficult. Therefore, I hope the Secretary can step up efforts in publicity and education on smoking cessation and anti-smoking campaigns.

We should start with the children. I know there is a giraffe called Harold at the Life Education Activity Centre, providing health education activities for

Primary One and Primary Two pupils. They have a fake lung, demonstrating to the visiting pupils that it will turn black after a puff of cigarette. I was impressed at seeing the demonstration. It is okay to provide such activities to the kids, but it is not enough. We have to help them grow, providing them with more space and supporting facilities so that they will not smoke or buy cigarettes even though they have reached the age of 18. Only in this way can it be regarded as a reasonable approach.

We, therefore, support the Government's proposal of increasing tobacco duty. This matter should brook no delay. We feel that it should be implemented immediately. Thank you, President.

MR CHEUNG MAN-KWONG (in Cantonese): President, the Democratic Party opposes smoking. We strongly support imposing a smoking ban indoor and at public places, we support imposing control on tobacco advertising, and we support increasing the duty on tobacco products. Our views have not changed, and we remain the same now.

Mr Andrew CHENG used to be the speaker of the Democratic Party on our support for anti-smoking initiatives. Though he has already withdrawn from the party, we are still proud of his position on this issue and his perseverance in this respect to date. We have not given up. Concerning this issue, we have carefully considered the impact of increasing the duty on tobacco products on teenagers and youngsters, the elderly and newspaper hawkers. We truly understand that there is no way to get the best of both worlds on this issue. Society has to weigh the pros and cons in deciding whether it is appropriate to increase the duty on tobacco products further this time, and whether the increase can achieve the objective of tobacco control. If the increase backfires, how should this be dealt with?

Everyone knows that teenagers and youths are the primary targets of tobacco companies. The earlier they pick up smoking, the longer their smoking life will be and the more difficult it will be for them to quit smoking. From the perspective of tobacco companies, they can then profit from the money they spend on smoking throughout their life. By the same token, if we prevent and stop young people from smoking, it will reduce the number of smokers and prevent them from smoking till their old age. Otherwise, people will say that it

is difficult for elderly smokers to quit smoking, which will then be used as an excuse to hamper anti-smoking work.

This issue involves a chain effect. We have to go through youth and old age in our life. When people say that the duty on tobacco products should not be increased in view of the difficulty for elderly smokers to quit smoking, it only make us, particularly practitioners in the education field, understand more clearly that anti-smoking work should be done properly among the youths who have yet to be heavily addicted to smoking to prevent them from becoming long-term smokers. The Democratic Party weighs the pros and cons on this basis. We oppose smoking and we support the duty increase on tobacco products this time.

According to the information of the WHO, more than half of the smokers started smoking when they were teenagers, and this is no exception to Hong Kong. As shown by the figures of the C&SD, most of the smokers in Hong Kong started smoking in their teenage years, 60% of them became addicted to smoking at the age of 20, and this smoking addiction usually lasts 10 to 20 years. If they fail to quit smoking, they will become the elderly smokers we mention today.

Surely, Members must also know that the longer the smoking history is, the greater the impact it will have on health and life. Among the many friends I know, some have died of lung cancer. How many people have died of lung cancer as a result of smoking? When we claim our opposition to smoking or our support for the increase in duty on tobacco products today, we will think of these people, we will think of those around us who died for this cause. We should have our own position on this issue; we should prevent the next generation from being harmed by smoking. It is on this foundation that the Democratic Party supports increasing the duty on tobacco products.

Studies have proven that increasing the duty on tobacco products can prevent young people from smoking, or cause them to choose to quit smoking when they have just picked up the habit. A study overseas found that when cigarette prices rose by 10%, the number of young smokers below 18 would drop by about 2% to 3%. As indicated in a study conducted by the University of Hong Kong, since the 50% increase in the duty on tobacco products in 2009, the smoking rate among Form One to Form Five students — I am referring to students — had dropped from 6.9% in 2008 to 4.8% in early 2010, and down

further to 3.4% by the end of 2010. Members may notice that the number of student smokers has dropped by nearly half. Honourable colleagues, if these students continue to smoke till their old age, will a new batch of Members be saying in this Chamber that the duty on tobacco products should not be increased for elderly smokers can hardly quit smoking. If this is the fact, those smokers had better quit smoking when they are young.

After the increase in duty on tobacco products in 2009, the smoking rate of two age groups recorded the greatest drop. One is the age group of 15 to 19, which we called the teenage group, and the other is the age group of 20 to 29, which should be called the youth group. It is evident that if we are aware of the hazards and harms of smoking and its damage to the body, health and life, so as a member of the teaching profession or as a Member, I can only identify ways to urge them to smoke less when they are young, protecting their life from the harms of the smoking curse.

However, the Government must do one thing if we are determined to prevent young people from smoking. It must curb the prevalence of illicit cigarettes. As it increases the duty on tobacco products on the one hand, it should forbid the sale of illicit cigarettes on the streets now prevailing on the other. Mr WONG Sing-chi pointed out earlier that this is not the job of Secretary Dr York CHOW. However, to me, there is but one Government. If it considers anti-smoking work or a smoking ban is conducive to health, it should devote the same effort to combating the sale of illicit cigarettes, prevent it from becoming rampant and prevalent, lest it will eventually expose teenagers and young people to the hazards of smoking.

During the scrutiny of the Bill by the Bills Committee, we had listened to many views of the community and newspaper hawkers. They pointed out that the sale of illicit cigarettes is now conducted blatantly in broad daylight, and they provided the addresses, time and mode of sale of illicit cigarettes. When the public and newspaper hawkers can describe these activities so clearly, I really do not understand why illicit cigarettes have not yet been stamped out. This is a justified concern. Some young people do not only buy illicit cigarettes, they even help illicit cigarette syndicates in the delivery and sale of illicit cigarettes to earn commissions. This situation is unacceptable. Hence, if the Government only increases the duty on tobacco products on the one hand but fails to devote the same effort to combating illicit cigarettes on the other, I think the increase

will only backfire, and the initiative is unconvincing. When the Government tries to persuade the Legislative Council to offer continued support on the issue, it should not remain slack in combating illicit cigarettes, simply turning a blind eye to the problem or evading its responsibilities.

President, I understand that the increase in duty on tobacco products will prompt young people to smoke less, but its effect on elderly smokers is indeed insignificant. Since the increase in duty on tobacco products in 2009, the number of smokers aged 60 or above decreased, from 9.2% to 9.1%. Strictly speaking, no actual drop is shown in the figure. Moreover, there are many elderly living in poverty in Hong Kong. They cannot quit smoking or no one can help them quit smoking, or they have no way to seek assistance, yet the expensive cigarette price will affect their living. I know that and have seen some people pick up cigarette butts on the streets to smoke, these scenes are really saddening.

Hence, the remarks made by Mr Andrew CHENG earlier are correct. He said that when the authorities combat illicit cigarettes, it should at the same time reinforce the services for smoking cessation. Even though it may be difficult for elderly smokers to quit smoking, the authorities should identify ways to contact them and help them to quit smoking. It may have to provide tailor-made and personal services to assist them. The authorities should help them as far as possible. A two-pronged approach must be adopted. Otherwise, society will criticize the Government for merely resorting to increasing duty on tobacco products but failing to take proactive measures to help long-term smokers who cannot quit smoking, particularly the many elderly living in poverty, who do not even know how to contact the Government. Should not the Government contact them to offer help and assistance and care about them? It is only reasonable to do so.

Another point made by Mr Andrew CHENG is also correct. If smokers contract lung cancer because of smoking and need hospitalization, they will be in a miserable situation, particularly when they are poor. There are different friends around us, some are affluent, some are middle-class and some are poor. Honestly, it is sad to be poor, old and sick, not to mention cases suffering from lung cancer, for the drugs are very expensive. When they learn about the price of the drugs, they dare not use the drugs. Besides, the environment of public hospitals is more often than not less desirable. Some elderly people are left

alone with no one to depend on and no family members to visit them at hospitals, their cases are more lamentable. Anyone who has visited the hospitals will understand the situation.

Under such circumstances, I think all relatives should do their level best to persuade their family members to quit smoking. I have a friend who is engaged in social movements. He is a tough warrior. He told me that he had to undergo a very important procedure every time he went home — his children were still small back then — he must be searched by his children, and all cigarettes would be taken out and flushed down the toilet. He is tough when he expresses his views to the Government, but in the face of his cigarettes being flushed down the toilet by his children, he dares not utter a word.

Here, may I implore all the children, if you love your parents, persuade them to quit smoking. Familial love is the greatest power of all. More often than not, it is more powerful than the Government. Our promotion of environmental protection is a case in point. At that time, we had to encourage parents to stop using plastic bags when they shopped at supermarkets. We then found our trump card, told students to persuade their parents to stop using plastic bags and the students would get a star sticker if they succeeded doing so. During that period, many people in the supermarket refrained from using plastic bags, and the 50 cents levy on plastic bags had not yet been imposed at that time. Hence, the most powerful anti-smoking force comes from family members and relatives, and promotion should be directed at this. If you love your parents, and if they smoke, persuade them to stop smoking. Otherwise, when they grow old and suffer from lung cancer, it will be sad and heart-rending to visit them in hospitals. In this respect, promotion should be tailor-made. Hence, I hope the Government will do a good job in this issue.

Moreover, I have to talk about the amendment of Mrs Regina IP. We have considered her views seriously. But we have drawn the conclusion that implementing the increase of duty on tobacco products in phases may cause people intending to quit smoking, including teenagers and youths, to stop doing so, as the cigarette prices will be lowered under such arrangement. I know that it is a long road to anti-smoking and persuading smokers to quit smoking. More often than not, we can only work on it when they are young. For this reason, we cannot support Mrs Regina IP's amendment. I even hope that Mrs Regina IP will consider withdrawing her amendment in the interest of the health of

teenagers and youths and a healthy society in future. However, I surely know that it is but wishful thinking.

Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, the final conclusion reached by an Executive Committee meeting and discussion held by the Hong Kong Confederation of Trade Unions (CTU) on this motion topic was that no conclusion could be drawn because there was no consensus. Why? Because some Executive Committee members would definitely say, "Smoking is the only enjoyment and pastime for workers. So, how could they be deprived of smoking? They would continue to smoke despite cigarette price hikes. But what can they do with their wallets?" Some Executive Committee members would definitely make such comments because, as everyone knows, many workers are smokers. However, some other Executive Committee members would say, "I used to smoke but now I have quit. I am healthier than before." So, what was the final conclusion? The conclusion was that the decision should be left to me. *(Laughter)* If I am to make the decision, honestly, many people share the view that the CTU, as the representative of the working class, is obliged to oppose the tobacco duty increase because we think that smoking is the only pastime for workers. The tobacco duty increase will have a significant impact on their life.

In spite of this, I have finally decided to support the tobacco duty increase. My vote is for health, not for the wallets. It is more important to vote for health than for the wallets. As a workers' representative, I think I should strike home the message that to quit smoking is not only good for the wallets, but also good for health. If a worker stands before me saying he desperately wants to smoke and he is strongly against the tobacco duty increase because smoking is his only pastime, and so he hopes to seek my support, I would say that he had better quit smoking because to do so is better for both his health and his wallet. Why can we not vote for health? In my opinion, if I do not care about the situation before us and cast this vote so that you can smoke freely, buy cheaper cigarettes and smoke more cigarettes, who would be held accountable to you if your health is eventually jeopardized?

I think many people are now saying that they will oppose the tobacco duty increase. People opposing the tobacco duty increase should give this some thought: Health is the most precious thing, and it is more important than anything. A lot of evidence has proven the hazards of smoking. I think no one here would disagree or deny that smoking is hazardous to health. Is there anyone who thinks so? I think everyone will admit that smoking is hazardous to health. Such being the case, why should we continue to do something that is hazardous to health? Why should we continue to connive at tobacco traders promoting cigarettes to jeopardize the health of people of this generation and the next as well as the elderly? Hence, I think that I have to cast this vote according to my conscience, and I have to vote for health. I find it impossible for Members to believe it is all right so long as it is less expensive to smoke, and so the tobacco duty should not be increased.

Just now, Mr CHEUNG Man-kwong said that it might be more helpful to young people, but not so to the elderly. However, I believe it will actually help the elderly, too. Even if they cannot quit smoking, they will smoke less. However, my greatest hope is that the elderly can quit smoking as well, for it is most preferable for them to do so. It does not help even if they only smoke less. Honestly, smoking is merely psychological addiction. As Members are aware, nicotine induces psychological addiction to smoking. It is actually most preferable if smokers can get rid of such psychological addiction. Actually, smoking is really not workers' pastime; it is just their psychological addiction. Hence, I think that the best way is for both workers and the elderly to quit smoking.

But sometimes, we find it very disappointing that the Government has often failed to make adequate efforts in conducting smoking cessation publicity and providing smoking cessation services. Today, we have to listen what commitment Secretary Dr York CHOW will make in this respect. It always happens like this: Before the voting, the Secretary will say OK to everything. However, he would do nothing after the voting. He would say that there are some other things he has to do, and so he will stop considering efforts in this area. He always behaves in this way. When we criticize him later for failing to combat illicit cigarettes, he will definitely undertake to combat illicit cigarettes. It is not right that illicit cigarettes will eventually become more rampant after the commitment is made. Very often, the Government can keep its enthusiasm in making certain efforts last only a short time. After a while, it will call it a day.

And then, it will forget its words completely without fulfilling its pledge in concrete terms. I very much hope that we can look farther ahead this time to see if the Government has fulfilled its pledge, helped people to quit smoking, publicized the smoking cessation messages, and made efforts to combat illicit cigarettes. We really must look at all this. But the vote I am going to cast today is extremely clear. I think I should vote for health.

In fact, it is conceptually correct for some people to say "settling the debt of tax with votes". All sorts of debts should be settled with votes (*Laughter*) — but not blood for blood. To settle debts with blood is definitely out of the question. In Hong Kong, however, it is too bad that only half of the Members here are directly elected. Even if someone wishes to settle his debt, he can only settle half of it. As for functional constituencies, even if Members insist on "settling the debt with votes", nothing can be done to exert control or influence. Therefore, if we want to "settle all sorts of debts with votes" at the end of the day, we must really fight for the implementation of full universal suffrage. Only in this way can all sorts of debts be repaid completely. However, it does not matter to me if I am asked to settle my debt with votes purely because I support the tobacco duty increase. If there are still many things in Hong Kong we need to fight for, it is not worthwhile for Members to do a lot of thorough and hard thinking to engage in struggles merely for cigarettes. On the contrary, what matters the most is health. It is also more worthwhile for Members to do a lot of thorough and hard thinking to engage in struggles for health.

Thank you, President.

MR ALAN LEONG (in Cantonese): President, the Civic Party opposes smoking, and we know very well that the disputes arising from the tobacco duty increase are inevitable because the tobacco market is extremely large, and many vested interests are at stake. In deliberating this motion topic, the Civic Party originally had no difficulty. Given that public health was our starting point, our position was against smoking. The only thing which made us pause to think twice in the process was, as pointed out by many colleagues, that some grassroots might not be able to withdraw their addiction to smoking all of a sudden. An increase of more than 41% in tobacco duty in one go would only further aggravate their burden and deal them an additional blow. This was the only hesitation of the Civic Party in the entire process.

Of course, we will give an account on some of our discussions with the Bureau on anti-smuggling efforts, cigarette traders and ancillary facilities for smoking cessation services. After my account, I hope Secretary Dr York CHOW can elaborate clearly in his response what the Administration will do in these few areas.

For one thing, we have mulled over whether or not a more than 41% increase in tobacco duty will pose too heavy a burden on the grassroots, particularly the elderly and the working class. After careful study and examination of the data, we find that the most convincing point is whether or not youngsters or adolescents will take their first puff of cigarette or become addicted, such that they will have to face the pain of getting rid of their addiction in future, and that this is crucial to the entire anti-smoking campaign. Therefore, if we can perform our gate-keeping role properly in this respect, a lot of things will become easy to tackle in the future. Furthermore, public health can enjoy the maximum protection easily. President, I believe you must have also noticed those figures throughout the discussion on the tobacco duty increase, for some colleagues have already mentioned them slightly. Many places and countries appear to have noticed such a relationship — the figures of young people becoming addicted to cigarettes will drop in places where a tobacco duty increase has made cigarette prices a heavy burden for them. Just now, a Member cited a study conducted recently by the University of Hong Kong. The Civic Party finds this study most convincing.

The most difficult point for us to deal with is how to strike a balance because there is a saying among the working class and low-income earners that "smoking a cigarette after a meal makes one as happy as an immortal". They will be deprived of such an enjoyment after the tobacco duty increase and hence, they can no longer enjoy the freedom of smoking cigarettes and satisfy their psychological addiction. However, after examining all the data, we find that young people are the most crucial. We have also obtained sufficient data. We can note from the data collected from such places as Canada, Poland and France that raising cigarettes prices can produce an immediate effect of reducing the number of young smokers. From this angle and in order to perform our gate-keeping role properly for the health of Hong Kong people, we have decided to support the Government's proposed tobacco duty increase and rate of increase after weighing the two sides.

As I mentioned just now, during the entire discussion process, the Civic Party and the Food and Health Bureau conducted an in-depth discussion on three areas. The first area was about anti-smuggling efforts. According to the policy objective declared by the Government, increasing the tobacco duty can reduce the chances of people becoming addicted to smoking and spare them of the suffering in trying to get rid of their addiction in later days. However, it will be meaningless if people continue to be addicted to smoking after the tobacco duty increase because of illicit cigarettes, it means that the policy objective declared by the Government cannot be achieved. The Bureau has made a commitment to us that the Administration will make vigorous anti-smuggling efforts, and its vigour will only increase rather than decrease. Nevertheless, during the public hearing, some tobacco traders or groups supported by tobacco traders cited some figures to show that the problem of illicit cigarettes in Hong Kong was very serious and the Administration had failed to combat illicit cigarettes under many circumstances. According to the explanation given by the Bureau, however, these figures are, to a very great extent, inaccurate because the illicit cigarettes imported by tobacco traders themselves are included as well. Of course, we cannot acquire a lot of information as the Government does. We can only accept it given that Prof Gabriel LEUNG, in his capacity as Under Secretary for Food and Health, made the same remarks on public occasions and in public records that the Government will combat smuggling relentlessly and will only increase its vigour in doing so.

President, the second point raised during our repeated discussions with the Bureau concerns the ancillary facilities for smoking cessation services. After the tobacco duty increase, it is hoped that young people would not get addicted and addicted smokers can quit smoking. Has the Administration provided adequate convenience for quitters as well as convenience for smokers, so that they can quit their addiction easily?

In the public hearing, we learned that such organizations as Pok Oi Hospital and Tung Wah Group of Hospitals have organized many smoking cessation activities. These organizations have also expressed the hope that we can help lobby for more resources from the authorities to set up a smoking cessation centre in each district, so that smokers can definitely find a cessation centre nearby should they wish to quit smoking. Furthermore, people promoting smoking cessation work indicate that there is still room for expansion with respect to the resources injected by the Government into a smoke-free campus. Regarding these two points, we have discussed with the Bureau, and it has

undertaken to deploy resources relentlessly in support of the smoking cessation activities and that there will be no problems with allocating funds so long as the proposals are good.

In today's debate on the Bill, I hope the Secretary can explain clearly in his speech what the authorities will do in providing ancillary facilities for smoking cessation services to let us at least see the sincerity demonstrated by the Government in the process. For instance, the Government's undertaking that free smoking cessation medication will be provided for quitters does demonstrate its sincerity. The Civic Party has also seen and accepted the Government's sincerity. In the future, should the Government go back on its words after the passage of the Bill, there will still be some channels and means in this Council for us to take follow-up action.

The last point we discussed with the Administration concerns newspaper hawkers. Admittedly, these hawkers at the front line are being hit because, after the Government's tobacco duty increase, fewer people would patronize them. We have discussed with the Bureau from many angles to explore whether or not the newspaper hawkers should be allowed to display advertisements under suitable circumstances and provided that the flow of people and traffic will not be obstructed. However, Under Secretary Prof Gabriel LEUNG commented that the newspaper hawkers should be selling newspapers, not displaying advertisements.

After repeated rounds of tug-of-war, the Under Secretary finally undertook to conduct a review in the relevant panel of the Legislative Council. If it is considered after the review that there is room for the newspaper hawkers to display advertisements, the Administration would be willing to give consideration. I consider this a positive response. As regards whether or not the livelihood of the newspaper hawkers will be impacted, if the Administration is unwilling to review the sales policy for newspaper hawkers, it will definitely find it very difficult to secure our support. Fortunately, during the middle and last stages of the deliberation on the Bill, the Bureau undertook to consider providing more protection for the livelihood of the newspaper hawkers. This is a positive, well-intentioned and sincere response, too.

President, we have already conveyed our views in these three aspects to the Administration. After getting the response from the Administration, we needed

only consider the position to be taken towards Mrs Regina IP's amendment. Just now, I already gave an account in public of all the experiences and thoughts of the Civic Party. As we consider it most imperative to perform the gate-keeping role properly to prevent young people from becoming addicted smokers, such efforts must not be delayed until 2015. If fewer young people pull their first puff, the problem will become less serious in the future. The level of difficulty encountered in quitting smoking in the future — from the angle of health of society as a whole and Hong Kong people — it will be easier to handle as well. Based on this consideration, the Civic Party will not support Mrs Regina IP's proposed amendment to wait until 2015 before the tobacco duty is raised to 75%, the upper ceiling proposed by the WHO.

Lastly, I would like to tell the Secretary again that the Civic Party will support the direction and objective of the policy declared by the Government this time. For the record, I hope the Secretary can respond to the questions raised by us during the discussions when he speaks later on behalf of the Administration.

I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, it is pretty obvious that I oppose the Government's proposed tax increase. I have listened to the arguments advanced by a number of colleagues. Should their arguments hold water, this Council will naturally become a "Council of ten thousand taxes", meaning it will levy tax on everything. I have cited these examples numerous times before. Trans fats are used in large quantities and also proven extremely harmful. Monosodium glutamate, commonly known as MSG, is also used in large quantities in food premises and food products. The use of these two substances, however, has become inevitable. President, when you go to buy a cake, will you ask whether there are trans fats in it? Will you ask whether there are trans fats in ice cream? You will not do so. You will still bring the cake or ice cream home. Despite the labels for public inspection, the print is very small.

Speaking of substances harmful to human bodies, there is also tar, which is produced when and after food is barbecued. Why does this Council not concur with the Government's logic of levying tax on everything? What methods should be used to stop human beings from doing something harmful to their own health? Obviously, it is very difficult to achieve this goal through taxation. It

is even more ridiculous to make consumers bear the burden. For instance, air pollution has already reached an intolerable state. When Members of this Council were criticizing the Government in one voice, did we discuss levying a pollution duty on the CLP Power Hong Kong Limited or the Hongkong Electric Company Limited? Would we punish the two power suppliers? Would we lower their permitted return if they did not meet the requirements? We would not do so. Would we also tell electricity users that pollution in Hong Kong would worsen with each watt of electricity used? In the interest of society as a whole or individuals, and in the interest of the next generation, will people be punished because the younger the children inhale polluted air, the earlier they will die?

In this legislature, I am criticized for being uneducated and barbaric. But still, I disagree with such arguments that taxation should be used to resolve problems whenever humans do something harmful to themselves. As regards alcohol, I have asked York CHOW York CHOW, you are not supposed to chat. What are you chatting over? You are still chatting

PRESIDENT (in Cantonese): Mr LEUNG, please face the Chair when you speak.

MR LEUNG KWOK-HUNG (in Cantonese): He has gone too far. Why should he be chatting? During a discussion on the Smoking (Public Health) Ordinance, I asked the Secretary, "Secretary Dr York CHOW, you are a learned person. Do you know how serious is the harm done by excessive drinking to society and individuals? Are there any alcoholic centres?" He replied, "Yes, the centres are attached to the methadone clinics." How many alcoholic centres are there in Hong Kong? I am precisely a victim of alcoholism. I am not an alcoholic. I have no idea whether I am an alcoholic or not. But both my father and my girlfriend are alcoholics. They would turn into another person after drinking excessively.

A lot of empirical studies have revealed that the hazards of alcoholism are even greater than those of smoking. Why should the Government lower the wine duty? Why? What are the justifications? Insofar as the smoking problem is concerned, both smokers and everyone else know that smoking is

harmful, just as there exist in human society a lot of things that are equally harmful. But why should tobacco be singled out for taxation? This is definitely an issue of political correctness because of the passive smoking problem. When we embarked on solving the passive smoking problem, the Government was already "playing foul". Initially, it proposed to prohibit smoking in workplaces. As I am a supporter of labour rights, I could not but abstain from voting, for it was unreasonable to make workers passive smokers. But now, this is not the case. Smoking is not allowed in the entire Chinese University of Hong Kong, not even in places where we can see the sunshine. The same applies to the University of Hong Kong. I was not allowed to smoke when I gave a talk there. As it was unlawful for me to smoke after entering the campus, I could only take a few puffs of a cigarette at the back.

This is an act of a dressed-up beast. Members appealing to the imposition of a total smoking ban on beaches are using a false sense of morality as a pretext to prohibit others from doing something not necessarily proper but they are entitled to do. What is this if it is not an act underpinned by political correctness? Who are they if they are not Puritans?

President, if we talk about hazards, since I became a Legislative Council Member, I have to sit here all the time, and my belly has also grown in size. Moreover, I am compelled to look at the computer and my eyesight is deteriorating. My vision is so blurred that I nearly have to follow in your footsteps or those of Yuk-man. But, will we prohibit others from looking at the computer? Will we impose a ban to prevent others from sitting on unhealthy chairs or leaning forward? We will not do so. Low back pain is the most common disease suffered by urban dwellers. According to Members' logic, the Government should become a "government of ten thousand taxes (萬稅政府¹)", not "Long Live Chairman MAO (毛主席萬歲)". In other words, the Government would levy a tax on everything that is hazardous.

Members should learn from Bhutan if they really want to do so. Will it work to learn from Bhutan to stand on such a moral high ground? But then, Members do not have the guts to do so. Just now, Mr Albert CHAN told a story about cruel officials killing people. There are prices to be paid for a corrupt official to kill people. President, as you should be aware, a corrupt official

¹ "萬稅" in "萬稅政府" and "萬歲" in "毛主席萬歲" have the same pronunciation in Cantonese

If you, Jasper TSANG, demand \$5 million from me, or else you will kill me. What is the moral of the story of cruel officials killing people? Only arrogant persons can kill many people. Which cruel officials were not arrogant? MAO Zedong was also arrogant, thinking that he could save China. Now, it is already the 90th anniversary. How many people did he kill?

President, I would also like to say a few words about the chick transportation worker mentioned just now. I have handled a similar case, too. There was this man, W H CHEUK, who has now been transferred to another department as the director. At 8 pm on the eve of the Chinese New Year, he sent some staff to inspect chicken stalls for irregularities, and in the event of irregularities, the licences concerned would have to be revoked. This was why a stall owner nearly killed himself. It was only after my advice that he decided not to commit suicide. What sort of a person is he? This is how a cruel official would kill a person.

According to legend, a bandit called ZHANG Xianzong (this Government also behaves like a bandit) erected "The Tablet of Seven Killings", which read like a couplet, "Heaven provides everything to nurture people, but no one can repay the benevolence of Heaven with even one single virtue." There was also the word "Kill, kill, kill, kill, kill, kill and kill!" The word "kill" was written seven times.

This is how the Government is like. It has the highest moral and integrity. It can do anything, even if it is harmful to do so. What sort of things done by the Government is not harmful? Has it levied any tax on screen-like buildings? Has it levied any tax on landfills? It knows very well that these are all public hazards. Has it levied any tax on nuclear power? Again, it knows very well that it is a public hazard, and no one can be spared. Has any tax been levied? The Government is still pretending here that it has the highest moral and integrity.

Is the Government aware of how many people can be killed by "property speculation"? Is it aware of how many people can be killed by the Lehman Brothers minibonds? Why doesn't it levy heavy taxes? Why doesn't it levy asset gains tax? Why doesn't it raise the progressive profits tax to 90% to deter property speculation? In what way can the Government demonstrate its high standard of moral? Can it achieve a high standard of moral by killing people invisibly?

If the Government has the guts, it should tax the manufacturers to such an extent that they have no profit to make. Does the Government have such courage and guts? You are not afraid of being criticized by Charles HO? I am a victim, too. Even if it is repudiated today, the tax will be collected by them, not us. There will be no problems if it is endorsed today. If it is not, I will seek a judicial review against the Government.

President, I cannot see any moral justifications. What moral justifications do they have? They are now talking about morals, but I really cannot see any moral justifications.

The Democratic Party is even more outrageous. They are now talking about anti-smoking. Are they a pressure group? It is surprisingly that we have got an anti-smoking political party. I have heard about the Green Party. However, they are anti-nuclear and anti-nuclear arms, not anti-smoking. They are not anti-smoking.

The standard of our political parties is so low that it defies description. They are simply like pressure groups. Which party has anti-smoking written in its party platform? This is definitely not the case with the Communist Party of China (CPC), for at least five of the nine members of the Standing Committee of the Political Bureau of the CPC are smokers. Like me, they will definitely hide away and smoke, even if they are at a meeting. Is there any point in talking about the moral high ground?

Another problem concerns newspaper hawkers. Members need not be sad. The demise of newspaper hawkers and hawkers is attributed to the high land price policy. Under this policy, only 7-Eleven convenience stores and supermarkets can survive, while newspaper hawkers and hawkers have to be kicked out. The Government has already "killed" them. Today, it is shedding crocodile tears. Only the Civic Party will believe it.

Like pigs and dogs, unlicensed hawkers are arrested for peddling on the streets. They are treated like the hawker in Zengcheng. Though pregnant women will not be kicked here, hawkers will still be arrested. Through erecting easy-mount frames on the streets, the major consortia are exploiting the legal loophole to lure people to borrow money. Are they not sick? Not only do they

lure people to spend money in advance and encourage them to apply for several credit cards to repay debts, they also sell financial products.

Of course, hawkers have to be arrested. However, are those young people recruited by the "big masters" to cheat other people not victims? Do these young people like to cheat others? Have Members ever thought about this?

Look at the property salespersons. They have to dye their hair golden and disguise themselves as triad members to push and beat people for the purpose of selling toxic products. What are these toxic products? They are real estate products. President, people wishing to purchase properties find themselves having nightmares, psychasthenia, constipation and stomachache. With so many people having problems, why are these products not banned? This has already be borne out by facts. What do those people trying to commit suicide and eventually seeking help from Samaritans Hong Kong want? Look at other toxic things, such as liver cancer. If you are really that considerate, you should go and tell Henry TANG that those who died of liver cancer would go to find him soon.

President, in this discussion, I deeply feel that all this so-called rational and moral high ground is entirely nonsense. My position is very simple. All consumption taxes are taxes levied on consumers; all consumption taxes are regressive taxes. There are no problems with Henry TANG smoking cigars. All consumption taxes are wrong. In order to tackle public hazards thoroughly, we must begin with the source where the products are manufactured. What is the point of fixing people like us, who are unarmed and can only press the button?

President, this is a profound reflection of the nature of this Council, that is, class rule. The bad habits of the rich and the habits of the rich to find other people to do harm are eulogized here. The laws enacted here round the clock, including those on the merger of the railway corporations, The Link REIT and the securities law, are all harmful to Hong Kong people.

President, it is superfluous for me to add anything.

DR LAM TAI-FAI (in Cantonese): President, many social issues have recently prompted me to do some soul-searching. After the judicial review of the Hong Kong-Zhuhai-Macao Bridge, this Bill has also made me do quite some reflection.

I have just heard a number of heavyweights from the democratic camp express their views. I know clearly that they will support the Bill today and defend the Government. I also read some media reports about the DAB abstaining at the vote today. This bears out the truth in this saying: There are no enemies forever in politics, nor are there friends forever. For newcomers like us, at times we must confess that we do not know how to play this game of politics, nor do we know how to do any work in politics.

Then what should be done? I am a Member labelled as one from the pro-establishment camp. But I am actually an independent Member. What I can do is only to agree to what is correct and reject what is wrong. I will consider the practical situation, then I will analyse this Bill, using my wisdom, knowledge and my understanding of it. Then I will make a decision.

When Mr Andrew CHENG spoke earlier, he advised Members against speaking so loudly and getting agitated. What he meant was for the sake of their health. When someone gets agitated or speaks in a loud voice, the danger he is exposed to may even be greater than smoking. For he is not simply risking lung cancer but his life may be at risk at any time. So I will make an analysis of this matter calmly.

The question today is clear enough, and it is about what is said in paragraph 161 of the Budget, which is: "For public health protection, I propose to increase the duty on cigarettes by \$0.5 per stick or 41.5%."

Literally this means, first, that it is for the protection of public health. This I agree fully. It is everyone's duty to protect the health of the public. It is the duty of the Government, citizens, and also tourists. All in all, it is the duty of everyone who sets foot in Hong Kong to protect public health. However, the proposal seeks to raise the tobacco duty on each stick of cigarette. Up to this point, I think a discussion can still be conducted. I have heard many experts say that raising the tobacco duty can arrest this rising trend in the percentage of smokers in the population. But I have reservations about the latter part of the sentence and that is, "increase the duty on cigarettes by \$0.5 per stick or 41.5%."

Why did I say just now that we had to discuss calmly? Members have talked about the issue many times in this Council. Everybody knows it. Even Long Hair will know that smoking will certainly endanger health. It is definitely

harmful to the body. This is something we all know. So I do not wish to waste time on this point.

Apart from being a Member of the Legislative Council, I am also a school supervisor and the person in charge of a school sponsoring body. Of course, I will definitely not encourage anyone to smoke. This applies especially to youngsters. And I hope that smokers can quit smoking by all means. But the point is, the question today asks us to consider whether or not to support raising the tobacco duty by 41.5%. The question is not about whether we would support anti-smoking. If the question is on anti-smoking, I think everyone ought to support it. Likewise, everyone should support smoking cessation. But the question posed by this Bill is: Do we support raising the tobacco duty by 41.5%?

The questions we should discuss as a start are: Is raising the price the best option? Is it the most effective method? If it is, but it is not necessarily the most effective one, then is raising the duty by 41.5% the best option? It is only after we have analysed all this that we can make a decision to vote in favour of it, against it or in abstention.

Second, in terms of policy, I think there is a problem with the approach taken. Any attempt to prohibit something by levying a tax on it is never the best policy. In Hong Kong, if a measure or policy is introduced as some sort of a punitive initiative, there must be some rebound in the form of repercussions and grievances. What the Hong Kong people are talking about are choices. They will not be coerced. In other words, it would be more acceptable if the people are persuaded by guidance, education, diversion and the provision of services. They should be made to know the harms of smoking, then they may in turn influence other people. Or they will be made to find it more acceptable if services are provided. If action is taken to force through an increase in price so that the people have to yield because they cannot afford it, then these people will never be truly convinced. They may give in because there is no other alternative and they have no money. They succumb to it only when they have no money. Once they have the money, it is very likely that they will pick up the habit again. They will smoke again when they can afford it. So what the Government is trying to do can never tackle the problem at root. To really solve the problem, issues like the mentality of the smokers, their lifestyle and view on life should all be addressed. The issues should never be tackled by increasing the duty.

As a matter of fact, statistics have shown repeatedly that when the tobacco duty was raised on the last occasion, there was no drop in the number of smokers overall. It was only among the young people that the number of smokers fell. There was no decline in the overall figures. There was a drop in the number of young smokers only, but the number of smokers who are not young people rose. For if not, the curves in question will fail to achieve an equilibrium. Put it the other way, an increase in tobacco duty will not affect those people who are not young. They will not mind paying more. Therefore, this approach is not the most effective one.

On the increase in tobacco duty on this occasion, I agree very much with what Mr Albert CHAN has said. Yesterday in a discussion on The Hong Kong Jockey Club Institute of Chinese Medicine, Mr Albert CHAN gave his strong support for my speech. Now I will support his speech as well. This is because an increase in tax is most unfair to the poor people and all those who are not well-off. There are rich and poor people among the young. The increase in tobacco duty this time will force those young people who cannot afford cigarettes not to smoke. But this has no effect on those young people who are rich. They would even be proud of the fact that they can afford the cigarettes. The drop in the number of young smokers after the increase in tobacco duty last time was in fact a fall in the number of poor young smokers. But there was no drop in the percentage of young smokers who are rich. So can we call that policy effective? Why should it be allowed to continue?

As an example, if the Government proposes to increase the healthcare expenditure by 41.5%, I will vote in favour of increasing the funding for tobacco control and smoking cessation work by 41.5%, because I am always thinking of what other people may say. They may say, "Dr LAM Tai-fai, you are engaged in education and you run a school, you should not oppose this Bill. Why do you not endorse this Bill?" As a matter of fact, it is not that I do not agree that work on tobacco control be improved. I will not oppose these things because I will not encourage people to smoke. But the question remains, is this an effective method? If it is not, then why should we not try to think of some more effective methods? Can we find a point of balance in that issue?

Many Honourable colleagues have said earlier that the increase in tobacco duty will only cause crimes and problems like illicit cigarettes and counterfeit cigarettes. But the Government has said nothing about how these problems can

be effectively addressed. Even if the problem of smoking is ameliorated and the number of smokers has dropped, other kinds of crimes are caused. The losses are likely to outweigh the gains. Some people say that the price of cigarettes now is more expensive than ketamine. Then would more people take ketamine and fewer people will smoke? With respect to problems like these, has the Government ever considered them?

Mr Vincent FANG said earlier that increasing the tobacco duty would deal a serious blow to the business of the small business operators and newspaper vendors. In this respect, does the Government have any measures to help them? At most, an increase in tobacco duty can prove that it can reduce the number of smokers among the poor young people, but so many problems will be caused in return. Is this the most effective method? I still have no idea. If this is the case, I can only choose not to agree or abstain from voting, or stop talking about the issue. It is impossible for me to lend this Bill my support.

Actually, I wish to tell the Secretary that the people of Hong Kong are bearing great pressure in life. We all know that the housing problem remains unsolved. And problems like education, healthcare, retirement, work, and so on, exert tremendous pressure on us. Have Members ever thought why some people will still want to smoke? Some people say that the nicotine in cigarettes can numb one's nerves and people can experience a fleeting moment of elation. I do not know if this is true or not. But this is what people say in real life and it is also what the smokers say. Then can we consider the matter from another perspective and that is, to set aside more resources to improve people's living. In the economic domains, efforts should be made to reduce the people's pressure in life. This would prevent them from using this as an excuse to smoke and numb their nerves. Would this not be a more positive approach to take?

Well, if this attempt to raise the tobacco duty proves to be successful, then will there be an increase every two years from now? If the rate of increase in tobacco duty next time is 50%, will the raise on the occasion after next be 50% again? Can there be a one-off increase? I cannot figure out the logic of it, especially on how this rate of 41.5% is worked out.

I would think that a compromise would be the method suggested by Mrs Regina IP. She suggests that the duty will be raised eventually, but it should be raised gradually and orderly. I think if the policy concerned is introduced in this

way, there would not be the confusions we can see now. At least, the disputes caused would be fewer. The problems with the small business operators and newspaper vendors would also be reduced. The vitality for illicit cigarettes will be reduced. In this respect, can we consider some gradual and orderly methods? Do we have to take a sweeping approach? Moreover, the Government can be given more time during the interim to come up with some other ideas that can serve to combat illicit cigarettes and enable actions to be taken gradually to improve the business environment of the small business operators and newspaper vendors. The Government can also have the time to do something in education and to guide the young people. All this would be much better than causing so much rebound as the Government wants to increase tobacco duty so drastically this time. Young people are by nature rebellious. If you try to force them to do something, they may put up a stronger resistance. On the other hand, if you guide them and teach them in a gradual and orderly manner, they could be more receptive.

So on the increase in tobacco duty this time, I think the Government should listen more. It must not say that as the plan has already been made public and it would be an international laughing stock if it is scrapped. Some people might say this. In future, if the illicit cigarettes activities became rampant and the number of people who take ketamine outnumbered those who smoked, then it would be more of an international laughing stock.

Mr WONG Sing-chi made frequent allusions to Dr LAM Tai-hing. At one time I was really afraid that he was referring to me. Although there is only a difference of one word in our names, we are totally unrelated. One is an expert and the other is an ordinary retired businessmen. The other Dr LAM also said people who oppose the Bill are enemies of public health. We may not support this increase in tobacco duty, but it does not follow that we encourage people to smoke. We have to make this logic clear. How can we be enemies of public health? Those plasticizers and infectious diseases are truly the enemies of public health. I do not know why people who oppose this Bill are called enemies of public health.

I hope the Government can be more sympathetic. On the existence of grievances in society, the Government should try to know the people better and keep better taps on the pulse of society. The Government must never create more incidents because of one issue. It must not crave for immediate

achievements and so cause disputes and arguments which can otherwise be avoided. It would not be worth the while if, at the end of the day, more disadvantages than advantages are caused.

President, I so submit.

MR CHIM PUI-CHUNG (in Cantonese): President, it is perfectly normal to raise issues for discussion in this Council and to raise social problems for specific discussion here. A Member who expresses his or her views displays a stand in the process. And as a matter of fact, issues may become blurred the more they are discussed. But the point is that the views of other people should be respected. This is the noblest and most treasured thing about a parliamentary assembly.

The problem of smoking has been plaguing society for a long time. I am about 65 years old and as I recall it, I have a history of smoking for at least 20 years. In those days my smoking habit could be regarded as far from ordinary and showing the mark of a rebel. I would never lay my hands on commonplace brands like Kent. At least, I would want a Viceroy. Luckily in those days there were brands like 555 which were strong in flavour. And there was a French make called "Black Beauty" which came in the form of a blue packet. That was also strong. I am not promoting cigarettes here. I am only recounting my history as a smoker. Ever since I have joined this Council, it has been close to 20 years since 1991, counting a period of absence for five years. I can say with certainty that I have quit smoking for 25 years.

From my experience, quitting smoking has nothing to do with whether cigarettes are cheap or expensive, for the most important thing is a person's will power. It is useless to talk about smoking less or finding substitutes. The most important thing is a person's will power. If you have resolved not to smoke, then do not smoke anymore. Think about all those bad things that have built up in your body and if you go on smoking, there will be more of these bad things in your body. See this will have an adverse impact on you and your family. Then you will find the determination to quit smoking. I am sharing here my own experience with those people who want to quit smoking. You must have a strong will. Just as the saying goes, "If you help yourself, you will be helped. If you love yourself, you will be loved." If you do not have this will, thinking and determination, who else can help you?

Coming back to this topic of increasing the tobacco duty, theoretically, Hong Kong is a free society, and freedom of thought is emphasized here. So adults enjoy the right to decide what they do provided that they will not disturb or cause any nuisance to other people. It is certainly not right to force people to inhale second-hand smoke. But for personal acts permitted in law, I would think that the Government must be extra careful. This is especially the case when we always emphasize that Hong Kong is a free and democratic place. Although we may not have 100% democracy in elections, at least we have more than 50% of the democratic element in our elections. Actually, functional constituency elections are also an embodiment of freedom and democracy. For even if candidates in functional constituencies are returned uncontested, it is also a decision of the voters in that particular constituency. It shows the great respect they have for the candidates.

Now many smokers in Hong Kong are being seriously discriminated against. They are banned from smoking in some dark and shady places. They have to smoke furtively even on the streets, frowned upon by the passers-by. Some people would wave their hands to show their disgust with the cigarette smoke drifting in the air. This is a move showing contempt. I have quit smoking. For me, kicking the habit is like undergoing a laser operation to correct your eyesight. It brings us advantages. People who wear glasses would find it very inconvenient when they want to swim or look at things. But if they are brave enough to undergo a laser operation, they will no longer have these troubles. I am not trying to advertise for any company which provides services in laser operations. It is because I have undertaken a laser operation and I really feel that things are now totally different. It is the same case with smoking. You may put on some weight for a while after you have quit smoking. But you will have a great feeling. You will not have any withdrawal symptoms or find at times you may not know where to put your hand.

I think I can tell Members honestly that during the peak times I smoked as many as four packs of cigarettes a day. I had a feeling that it was like I was holding a torch for the Olympic Games. What does that mean? For the Olympic Games which take place once every four years, there is a torch relay before the grand opening ceremony, with the torch being passed from one athlete to the next, such that the flame be lit forever. That was how I was doing. I chain smoked. There was no need to use the lighter or matches. I just smoked one cigarette after another. As I have said, I am talking about all these things

because I want to offer my own experience as reference for those people who want to quit smoking. Even though I was such a heavy smoker, I managed to quit smoking, so I urge those who smoke less than I used to that they should try to kick the smoking habit for the health and well-being of their families and themselves.

If we were to ask if this tax hike by the Government is reasonable or not, I would show my support to the Government. But I may not be here to cast my vote. Actually I do not know when the voting will start. The problem is that the Government must seize this opportunity and, irrespective of whether this Bill is passed, the Government must apply a fair hand. This is because if the Bill is passed, it will mean that it has the support of the majority of Members. But please do not forget that there are also some Members who oppose it. And it means that there are some voices of opposition from various classes in society and some counter proposals may be proposed. In such circumstances, the Government must not be bent on its will and enforce the law to the last letter, or do so in the name of a particular event or because of its authority, or even window-dress it as for the sake of public health. The Government must listen to all voices, even if it may be the small voice from the minority public. Suppose there is a voice representing one third of the people, it means there are some 2 million people in Hong Kong who hold a different view.

If the Government is really responsible and if it really acts for the benefit of the people, it should listen more and also offer the reasons to justify its stand. This will enable the young people to move towards a worthwhile goal. Only in this way can this be considered constructive. So, President, we know that people in society hold different political views and there are quarrels all the time. Often times I would remind the people of Hong Kong that if too much time is spent on criticizing and fighting over differences in opinion, it would do no good to the economy and the overall development of the territory. We must remember to put our efforts in other areas as well because of the simple fact that the strength of an individual is limited. Even if we talk about a government or a political organization, they are all individual bodies. They must unite before they can bring their forces into play.

For problems found in government policies, the Government must listen to more opinions. It must be humble enough to lend its ear to the opposition camp. Only this approach when taken can be called constructive. There is this saying

which used to be very popular on the Mainland and it was: "You may live to 63 if you don't smoke or drink; 73 when you don't smoke but drink; 83 when you smoke but don't drink; and 93 when you smoke and drink". But I do not think we should believe in that. Anyway, on this issue of a duty raise by the Government, as it is introduced in the name of tobacco control, so the Government must show sincerity in enforcing it. In particular, the Government must do more in the educational efforts among the young people and students. This will ensure that support is obtained from everyone in society.

The Government should also undertake a review. The tobacco duty was increased two years ago in 2009. Now two years later this tobacco duty is going to be increased again. Then according to this government practice, will there be an increase again two years later? The Government must undertake serious studies to examine if this move is the best way to solve the problem of smoking. If the conclusion is positive, then there is no doubt that this should be done. But if the conclusion reached is disputed, the matter must be tabled for discussion. Even if the Bill is passed later on and read the Second and Third times, the Government must solve the problem with all sincerity. It must not do anything to disrupt harmony in society.

We would also need to urge the smokers that since the world has been so unfair to them and since they are subject to such immense pressure, they should muster up the courage to quit smoking. They should show the courage and commitment for it. It remains, of course, that there are still a lot of hurdles they must overcome. But with the assistance from the Government, the smokers should display the sincerity and prove that they are the masters of their own fate. They must never think that they are being treated unfairly or discriminated because of this substantial increase in tobacco duty. Since it is the intention of the Government to create better conditions for them, they might as well accept it with reluctance. This is because, at the end of the day, it is they themselves who will benefit. For accepting it means they are showing their support for a policy that has an impact across society, one from which they stand to benefit. Though it is said that there is nothing new about this, the Government can make use of the revenue to help people from all sectors across the community kick the habit of smoking. The money can be used on publicity, as well as inspiring and making more young people aware of this important message. It can also create favourable conditions that will lead to a better understanding among these young people of society and government policies.

Many Honourable colleagues have talked about matters related to other areas, such as the problem of illicit cigarettes. It is certainly a problem. The key to our success is this relentless drive in law enforcement. So the Government can work together with various departments and try to win the support of society for government policies. This will prevent the brewing of grievances. Many Directors of Bureaux are experts in their respective portfolios. They are scholars in those particular fields. But they may not have a thorough understanding of society as a whole. President, I would support the proposal made by the Government to increase the duty.

PRESIDENT (in Cantonese): I can see that two Members who have spoken have again pressed the button to request another turn to speak. I wish to remind Members that they can only speak once in the Second Reading debate.

MRS REGINA IP (in Cantonese): President.

PRESIDENT (in Cantonese): Mrs Regina IP, is it a point of order?

MRS REGINA IP (in Cantonese): President, can I ask a question on making speeches?

PRESIDENT (in Cantonese): Yes. Please.

MRS REGINA IP (in Cantonese): President, I understand the ruling you have made. But as the Secretary will speak later, can you ask him to make a clarification? He has sent someone to me and said that if I withdraw my amendment, he will undertake not to raise the duty within a number of years. Then what is the point of raising the duty by 41.5% at one go this time?

PRESIDENT (in Cantonese): Mrs Regina IP, with respect to this question, if you have not asked the Secretary to make a clarification before, you can still have ample time to raise it when you propose your amendment later.

MS CYD HO (in Cantonese): President, a couple of days ago, I got a call from an old man and he tried to persuade me to vote in favour of the Government's proposal to increase the tobacco duty because he has been against smoking all the time. This old man is called Martin LEE (*Laughter*). I asked him to stop persuading me because I would lend my support to this proposal to increase the tobacco duty. I know that smoking is harmful not just to oneself but also to those nearby.

However, when the Secretary gave a reply to our oral question this morning, he made this remark. I jotted it down and it reads to this effect, "For any policy to succeed, there must be other matching measures and one just cannot depend on one tactic." This applies to any anti-smoking policy and we just cannot depend on one single tactic of raising the duty.

Recently, I read again a short article written by Mr LIN Yuet-tsang 15 years ago entitled to the effect of "Exhortation and Prohibition". The article is about anti-smoking. He proposed three tactics. The first is legislation. Here it is suggested that smoking should be partially banned, but that would entail very high costs because a lot of people would be required to enforce the law. And if the enforcement action is too stringent, it will lead to conflicts. If it is not stringent, then people will not respect the law. So the cost to be paid is very high indeed. The second is to achieve prohibition by levying tax, that is, to levy heavy taxes. The third is to launch anti-smoking education and to provide smoking cessation service free of charge.

Mr CHIM Pui-chung made a good point earlier when he said that he had been a smoker for years and he used to smoke four packs of cigarettes a day, that is, he had to light 80 cigarettes a day, but he managed to quit smoking. I think the Secretary ought to ask Mr CHIM Pui-chung to be the spokesman and help him in promoting the smoking cessation service. He should ask Mr CHIM to tell the people that it is not hard to quit smoking, only if you are determined.

However, President, it is because I support the increase in tobacco duty, so I have to explain the deficiencies of the matching measures. If we only raise the

duty but do not provide other matching measures, the result would be the deficiencies mentioned by other Honourable colleagues.

The first is the lack of rigorous action against illicit cigarettes. Smoking forms a habit in the smokers because of the body's dependence on nicotine. For the smokers, they cannot stop buying cigarettes because of a sudden surge in the price of cigarettes. There is a process and even some kind of medical treatment is needed before this dependence on tobacco is removed. So if we increase the price of cigarettes by raising the tobacco duty, but on the other hand, we do not do anything, we will only raise the price of cigarettes. This is a great incentive for the illicit cigarettes market. This is especially the case when our neighbours like Macao and Shenzhen have a lower tobacco duty than Hong Kong. It is easy for people to bring in duty-not-paid cigarettes from these places to Hong Kong. If there is a shortage in the manpower of our law-enforcement agencies, there is no way to achieve our anti-smoking objectives if we just rely on levying a heavy tobacco duty.

When the people can buy illicit cigarettes everywhere and if these illicit cigarettes can be delivered to one's doorsteps after a telephone call, it will only serve to destroy the confidence people have in the ability of the Government in law enforcement. In this way, society will have to pay a heavy price.

There are in fact two kinds of illicit cigarettes in the market. The first are the duty-not-paid cigarettes. Some Members and the media have talked about this earlier. These cigarettes are in fact authentic ones produced by the tobacco companies and we all know their harm, that is, the harm done to the body by nicotine. Their price is cheaper because their duty is not paid. They are supposed to be for sale in a foreign place, but they are smuggled into Hong Kong.

There is another kind of illicit cigarettes which causes much greater harm and that is, counterfeit cigarettes. I got very angry about this. In the meeting of the panel last time, we told the Secretary to inform the public that there were counterfeit cigarettes and these were much more harmful to the body. Four months ago, BBC did a tracking investigation and found that these counterfeit cigarettes were manufactured in Cheng Du, China. For these counterfeit cigarettes, first, the pesticides in the tobacco are not removed. So besides the harmful substances found in the tobacco products manufactured by other tobacco merchants, these cigarettes also come with pesticides. There are, of course,

other kinds of impurities. The harm done to the body after smoking one pack of these counterfeit cigarettes is like smoking 10 packs of authentic cigarettes. So we suggested that the authorities should not just combat these duty-not-paid cigarettes, but they should also do some tests to examine whether among the duty-not-paid cigarettes there are counterfeit ones which cause greater harm. The Government should make public information on the substances contained in these counterfeit cigarettes as well as the percentage of these counterfeit cigarettes among those duty-not-paid cigarettes. The tobacco merchants have told me that counterfeit cigarettes take up about 40% of the total. So there is a great chance for people to smoke these more harmful cigarettes. But how did the Bureau respond to that? The Secretary only said that all cigarettes are harmful, so they will not bother to tell which ones are more harmful. I do not agree to that at all. This is because I think that if the harm done by counterfeit cigarettes is 10 times of that of the authentic cigarettes, or even greater, there is a responsibility on the part of the authorities to tell the public about the risk. When the public is aware of the risk, they may go to a convenience store to buy duty-paid cigarettes. This is much better than buying counterfeit cigarettes which are cheaper but much more harmful.

Another point is smoking cessation service. If the Government urges the people not to smoke, then it must really help the smokers quit smoking. This applies to smokers who are elderly and for the fact that they have indulged in the habit for a very long time. But when this Bill was introduced to this Council, the funding for smoking cessation service was only \$20 million. The sum was increased sharply to \$42 million recently in a bid to secure more votes from Members. As I hear it today, the sum has risen to \$60 million. It would be great if the funding for poverty alleviation can be doubled or tripled so quickly in this manner. However, I think that the amount is not enough still.

Secretary, according to government statistics, smokers in Hong Kong take up about 11.8% of the population and that is roughly 850 000 persons. If the cost of quitting smoking is \$5,000 per person, we would need \$4.2 billion. The sum of \$60 million is therefore far from being enough. Apart from providing smoking cessation service free of charge, more work should be done such as the setting up of an incentive award scheme. The service hours of these smoking cessation centres should be extended, so as to obviate the need for smokers to apply for leave from their companies to come during the normal office hours. It is true that some retirees can go to these centres during normal office hours, but

there are many smokers who really need to work. So there should be enough resources and the service hours should be extended.

Today, we will cast our votes in favour of increasing the duty because we know that there will be a funding of \$60 million. But I wish to tell the Secretary that if we do not see any funding in terms of hundreds of million dollars in next year's budget on free smoking cessation service, then we will surely regret it and we will move a motion again to slash the Secretary's salary.

Lastly, and that is, whenever a policy is to be implemented, it is inevitable that the interest of some groups will be affected. Then we should make some compensation to them and we should not force through policies in this Council, just because we have more votes in our favour. It would be improper to do so just as what has been done in this Council because there are four more votes than the opposition.

We can see that this increase in the tobacco duty will affect the business turnover of the newspaper vendors. They used to get a fair share of their income from selling cigarettes. Now when the tobacco duty is increased substantially, it will certainly lead to a fall in their business. So we ask the Secretary to engage in talks with the newspaper vendors associations and relax the restrictions on the items they are permitted to sell in their stalls. Consideration can also be given to increasing the space they can post advertisements. These advertisements may not necessarily be about cigarettes. The advertising lightbox in their stalls can actually be used to market other goods. The income so derived is part of the non-core income and this will help offset some of the loss of income from the cigarette business.

President, the article written by Mr LIN Yuet-tsang which I cited earlier was actually written before 1997. He said in the article that the proper anti-smoking strategy should be based mainly on education and exhortation, to be followed by taxation and a partial ban on smoking. Although levying a tax has some effect on addressing the problem, the resources deployed by the Government in an anti-smoking campaign should reflect this emphasis on education and exhortation, to be followed by taxation and a ban on smoking. This piece of advice was given 15 years ago and, unfortunately, it still applies today. We would once again urge the Secretary and the Financial Secretary to

fight for enough resources so that we can see in next year's budget that there can be enough funding to promote an incentive-based smoking cessation programme.

MR PAUL CHAN (in Cantonese): President, regarding the issue of increasing the tobacco duty, I have four concerns.

My first concern is the impact of an increase in tobacco duty on youth smoking and whether it will lead to a reduction in the number of young smokers. According to the information provided by the Census and Statistics Department (C&SD), more than half of the smokers started smoking before the age of 20. After the Government increased the tobacco duty by 50% in 2009, the percentage of people in the population aged 15 to 19 who are daily smokers has dropped from 2.4% in 2007 to 1.8% in early 2010, thereby reflecting that an increase in tobacco duty can, to some extent, effectively reduce youth smoking.

Recently, the study published by the School of Public Health of the University of Hong Kong has further shown that an increase in tobacco duty by the Government in 2009 has effectively reduced the youth smoking rate from 6.9% in 2008 to 3.4% by the end of 2010. After considering the above-mentioned studies and statistics, President, I support the increase in tobacco duty as a means to further reduce the youth smoking rate.

President, my second concern is whether the Government, after increasing the tobacco duty, can effectively combat the smuggling and on-street peddling of illicit cigarettes. According to figures provided by the Customs and Excise Department (C&ED), the number of illicit cigarettes seized dropped by 19% in 2009 compared with 2008. But in fact, the number of illicit cigarette cases cracked down has increased by two thirds (67%). In other words, after the increase of tobacco duty by the Government, the smuggling of cigarettes has become even more rampant, only that the unlawful elements have reduced the amount of cigarettes smuggled each time in order to minimize the loss in the event of seizure. According to the relevant information, the C&ED has set up an Anti-Illicit-Cigarette Investigation Division to combat illicit cigarette activities. The original establishment of the Division comprises 35 officers. After the tobacco duty increase by the Government in 2009, the C&ED set up another task force through internal redeployment to assist in the work of anti-illicit cigarette. President, to combat illicit cigarettes is an important part of the Government's

work in reducing youth smoking. In other words, there must be strong enforcement action against illicit cigarettes in order that the objective of reducing the youth smoking rate through increasing the tobacco duty can be achieved. Therefore, while increasing the duty rate on tobacco, the Government should enhance and focus its resources on expanding the work of anti-illicit-cigarette investigation so as to strengthen its efforts and efficiency in combating illicit cigarettes.

President, let me talk about my third concern. According to the figures provided by the C&SD, the percentage of people in the population aged 30 to 60 who have a habit of smoking daily has seen little change over the past few years. In fact, the substantial tobacco duty increase made by the Government is nothing new. If smokers will resolve to quit smoking because of a substantial increase in tobacco duty, I believe the effect must have already been achieved and also reflected by these figures. Hence, insofar as adults are concerned, the result of a further increase in tobacco duty as an incentive to prompt them to quit smoking is less than obvious. However, the increase in duty rates has aggravated the burden of grassroots or elderly smokers who are addicted to smoking as they are being deprived of their only pleasure. So the increase in tobacco duty is tantamount to penalizing them.

President, after weighing the impact of an increase in tobacco duty on youngsters and the elderly against such factors as the care and protection for youngsters and the long-term effect of smoking on their health, I remain of the view that we should support the increase in tobacco duty. However, after considering the plight of the elderly and the grassroots, I support Mrs Regina IP's amendment, which proposes the gradual implementation of duty increases over a period of five years so that the elderly and grassroots can gradually adapt to it and reduce smoking. It is also hoped that while implementing the duty increase, the Government can allocate more resources to supporting these people to quit smoking and promoting smoking cessation services operated by non-governmental organizations.

President, now my last concern. I have recently paid a visit to the prisons and was told by some imprisoned persons the serious impact of an increase in tobacco duty on them. In this rehabilitation process when serving their sentences in prison, they have to adapt to many things. It will be particularly difficult for those who have a smoking habit to smoke less or quit smoking at

once. Given the meagre allowances for inmates, which amount to only several hundred dollars a month, while the price of a pack of cigarettes after the duty increase is more than \$50, I hope the Administration can take appropriate measures to alleviate the impact and pressure of the duty increase on imprisoned persons.

President, I support that efforts be made to reduce the number of smokers in Hong Kong, particularly to prevent young people from falling into the trap of smoking. So I will support the Government's proposal if Mrs IP's amendment is not passed.

President, I so submit.

MR RONNY TONG (in Cantonese): President, I often think that it is better not to be here in the Chamber than being here. Because it is often the case that even though I did not intend to speak initially, I cannot help rising to say a few words when I am in the Chamber, after listening to the speeches made by colleagues. President, we are discussing the duty on tobacco today, but what I wish to say today is not about the tax revenue. Rather, the speeches made by many colleagues have made me come to the view that our discussion today involves the core values and the culture of society, rather than the simple question of by how much the duty will be increased.

President, I have listened to the speeches made by many colleagues who oppose the tobacco duty increase. Perhaps the most convincing argument is that the duty increase will deprive the grassroots or the elderly of their most basic enjoyment. They have worked so labouriously for only a meagre income. Why can they not even smoke a cigarette or drink a beer after work? Or, if the elderly, after playing a game of chess or practising Tai Chi, do not want to go home because they do not have an air-conditioner at home and want to sit on the side of the road to smoke a cigarette and drink a beer, is it that they should even be barred from doing so? From this angle, it seems to be very cruel to them, and I thought at first that this argument should warrant more careful thoughts. But on second thought, President, I think while they can drink a beer, they must not drive after drinking a beer, all the more so driving a truck or minibus. Why? Because what we are discussing is not just about relieving stress for an individual or personal enjoyment, but whether or not the behaviour of a person will affect

other members of the community or even their family members. Unfortunately, smoking will precisely cause such an effect.

President, had it not been scientifically proven that passive smoking may do greater harm than active smoking and that it can cause damages to innocent people who do not like to smoke and even to the family members and friends of smokers, I believe the argument advanced by many colleagues who rose to speak earlier, that the grassroots or the elderly should not be deprived of the freedom to smoke would have been able to hold water. But when we consider the fact that every single thing we do may affect the people around us, I think we must respect the health of other people and so, we cannot act from our own personal angle. Of course, on the question of what other types of recreational activities or remedies can be provided to these elderly or grassroots if they cannot smoke, I hope the SAR Government will give more consideration to it. If our society can be more harmonious and if we can do more for the underprivileged, their complaints may not be so strong and the voices of opposition may not be so vigorous.

The second example cited by many colleagues who oppose the tobacco duty increase is that this is tantamount to forcing people to smoke illicit cigarettes, and some colleagues even said that it would be less expensive to abuse ketamine. Just now "Long Hair" asked why a tax is not imposed on nuclear power plants and property speculators. These remarks certainly have a point, President, but they are illogical. Perhaps let me cite a few examples to explain the logic. If the tobacco duty increase is said to be encouraging the development of illicit cigarettes, I must ask — this is also an example that I have cited many times in this Chamber — As there are people jumping the red light and killing pedestrians every day, does it mean that there should not be any traffic lights? On the point of ketamine being less expensive than cigarettes, the example that I am going to cite is that if a person who has killed someone can luckily run away from the sanctions of law, does it mean that manslaughter is not a criminal offence? When other people have done something wrong, does it mean that the people who have done it should not be punished by the law?

President, this is illogical. Logic requires that firstly, we must consider the value of the matter itself and whether it is right or wrong. If it is right but if other people have done something wrong, or if their behaviour is wrong but they

are not punished by the law, it does not mean that you should stop doing it or allow it to continue. I think if we lump other acts together in our discussion, the focus of our discussion will be blurred. There is actually just one point and that is, how we can prevent the smoking habit from spreading in society. We can certainly legislate to prohibit it and impose a fine of \$500 for taking a puff. But as Ms Cyd HO said earlier on, while this may not be an impossible option, its effect may not be as significant as that of an increase of the tobacco duty. Perhaps we have not yet reached that stage and if we have reached the stage when smoking and taking drugs can do harm of the same level of gravity, I think it may really be necessary to enact legislation to ban it. But we have not yet reached that stage and so, we must advise or exhort people not to do it and to this end, a duty increase is an option. But is it possible to achieve the effect? Or, should we either impose a ban like that on drugs or allow smoking to spread continuously? I think we may not have to resort to extreme measures on every issue, and I think increasing the duty on tobacco is acceptable under the current circumstances in society.

President, the third point that I wish to talk about is that smokers cannot argue that they will not do any harm to their friends and family members or other members of the community if they hide themselves in a corner to smoke or if they smoke at "remote" places with nobody around and so, why should they be barred from doing it? President, this has to be considered also from another angle and that is, smoking is hazardous to the health of the smokers themselves. Well, a smoker may say that he does not mind dying young. But sometimes, the problem is that when there is something wrong with their health and even if they seek treatment in private hospitals and foot their own medical bills, they are actually using the resources of society and public resources.

Therefore, I think public resources also concern the overall interest of society. So, one cannot simply say that if he dies, it is his own business and he does not want anyone to care for him.

President, what I would like to talk about lastly is whether it is useful to smoking cessation if the price of cigarettes is made expensive. I agree to what Mr CHIM Pui-chung has said in his speech earlier, and perhaps let me add a point or two to what Mr CHIM has said.

Perhaps many people do not believe it, but I had been a young man and I know what it is like to be a young man.

(A Member said that everybody had been young before.)

Exactly. But not everybody has experienced the kind of life that I had lived before when I was always raving it up throughout the nights. Why did I smoke?

At first, I was encouraged by a friend to smoke. He said, "Ronny, try it." I, therefore, took the first puff. Then a second friend said, "Ronny, now that we have jammed with the band and drunk a beer, come on, take a puff." I, therefore, took another puff. After some time, I felt embarrassed and bought my own packet of cigarettes and after puffing off a stick myself, I gave one to each of them. I said, "David, Richard, and Peter, take one." Then I gradually came to the stage that I became accustomed to buying a packet of cigarette every week. In those circumstances, will the young people think that smoking is not good and want to quit smoking?

No, President, they will not think so. Young people will not think this way. Many people said As Mr CHIM Pui-chung said earlier, do they have the willpower to quit smoking? Young people will not think about this. I can assure you of this, as I used to be one of them. Never had I thought about quitting the habit. What eventually made me quit smoking? Simple enough, I quitted for financial reasons, because I had no money.

When I studied in Britain — Mr CHIM Pui-chung said earlier that he had smoked French cigarettes, and my friends immediately asked me on the Internet whether or not I had smoked French cigarettes. I said I did, and their packing was blue. I forget the brand name. Mr CHIM may recall the brand name, but I no longer remember it.

Why did I smoke French cigarettes back then? Because French cigarettes were cheaper than those of the United States and Britain but later, I could not even afford French cigarettes and so, I had to quit. President, I quitted smoking not because I had the resolve to quit it; nor was it because of the harms of smoking, such as smoking can cause a bad breath shunned by all girls. I quitted

not because of these reasons, President, and it was all because of the simple, direct financial reason.

Therefore, I think that in order to prevent young people from becoming addicted to smoking, financial affordability can be a very effective deterrent. In order to protect our next generation and to protect our young people, I think an increase of the tobacco duty is acceptable. I absolutely do not wish to see my children shaking their legs all day long with a cigarette in the mouth. I trust that many parents do not wish to see their children shaking their legs all day long with a cigarette in the mouth.

For these reasons, President, I think I cannot accept the arguments advanced by colleagues in opposition to this Bill. Certainly, I also do not accept the amendment proposed by Mrs Regina IP.

Thank you, President.

DR LEUNG KA-LAU (in Cantonese): President, allow me to do some chit-chat here. Everyone knows that active smoking and passive smoking are hazardous, and many people think that it is a matter of course for doctors to support an increase of the tobacco duty. But in the medical profession, things often change very quickly; I mean the statistics can change very quickly and so, on every issue, I must carefully consider the underlying policy as well as the arguments put forward by many people.

Insofar as this issue is concerned, what has disturbed me most is that I have a feeling that this is something which seems to be championing for a just cause on the surface, but behind it there is a bill with a malicious intent. Why do I say so? Throughout this long discussion that we are having here, all that has been said is how good it is to increase the tobacco duty as it can reduce the number of smokers and the Government also has in place many effective corresponding measures to tackle such problems as illicit cigarettes. But why is the duty not raised to a higher level? Why is it increased only by \$0.5, but not to a rate of \$5 or \$50 per stick, or why is smoking not totally banned altogether? Why does the Government not take these steps?

In fact, does the Government truly and wholeheartedly hope to see smokers quit smoking? Why does the Government not mention how much revenue is generated from the tobacco duty annually? Do Members know how much the Government can receive from the tobacco duty annually? I have just looked it up and according to the information provided by the Customs and Excise Department, \$3.8 billion was received last year, which was quite an enormous amount, and if the duty rate is increased as proposed, an additional \$700 million will be generated, adding up to a total of \$4.5 billion. But the Government has seldom mentioned this. It has only said that the duty rate is raised not for the purpose of boosting revenue. But why is the duty increased by so small an amount only, but not a greater amount? Is it because the Government wants to make sure that at least \$3.8 billion can be received? Is it because the Government is concerned that increasing the duty by too high a rate will cause smokers to reduce smoking and hence affecting the revenue generated by the tobacco duty?

I always feel that when the Government does something, I have no idea what is on its mind, but I always feel uncomfortable with it. With regard to this revenue of \$4.5 billion, I would consider it to be ill-gotten gains. I think the Government will receive even more money than the tobacco companies, for tobacco companies still have to pay tax for their profits whereas the money received by the Government is placed on the moral high ground, but the fact is that the Government is even making more money than the tobacco companies. However, how much has the Government spent on smoking cessation? It is \$42 million, which is less than 1%.

In fact, over a long period of time, the only thing that I hope the Secretary can do is to do more in providing smoking cessation services. I hope he can do as much as possible, and I hope he can do it by all means. In that case, the motive of the authorities will not be queried. Perhaps the Secretary did hope to increase the duty rate to \$50 per stick, but the officials in charge of financial matters must keep an eye on the revenue and urged the Secretary not to do so. But generally speaking, I have the feeling that the Government has a malicious intent behind this proposal.

Some time ago, I called on the Secretary to provide free drugs for smoking cessation to smokers. Smoking is already considered a disease by the WHO. It means that smoking is a disease *per se*. It is considered a disease even if no

complications have occurred. But the Hospital Authority (HA) has still included the two drugs for smoking cessation in the list of self-financed drugs under the Drug Formulary. I do not know what arrangements have now been made in respect of the free drugs for smoking cessation that the Government has undertaken to provide, but according to the latest version of the HA Drug Formulary, those two drugs for quitting smoking are still listed as drugs to be paid by the patients. How much do they cost? A treatment of about three months costs some \$2,000. The drug will be administered for three months and the treatment is considered successful if the user thinks that he or she has successfully kicked the habit; otherwise, the treatment is considered unsuccessful.

What are the reasons cited by the Secretary for refusing to provide the drugs? I think the reasons are rather ridiculous. First, he said that the drugs have side-effects and this, I know. *(Laughter)* There are two kinds of drugs for quitting smoking. One is nicotine replacement therapy, and the other is varenicline which is a new kind of drug, but to pregnant women, children I mean it is not suitable for everyone. This drug has side-effects, and smokers who take this new drug may become suicidal and may sometimes suffer from mental disorder. But the point is that I think the problem of side-effects can be taken care of by the doctors who prescribed this drug, and this is not the concern of the Secretary, because the FDA has already approved the use of this drug. Smoking is a disease and drugs should, therefore, be provided for use by the patients and doctors.

The smoking cessation services currently provided by the Government have always put emphasis on counselling and education. I agree that taking these drugs does not obviate the need for other efforts, but it still does not mean that the counselling and education work can surely succeed by relying solely on advice or exhortation. Well, are these drugs for quitting smoking effective? Some statistics have pointed out that the success rate of the nicotine replacement therapy is 1.5 times higher or double.

The new drug, varenicline, is even more effective than nicotine, as it can be 1.56 times more successful. At least this is what the available statistics have indicated, and it is a different matter as to what changes there will be in future. This shows that apart from counselling and education, the use of new drugs can enable more people to quit smoking successfully.

Moreover, there is another argument which is very interesting. The Secretary said that it is unnecessary to subsidize smokers by providing them with drugs for smoking cessation, adding that the money that smokers can hence save is already sufficient to cover the cost of the drugs and so, it is unnecessary to provide subsidies. Following this logic, does it mean that the medical fees and charges for all the services of the HA can be increased substantially? Why? Because when the patients are cured, they can then make money to meet the medical expenses. But it is not a reasonable way of calculation.

So, I truly hope that the Secretary, in order not to arouse suspicions from the public or from me about the Government harbouring a malicious motive, can consider injecting a substantial amount of resources into the smoking cessation services and providing free drugs for quitting smoking to all smokers. The Government has received a revenue of \$4.5 billion from the tobacco duty but injected only \$42 million into the smoking cessation services, which is less than 1%. This is far too unacceptable indeed.

Today, I will support the tobacco duty increase proposed by the Government. The strongest argument put forth by the Government is none other than that the number of young smokers has dropped from some 6% to some 2%. Therefore, I am quite ready to support the passage of the Bill proposed by the Government today. That said, I can tell the Secretary that the statistics in this respect are not devoid of shortcomings, just that I do not wish to start another round of arguments. I can foresee that next time when the Government proposes to increase the tobacco duty, the research findings will show a drop in the smoking rate in another age group.

In which age group will the smoking rate drop? Assuming that the Government will propose to increase the tobacco duty again three years later, the studies to be conducted then will indicate a lower smoking rate in the age group of 20 to 25. It is because the young people now aged 15 to 20 will belong to the age group of 20 to 25 three years later. This is foreseeable, and I can tell the Government this well in advance. But I do not have the statistics with me now and so, I do not know the smoking rate among these young people three years ago. Perhaps it was some 3% three years ago and the figure remains to be some 3% now. So, a delay in the conduct of studies may result in findings indicating a drop in the smoking rate among young people.

Although there are plenty of experiences internationally of increasing the tobacco duty as a means to encourage people to quit smoking, since smoking prevalence in Hong Kong is already relatively low, I think the effectiveness of this measure will, at a certain point, become very limited, or it may even cease to produce any effect.

I must say that I am not smart enough this time around. Having thought about it more carefully, I should have proposed an amendment actually to see how they will react to it. If the Government again proposes a motion on increasing the duty rate in relation to smoking cessation in future and if I am still a Member of this Council, I will propose an amendment to significantly increase the duty rate to \$10 per stick and see what Members in support of the Bill today or the Government will say then.

President, I so submit. Thank you.

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 Food and Health to reply.

(Mr Paul TSE raised his hand to indicate his wish to speak)

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

MR PAUL TSE (in Cantonese): President, from what Dr LEUNG Ka-lau said earlier, there can actually be another more exaggerated method. I read the editorial of the *Hong Kong Daily News* today and found it most interesting because it suggested another view and that is, a total abolition of the tobacco duty. However, the enforcement of law will have to be far more stringent. Certainly, this view is soundly founded, and it is based on the argument of the

waiver of wine duty. I only hope Members can listen to this view and although it is an unconventional view, it still merits our consideration.

Today, many colleagues have said that the theme of our discussion today involves a public policy that concerns health. I think the Secretary will make the same point later on. Mr LEE Cheuk-yan said earlier that he has to vote for health today. Health is the keyword, an important word. In my speech today, my position also has a keyword or a theme and that is, freedom.

Whether from what we have seen in movies or from memories of our own experiences, it is often the case that when people are at the hardest, most hopeless moments, and even when persons sentenced to death are about to be sent up to the gallows, they would hope to take a puff of cigarette. Well, this is actually no big deal. Human beings have too many troubles in this world indeed. In eight or nine cases out of ten, things do not go as we wish. After going through the hard times, each person has his own means of detoxification. Some people need a cigarette to barely keep their heads above water; some people need a glass of wine or two; some people — take myself as an example — need only an ice-cream. I think no matter how unhealthy it is, I must eat an ice-cream, for it gives me the pleasure of life and boosts my willpower to move on. Each person has his own choice, and what we are talking about now is whether a free society should employ any means to press certain people to the extent that even when it comes to their last bit of freedom, they are still driven to the corner of the wall, without any escape.

Speaking of the theme that I mentioned just now, we all know this famous line of Patrick HENRY: "Give me liberty, or give me death", which means that one prefers to die than being deprived of freedom, not to mention staying healthy without freedom. I think freedom is the cornerstone of society and it is exactly because of this cornerstone of society that so many members of the public have reacted so strongly. Three colleagues had expressed opposition on the last occasion, and there may be 20 colleagues expressing opposition today. I am afraid this is sending a red alert to the Government, and as Dr LEUNG Ka-lau said earlier, this measure which is intended to force the public to quit smoking or not to smoke has reached a stage where the red alert is on. In fact, if my memory has not failed me, in economics there is this concept of marginal coefficient, which means that when something is increased to a certain level, no further increases will be possible, and the margin will become smaller and

smaller when a certain objective has been achieved. We have almost come to that stage now.

Certainly, many colleagues have expressed different views but I think there are far too many instances of paternal governance in society now as everything is put under control, though it is claimed to be done for the good of the people. Even when it comes to the weather, the weather reports are telling us how hot it is going to be today or it is going to rain today, as if we are parasites, or earthlings who must be told by their parents what they should do in order to survive. This reminds me of the time when I was a child — although I am not very old, I am talking about those days of a few decades ago — there used to be ample freedom in society and people could do whatever they like, and it seems that the people were really far happier back then than they are now. Now that our economy has prospered and society seems to be very civilized and yet, we often feel that we are being watched, feeling most uncomfortable. Of course, Hong Kong is still unlike Singapore where chewing gums are prohibited and dresses of a certain length are prohibited and requirements are set even for one's length of hair. But is Hong Kong heading in this direction? Even our contributions to the MPF are strictly specified. All these have actually made us feel that we have sacrificed so many freedoms. To many people, cigarettes are perhaps their last tiny bit of liberty. Their position is like that of a person's only dignity and liberty.

Mr Ronny TONG stressed three reasons earlier on, and I think there is a slight deviation in direction, because we are not discussing the problem of passive smoking. I think in order to strike a balance between a free society and ensuring that other people are not affected, the farthest that we can do is to ban passive smoking, and it is impossible to step back any further than that. Otherwise, we would be seriously interfering with the limited latitude or limited freedom of each individual.

I think I do not need to say much for Members to understand the hazards of smoking. Many colleagues also mentioned earlier the hazards of other acts in life and the hazards of drinking are particularly serious. In this connection, I am afraid I have to make another confession, because my partner — I always tease her as she, whose surname is PAK, never shuts up day and night, telling me not to drink too much alcohol. But I think this is the very little room for me to draw breath and vent my feelings after a hard day's work. I am well aware that this can do harm to me but, after all, being an adult, I think I should have the room to

make a choice freely. I am even quite inclined to supporting euthanasia which allows us to make a choice at an appropriate time as to how to deal with our own lives. I think this allows a person to consider giving freedom to himself.

Since we are not discussing the problem of passive smoking, what are we discussing then? In fact, is this an appropriate measure that should be taken by society in striking a balance nowadays? Whether by way of encouragement or coercion, should the public be made to sacrifice their freedom further?

Although Mr Ronny TONG said that he did not understand the logic, this is actually not illogical. Some proposals and views have inherent or intrinsic logic, and the issue or topic itself has its own merits, and its own view of right or wrong, and its own logic. But in the meantime, there is also comparative logic. If a person does not understand something, he should try to draw himself away from it and compare it with other issues to see how other issues are handled, and alcohol is a case in point. Therefore, I do not quite agree with Mr Ronny TONG's view that "Long Hair" is illogical. He is actually not illogical, just that the situation is different and there are two lines of logic, one being inherent logic and the other comparative logic.

I think it was all for the benefits to be gained that the wine duty had been reduced continuously, in the hope that Hong Kong could be developed into a wine hub. Therefore, a reduction in the wine duty was encouraged to boost the sales of wine. I had to mention the editorial of the *Hong Kong Daily News* today because of the same reason. Why can we not turn Hong Kong into the world's only hub for cigarettes where no tobacco duty is levied? This is actually a very good idea. Of course, wine and cigarettes are different. Tasting is necessary when one intends to buy wine and a lot of comparisons can be made, and this is why the idea of development into a wine hub is feasible. But cigarettes are cigarettes, although Mr CHIM Pui-chung said that he, having been a smoker for 20 years, is capable of telling which brand tastes better, which brands are stronger in taste and which brands are milder in taste. However, the range of variations in the taste of cigarettes is, after all, smaller, and compared with wine, it may not be that suitable to develop the territory into a hub for cigarettes or a centre for cigarette tasting. That said, this idea can at least prompt us to rethink, and form the view that law enforcement, education and publicity are crucially important.

Prostitution is generally considered to be the most ancient trade. I wonder if smoking is one of the most ancient acts. I think even if smoking is not among the most ancient acts, it should be a habit with a long history anyway, as even the barbarous tribes invented smoking a very long time ago. With regard to such an ancient human habit which has been passed on for so many years, disregarding whether the habit is good or bad, we still must not be too radical in telling people to make improvement.

For the more pressing issues, we can resort to legislation to deal with them, but for some non-pressing issues or issues that cannot be addressed in an urgent manner, we have to adopt another measure with the suffix "tion" — education. If we swapped the two measures and enacted legislation as a means to address this long-term problem and habit, I think this will arouse great public resentment and cause division in society. On the education front, certainly there is still a lot of room for us to do better. I remember Mr WONG Yuk-man has taken part in the publicity for smoking cessation before. If the authorities can invite Mr CHIM Pui-chung to help promote smoking cessation, I believe he can tell his own experiences any time. I remember seeing a most impressive commercial featuring Yul BRYNNER when I was young. All these are what the Government can do.

But should the tobacco duty be increased? I have read the statistics provided to us by the Government and found that the anti-smoking measures taken since 1982 are something indeed. In 1983, the tobacco duty was increased by 300%, followed by an increase of 118% in 1984, 106% in 1988, 109% in 1989 and 100% in 1991. The rate of increase in tobacco duty has actually been smaller in recent years, as it was increased by 50% in 2009 and 41.5% this year.

I may sound a bit sarcastic in saying this. The cigarette advertisement of Virginia Slim carries this slogan: "We've come a long way, baby". In respect of smoking cessation, actually, we've come a long way, too. The Government has actually done a lot, and if this problem is dealt with by a price increase, this measure may have come to a stage of being marginally inefficient. On the contrary, in respect of the measures taken to combat passive smoking or other measures, we only have to ensure that the law can be enforced effectively by, among other things, making the police responsible for enforcement as suggested in the editorial of the *Hong Kong Daily News* today, and if some licensees have implemented the anti-smoking measures only partially or selectively, they can even be subject to criminal sanction. If adequate efforts can be made to combat

passive smoking, I think we will be able to strike the right balance. If we rigidly go too far, there is set to be a rebound.

If we have really gone too far, the number of Members opposing the duty increase will increase from three (including myself) in 2009 to over 20 today. I will wait and see if the Government has the courage to impose a total ban on smoking, or whether the Government, as Dr LEUNG Ka-lau has said, actually has an ulterior motive and whether it still has other intentions while standing on the moral high ground. This does warrant our rethinking.

Mr CHIM Pui-chung has shared with us his experience in quitting smoking earlier on, and I think that is really remarkable. As suggested by some colleagues, and as Dr LEUNG Ka-lau also said earlier, we should provide free smoking cessation services to smokers, but people who quit smoking with their willpower command my greater admiration. Today, we have been discussing many medical and health care statistics, but there are only very little statistics on psychology. In fact, to many people, smoking is largely mental. On the one hand, people with strong willpower do not need assistance and once they have decided to quit, they can kick the habit successfully. These examples abound. On the other hand, smoking is a mental getaway to many people. As I have just said, when a hard day's work is over, smoking is a way for people to escape from reality.

However, many of those who engage in creative work or barristers, including my mentor in the past, are chain smokers. To them, this is more than just a question of smoking, for cigarettes can provide the space that belongs all to themselves and enable them to do their own thinking and to free themselves from their own troubles, and it helps them in their thinking, too. In saying this, I am not encouraging people to smoke. Please do not misunderstand me, as I am not a smoker myself; nor do I encourage people to smoke in front of other people, perhaps because I had taken in so much second-hand smoke during my pupillage but that was perhaps the "tuition fees" which was worth paying.

I wish to point out that we used to put too much emphasis on the physiological aspect — how should I translate it in Chinese? I think it is "人體方面" (the physical aspect) — without giving consideration to the psychological aspect

PRESIDENT (in Cantonese): Mr TSE, physiological means "生理方面" in Chinese.

MR PAUL TSE (in Cantonese): Sorry, it should be "生理原因" (physiological factor). But with regard to the psychological factor, which may be a more important sore point or mental factor, have we done enough in this respect? To me, Yul BRYNNER's commercial has served as a very good psychological defence. Financial measures may not scare me away from it, but this commercial has performed this function.

To the young people, or young people who are as wild as Mr Ronny TONG when he was young, the money factor may not be the best deterrent, especially in present-day society of Hong Kong. I think as long as we can do more to give encouragement and to allow young people more freedom and latitude, people who know what they should choose will naturally learn to be good. Good people can never be taught to go astray, while the bad people can never be taught to be good. Smoking is just the same. It is important to have suitable willpower. We had also been tempted to smoke when we were young, but we knew what is right and what is wrong. Likewise, so long as we can respect the freedom of each individual, the people of Hong Kong do have the intelligence and the IQ to decide what they should do. Thank you, President.

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 Food and Health to reply. This debate will come to a close after the Secretary has replied.

(Mrs Regina IP raised her hand in indication)

MRS REGINA IP (in Cantonese): President, before we vote, I really would like the Secretary to clarify that with regard to the deal that he proposed to me, he

does not hold the moral high ground and that if he wants me to withdraw my amendment, for how many years will he undertake not to increase

PRESIDENT (in Cantonese): Mrs Regina IP, your speaking time is up. You have had ample opportunities to express your views.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Dutiable Commodities (Amendment) Bill 2011 seeks to give effect to the proposal announced in the 2011-2012 Budget, which is to increase the duty on cigarettes by \$0.5 per stick, or 41.5%. The duties on other tobacco products will also be increased by the same rate. The increase in tobacco duty is proposed to protect public health and increase the strength of tobacco control measures.

The justifications for increasing the duty on tobacco, the support provided for smoking cessation services, and the impact of the duty increase on illicit cigarette activities as well as the livelihood of newspaper hawkers have been discussed in detail in the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 and the Bills Committee on Dutiable Commodities (Amendment) Bill 2011. In the course of scrutiny of the Bill, Members generally supported the Government's proposal to increase tobacco duty. A number of deputations have submitted written representations to express support for the Government's proposal. Recent opinion polls have also shown that over 60% of the public support the proposed increase in tobacco duty, while over 20% of the public consider that the tobacco duty should be increased at a rate higher than the proposed level. It is evident, hence, that a clear consensus is reached in the community on an upward adjustment in the duty rates on tobacco products.

The proposed increase in tobacco duty has aroused extensive discussion among Members and in the community. This precisely shows our concern about the work of tobacco control and the importance that we attach to it. Here, I must reiterate some key points and principles of the Government's position on the work of tobacco control and the increase in tobacco duty.

The Government has all along adopted a multi-pronged approach comprising publicity, education, legislation, enforcement, smoking cessation and taxation to contain the proliferation of tobacco use and minimize the impact of

passive smoking on the public. After many years of publicity, education and enforcement, the number of smokers has been decreasing in Hong Kong, as smoking prevalence dropped significantly from 23% in early 1980s to 12% at present. But each year, there are still close to 7 000 deaths caused by chronic diseases as a result of smoking or passive smoking in Hong Kong. As shown by studies of local academics, the economic loss caused by active and passive smoking amounts to \$5.3 billion each year. The harms to health and the loss of lives are also incalculable. To improve public health and reduce the pressure on healthcare services, we must increase the strength of taxation and smoking cessation measures, with a view to minimizing the hazards of smoking.

An increase in tobacco duty is an essential public health policy. It is also the most direct and effective way to reduce the number of smokers, especially young smokers. Worldwide and local experiences have shown that increasing the tobacco duty will, in the long term, reduce the demand for tobacco products and indirectly encourage smokers, especially youngsters, to quit smoking as early as possible. As revealed by the statistical surveys of the Government, after the tobacco duty was raised by 50% in 2009, there has been a downward trend in the overall sales of cigarettes in Hong Kong. Smoking prevalence among young people has come down by over 10% and the average daily consumption of cigarettes by smokers has also dropped, while the demand for smoking cessation services has increased substantially. This shows that increasing the tobacco duty is conducive to reducing the number of smokers and second-hand smoke, thus producing an obviously positive effect on public health and the work of tobacco control.

Some time ago, the results of a survey on the trend of smoking prevalence among youngsters were published locally. The survey shows that after the tobacco duty was increased by 50% by the Government in 2009, smoking prevalence among young people in Hong Kong dropped from 6.9% in 2008 to 3.4% in 2010, representing a drop of as much as 51%, which means that more than 13 000 young people have quit smoking.

Local experiences aside, there is much established evidence overseas showing that an increase in tobacco duty can effectively reduce smoking prevalence:

- The World Bank published in 1999 a report on the impact of the price of tobacco. Its findings indicated that a price increase of 10% on a packet of cigarettes is expected to reduce demand for cigarettes by about 4% in high-income countries, and by about 8% in low- and middle-income countries.
- A nation-wide research conducted by the Chicago University of the United States in 2000 has shown that a price increase of 10% is expected to bring about a reduction in the population of young smokers by over 6%, and a reduction in the demand for cigarettes among adult smokers by about 3% to 5%.
- The Center for Disease Control and Prevention of the United States Department of Health and Human Services also published the findings of a research study in 1994, pointing out that an increase in the price of tobacco could effectively reduce tobacco use initiation among adolescents.

Most smokers started smoking when they were young and so, reducing the number of young smokers is most crucial to the reduction of the overall smoking population. Increasing the tobacco duty is also an effective measure to reduce smoking and deter young people from becoming addicted to smoking.

The increase of tobacco duty is only part of the package of tobacco control policies of the Government, and we attach great importance to the support for smoking cessation services. In parallel with the increase in tobacco duty, the Government will double the funding for smoking cessation services to \$42 million in this financial year. The measures will include granting subsidies to voluntary organizations, such as the Tung Wah Group of Hospitals and Pok Oi Hospital, for providing free smoking cessation services, which include the provision of drugs for smoking cessation raised by Dr LEUNG Ka-lau earlier on, and setting up a smoking cessation hotline which targets young smokers. We will also continue to conduct education and publicity work in schools. The Hospital Authority will provide smoking cessation services targeting smokers who are chronic disease patients and also provide free drugs for smoking cessation. We will never be miserly in expending resources on measures which can effectively encourage smokers to quit smoking. We will continue to increase the provision of resources for smoking cessation in the light of the

demand, with a view to enhancing the effectiveness of the increase in tobacco duty and also encouraging and assisting smokers in all age groups to actively participate in smoking cessation.

Some Members or members of the community oppose the duty increase on the ground that the rate of increase will deal a blow to smokers who are older in age or less well-off. I must emphasize again that the increase in tobacco duty is a policy to protect public health which targets tobacco use which is internationally recognized as a problem in public health. The hazards of smoking will not differ from one person to another, and no citizen will be affected by the duty increase as long as he does not smoke. We should focus on how we can assist smokers to quit smoking, so that they can save the unnecessary and costly expenses on smoking, rather than remaining complacent and refusing to make progress by opposing the duty increase to the neglect of the health of the citizens and the public. Imagine: If these smokers can consume less sticks of cigarettes or even quit smoking eventually because of the duty increase, not only can this improve their health as well as the health of their family members, this is also good to society as a whole.

Some Members have expressed concern about the problem of illicit cigarettes. In fact, the problems of illicit cigarettes and smuggling activities do exist in all parts of the world. With regard to these illegal activities, the Government's position is to take vigorous actions against them, rather than treating them with tolerance or even as the order of the day. As a matter of fact, illicit cigarette activities will not disappear because of a reduction in tobacco duty rates. What we have to do is to continue to resolutely enhance enforcement against the trading of illicit cigarettes while stepping up education and encouraging the public to report any such activities. Colleagues in the Customs and Excise Department already explained in detail some time ago the active measures they have taken against illicit cigarettes and stated that additional resources and manpower will be deployed when necessary. We believe the situation of illicit cigarettes will be brought under control, and we do not see why we have to give up this public health measure of increasing the tobacco duty rates because of some illegal smuggling activities.

Besides, some people have criticized that the tobacco duty, if increased as proposed now, will cause the retail price of cigarettes to increase to become the second most expensive in Asia. I have to point out that the pricing of cigarettes

is decided by tobacco companies, not the Government. Cigarette prices can be adjusted any time for reasons which may not necessarily bear a direct relation to tobacco duty. Having said that, I must stress that the percentage of the tobacco duty in the cigarette price will become closer to the level in some advanced economies overseas only after it is increased as proposed now, which will account for about 70% of the cigarette price and yet, it is still lower than the level of 75% suggested by the World Health Organization.

I understand that the increase in tobacco duty will, to a certain extent, affect the livelihood of newspaper hawkers. In fact, the Government has always adopted a lenient and empathetic attitude in exploring and dealing with options to improve the business environment of newspaper hawkers, which include increasing in 2009 the quantities and varieties of commodities permitted to be sold by licensed newspaper hawkers, and endorsing these hawkers to display within the confines of their stalls advertisements related to the commodities. With regard to the proposed increase in tobacco duty rates, colleagues from the Bureau and the Food and Environmental Hygiene Department (FEHD) met with the newspaper hawkers' organizations last month to listen to the concerns raised by their representatives as well as the proposals on ways to improve the business environment of newspaper hawkers. Representatives of newspaper hawkers are collecting the views of the trade and will put forward concrete proposals for consideration by the FEHD.

President, it is an indisputable fact that smoking and passive smoking, which are hazardous to health, have created a heavy medical care and financial burden on Hong Kong. Our experience in tobacco control over the past three decades or so shows that the tobacco control policy requires long-term, sustained and all-out efforts to be successful. In pursuance of our policy to progressively strengthen tobacco control with a view to protecting public health, it is necessary to raise the tobacco duty rates. If the Bill is negatived, only the tobacco companies will benefit, while the victims will not only be the smokers but also their family members as well as members of the general public who will suffer from the hazards of second-hand smoke. In the long term, the entire society will ultimately have to shoulder the medical care and financial burden brought by smoking and passive smoking.

To encourage more smokers to kick the habit, thereby reducing the harm done by smoking and passive smoking to the public and creating a smoke-free

city, I hope Members can support the Second Reading of the Dutiable Commodities (Amendment) Bill 2011.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2011 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.

(Members raised their hands)

Mrs Regina IP rose to claim a division.

PRESIDENT (in Cantonese): Mrs Regina IP 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.

Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Emily LAU, Mr Andrew CHENG, Mr Timothy FOK, Mr Abraham SHEK, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Ronny TONG, Mr CHIM Pui-chung, Prof Patrick LAU, Mr KAM

Nai-wai, Ms Cyd HO, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Dr Samson TAM, Mr Alan LEONG and Miss Tanya CHAN voted for the motion.

Mr LEUNG Yiu-chung, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr LAM Tai-fai, Mrs Regina IP, Mr Paul TSE, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man voted against the motion.

Mr CHAN Kam-lam, Mr WONG Yung-kan, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr IP Wai-ming and Mr IP Kwok-him abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 58 Members present, 35 were in favour of the motion, 11 against it and 11 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 2011.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in committee.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2011

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dutiable Commodities (Amendment) Bill 2011.

CLERK (in Cantonese): Clauses 1 and 2.

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 and 2 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 3.

CHAIRMAN (in Cantonese): Mrs Regina IP has given notice to move an amendment to clause 3.

MRS REGINA IP (in Cantonese): Chairman, I move the amendment to clause 3, as set out in the paper circularized to Members.

My proposed amendment seeks to stagger the Government's proposed tobacco duty increase over a period of five years, that is, to increase the duty payable on each 1 000 cigarettes to \$1,406, or 65% of the retail price, in the coming year and to \$1,606, or 68% of the retail price, in 2012-2013 until 2015 when the duty payable will account for 75% of the retail price. In my opinion, the phased increase can better achieve the objective of health protection, as mentioned by the Secretary, than the one-off substantial increase of 41.5%, as proposed by the Secretary.

After listening to the speeches delivered by so many colleagues explaining that they supported the Secretary because they considered the method proposed by him very effective, I would like to point out in particular, though I originally did not want to make it so explicit, that when the Secretary was lobbying me, a government official once indicated that the Secretary would agree not to increase the tobacco duty in the next few years should I withdraw my amendment. Of course, the official showed signs of reluctance when I asked if the Secretary could stand up and promise that there would be no more duty increases in the next few years. For one thing, the Secretary might not serve another term or might even have retired in the years to come, and for another, he can hardly make any undertaking on behalf of the next Government that there would be no more duty increases in the next few years. However, even if we do not borrow the words of Dr LEUNG Ka-lau, who expressed doubts about "whether the Government has any ulterior motives", we can clearly see from what was indicated by the Secretary that the tobacco duty cannot be increased further as cigarette prices have already reached an inelastic level, which means that smokers will continue to smoke even if the tobacco duty is increased further.

The core value of Hong Kong people, as mentioned by two Honourable colleagues, Mr Ronny TONG and Mr Paul TSE, just now, are involved here. After all, Hong Kong is a free society, in which everyone has the right to choose freely, unless the Government treats cigarettes like ketamine and legislates to ban cigarettes, if it is so powerful and has the guts to do so, like the sudden imposition of a ban by Mayor Michael Bloomberg of New York on food containing trans fat. If the Government is so powerful, it may put forward such a proposal to us. As mentioned by many colleagues earlier, there are many things, such as wine,

which are hazardous to health, so why does the Government not impose a ban on all of them? Though I seldom see eye to eye with Mr VAN DER KAMP, a Dutch columnist of the *South China Morning Post (SCMP)*, he pointed out yesterday in the *SCMP* the unfair elements, saying "tobacco tax increase too much, too fast for poor". In particular, if the Secretary is willing to consider if I, Regina IP, withdraw this motion, such that the Government needs not work so hard and increase tobacco duty in the next few years, how can it claim to be standing on the moral high ground and how lofty can it be?

To me, the Government is just one of the many interest groups in society to have such thinking, even if it is doing so for public health protection. There is no point in describing Members who do not support the tobacco duty increase as the enemies of public health. I am darned opposed to such a mentality of "either black or white". Of course, I know I cannot secure enough votes today, but still I hope to express the views of some members of the public. Many poor people hate to see the tobacco duty increased in this way to deprive them of their last, small enjoyment. After all, every one of us should have the right to choose. In respect of the act of distorting the market, as I mentioned just now, if the Government can act above board, cigarettes hawkers and small traders would no longer need to speculate the rate of duty increase. As was the case of the British Government, Alistar DARLING announced last year that the rate of tobacco duty increase would be 1% higher than the inflation rate in 2010, and 2% higher than that between 2011-2012 and 2014-2015. So, everyone can stock up on cigarettes, including cigarettes traders and newspaper hawkers. Everyone can make their own planning and choose whether or not to quit smoking.

Just now, some colleagues said that they did not support my amendment because they opposed the existence of tobacco duty. I think that the levying of tobacco duty is understandable in economics since smoking will definitely cause diseases, thus imposing a burden on society. Therefore, I consider it reasonable to internalize this social cost in cigarette prices. I merely oppose increasing tobacco duty in one go since this may cause confusions in the market. Moreover, certain people cannot necessarily change their behaviour.

Hence, I implore colleagues to support my amendment. Thank you, Chairman.

*Proposed amendment***Clause 3 (see Annex I)**

CHAIRMAN (in Cantonese): Members may now have a joint debate on the original provision and the amendment.

Does any Member wish to speak?

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, actually, I have been requested by a few protest groups outside to relay their words. They think that the Government has lied repeatedly over the issue of smoking cessation. The relevant evidence was taken by a filming crew of the Hong Kong Baptist University, when Secretary Dr York CHOW was also on the scene. It was revealed that a smoker who had visited a smoking cessation centre for two months had been given nicotine patches worth \$600. During his visit to the centre in the third month, the doctor who helped him quit smoking asked him whether or not he was still smoking, he replied he was still smoking but had cut down on the number of sticks from 25 a day to not more than 10 a day. The doctor instantly became very upset, though we had no idea if it was because the result was not good enough. He was told by the doctor not to waste time and money any longer. What sort of attitude is that? Given that only \$40 million has been allocated, is there a quota? Is there a need to "fudge the numbers"? Today, you are standing on the moral high ground and trying to demonize — we should not use such a westernized word as "demonize" — you are smearing and launching an attack against those smokers. Are you doing justice to them? Now you are saying in this Chamber that you are acting in the interest of their health. I also know that methadone is not required for addiction treatment

CHAIRMAN (in Cantonese): Mr LEUNG, these remarks should be made during the Second Reading debate. We have already proceeded to clause 3 of the Bill. You should speak on this clause.

MR LEUNG KWOK-HUNG (in Cantonese): I understand that this clause and the amendment are about a phased increase in tobacco duty. Their question is: Will there be a phased increase? I happened to see them crowded in front of a litter bin to smoke when I went outside for a puff. They then requested me to relay their words, that should the Government really act in the interest of the poor, it should not increase tobacco duty substantially. This is actually some sort of irony. Are the lives of the rich less valuable? Are the lives of those who can afford to smoke less precious? Is the Government not providing universal treatment without discrimination? Is Dr LAM Tai-hing not doing the same?

CHAIRMAN (in Cantonese): Mr LEUNG, please do not repeat what you have already covered during the Second Reading debate.

MR LEUNG KWOK-HUNG (in Cantonese): I am now talking about the content of the amendment proposed by Mrs Regina IP, to increase tobacco duty in five phases. I am lobbying for her. There are reasons to increase the duty in phases because there will be no way to retreat if the duty is increased in one go. Is this act of the Government doing good to others? Is the Government acting in the interest of public health? Does York CHOW know psychology? What will we do if those people jump from a height because they are not allowed to smoke? What will we do if they find their hands and feet shaking? What will we do if they quarrel with their wives and chop them to death?

The revelation made by Mrs Regina IP just now is excellent — the Government is like that. In order to secure Members' votes, prevent Mrs Regina IP from proposing the amendment and make the figures more presentable, without worrying about being defeated because some Members having gone to the toilet might be unable to vote, the Secretary has engaged in closet politics, pledging that the tobacco duty will not be increased in the next five years should the amendment not be proposed. Honestly, I really feel ashamed for the Secretary.

Chairman, during the factional struggles in the Song Dynasty, there was this official belonging to the New Party called DENG Guan. He really went down in history by saying something that made an insidious and sorry scholar to

have an everlasting name. Do you know what DENG Guan said? He said, "I will continue to do things in my own way despite all ridicule and criticisms". Secretary — may I call you DENG Guan, CHOW Yat-guan or CHOW Deng Guan — your former colleague accused you of cheating the public. You may speak casually. Please show some respect for this Council. Who else have you approached to lobby for votes? You have not approached me for votes. What deal have you struck? "I will continue to do things in my own way despite all ridicule and criticisms". Secretary, what logic do you have? What moral high ground do you claim?

Chairman, I also find it most paradoxical. As a person advocating social justice, I greatly oppose the levy of direct tax because it must be regressive and will definitely deal a blow to the lowest in any case, the poor have to pay the same amount of tax. If the tax is consumption tax, their spending behaviour will be directly affected. If it is said that such spending behaviour is harmful, and so people should do less — this is the logic of Mr Ronny TONG. I really find it heartrending. Does he know what liberalism means? Can he verify that smokers will affect others, apart from passive smoking? Can he verify that smoking may cause lung cancer or other diseases? Take me as an example. My sex drive has dropped. Is this caused by smoking?*(Laughter)* A Member commented that my football skills were not as good as his. Actually, I am not that bad. If it is said that smoking may lead to deteriorating sex drive, I prefer to have deteriorating sex drive. This is my own choice. He should have studied English philosophy, right? This is functionalism.

CHAIRMAN (in Cantonese): Mr LEUNG, please come back to the content of clause 3.

MR LEUNG KWOK-HUNG (in Cantonese): Buddy, I have no idea what sort of legal training he received in Britain that he could even ridicule us in this legislature. This is absolutely tyranny. On the pretext of protecting others and the interest of the entire society, he wielded the knife at the disadvantaged and people without any bargaining power. Therefore, I feel that I do not know whether I will have the opportunity to support Mrs Regina IP's amendment. I have never supported her before. Since 2003, I have been condemning her until

today. Having come to this pass, Secretary, you should really think about this carefully.

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

DR LAM TAI-FAI (in Cantonese): Chairman, the fact that I cast a negative vote at the Second Reading of the Bill does imply that I do not agree to using this approach for tobacco control, because I think that punitive duty increases are not the most effective option. However, judging from the vote taken just now, the negative vote cast by me did not cause any effect.

As regards the issue of lobbying, I would like to make a fair comment that, during a few discussions with the Secretary, he sincerely and frankly showed me the information, including medical reports, health situations, statistics, and so on, and share his thoughts with me. However, there was no question of the Secretary lobbying because he had never appealed for my support in that course. He had merely analysed the profound reasoning in simple terms and in an organized manner. It was a pity that I did not see eye to eye with him, for I did not believe the punitive tactics can help the matter. So, eventually, he did not manage to sway me.

This time, I support Mrs Regina IP's amendment. I still recall that my views were similar to hers during the discussion on the minimum wage last time, and that is, mentally handicapped persons should be exempted. I wonder if Mrs Regina IP still recalls this. It appears that there were only four votes on that occasion. We were not only the minority, but also the minority voice. Nevertheless, it appears that we, the minority voice, can now finally lift our head, though this is not something good. I have heard many people say that, thanks to the minimum wage, mentally handicapped persons cannot find a job and get employed. This proves that although we were the minority voice at that time, the small number did not mean that we were wrong, for only time can tell. Sometimes, we have to stick to our views and positions.

Today, I have to hold onto my position again because the vote cast by me just now in opposition to the Bill was not effective. I am extremely worried that government officials and Honourable colleagues in this Council would believe it

will really be helpful if tobacco duty can be raised and so, there will be a tobacco duty increase every year, every two or three years or indefinitely. Hence, the disasters would be rampant illicit cigarettes activities and dwindled business of the small and medium traders or newspaper hawkers.

Given that the tobacco duty increase this year is inevitable, in order to prevent the matter from deteriorating, we have to take preventive measures by devising an annual incremental mechanism to increase tobacco duty in phases. It is better for everyone to have a pretty good idea of what will happen. So, there will be no worry about a 20% increase next year and another 50% increase in the year after next, as if it is a flood or a scourge. For this reason, I will support Mrs Regina IP's amendment again today. Mrs Regina IP, I hope you can understand and be psychologically prepared that both you and I have again become the minority, the minority voice. However, only time can tell that we are again right this time around. So, let us wait and see.

Chairman, I so submit.

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

MR PAUL TSE (in Cantonese): Chairman, I wish mainly to add a few points.

If an analogy is made with a court case, the accused was already convicted just now. What we are doing now is just pleading for leniency in the hope of lowering the penalty as far as possible, particularly for the general public and wage earners who are living in hardship or those who are suffering both physically and psychologically. In particular, in the hearts of imprisoned persons, this really is a very small space. In this respect, I hope that their hardship can be though I definitely hope to succeed in opposing the tobacco duty increase. Even if I fail, I still hope that the increase can be slowed down a bit.

In particular, I did not have a chance just now to discuss in detail the effect of the tobacco duty increase on reducing the number of smokers. All this information is based on government records. Of course, if the Secretary thinks that I am wrong, please correct me. However, if we look at this diagram, we

will find that the tobacco duty was raised by 300% in 1982, but according to the calculation based on the smoking population aged 15 and above, the number of smokers in 1983 was reduced by a mere 3.4%. In short, with a 300% increase in tobacco duty, the smoking population was reduced by 3.4% only.

Strangely, when referring to the relevant data, I found that there were no duty increases whatsoever during the period between 1998 and 2000, but there was a 2.6% drop in the number of smokers. During the period between 2002 and 2008, there were again no increases in tobacco duty, but strangely, there was again a 2.6% drop in the number of smokers, though the tobacco duty was not raised. This demonstrates that increasing or reducing tobacco duty does not appear to make sense. In other words, it was not entirely a linear growth. Of course, I trust many other social factors must be at play.

Hence, we should not blindly believe that increasing the tobacco duty will definitely be effective. In fact, as I mentioned just now, the effectiveness will get increasingly low. In this respect, even if we cannot completely oppose the tobacco duty increase, but for their only small wish, I will support Mrs Regina IP's amendment.

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

MR ALBERT CHAN (in Cantonese): First of all, Chairman, I am very grateful to Mrs Regina IP for the proposed amendment and her goodwill. However, both Mr WONG Yuk-man and I consider the overall logic and thinking of her amendment unacceptable in principle, so we will abstain on it.

The reason is very simple. We think that this approach of influencing the behaviour of the public through duty increases is class discrimination or biased in favour of certain social classes. Many people do not entirely understand why there is class discrimination, given that everyone bears the same duty increase rate, as if everyone is fined the same amount of money. In fact, a comparison must be drawn and the essence of the issue must be examined.

Let me cite the penalty for speeding as an example to give a brief explanation. The fine for speeding by 20 km is \$450 — I have been fined

several times — on the surface of it, the \$450 fine is very fair, for all persons, whether they earn \$6,000, \$60,000, \$600,000 or even \$6 million, are fined \$450. However, the impacts on the actual livelihood and the financial position of the persons being fined are poles apart.

For a person who earns \$6,000, a fine of \$450 would have cost him nearly 8% of his income. But for someone who earns \$600,000, a fine of \$450 is insignificant, for it accounts for less than 1% of his income. The impact can indeed be described as zero. This situation is similar to the objection raised by me to the Government's imposition of a fine to penalize people for spitting. In my opinion, it is better to punish people for spitting or littering with community service than a fine. This is because if a poor person or an elderly on Comprehensive Social Security Assistance (CSSA) is fined \$1,500, he might have to starve for a whole month. The only thing he can do is to cry bitterly and loudly. For a well-off person belonging to the middle class, a fine of \$1,500 is insignificant. Compared to a fine of \$100,000, a well-off person would suffer more should he be ordered to perform 10 hours of community service. Hence, many punitive provisions in Hong Kong smack of class discrimination and class preference.

Let me cite the fine for speeding again as an example. In some Scandinavian countries, offenders are penalized at a percentage of their income. It can be noted on the Internet that a person in Scandinavia was once fined more than \$1 million for speeding, because the fine was imposed at a percentage of the annual income of the offender. This is reasonable. It is reasonable to impose such a financial penalty on motorists. This is why I raised the point during the debate on drink driving that in certain states in the United States, a person convicted of drink driving will be jailed for seven days regardless of the circumstances. This is reasonable because if a fine can be used to replace imprisonment, the deterrence and actual impact of the penalty itself, as well as the so-called punishment, on the rich will be somewhat biased.

The same applies to the tobacco duty. Admittedly, the views and amendment proposed by Mrs Regina IP can reduce the short- and medium-term impact on the lower-income group, but its underlying logic will still be defined by the amount of money. This will definitely produce different impacts on people with different incomes. By nature and in practical terms, this will constitute class discrimination against different classes and people with different incomes.

When they spoke for the first time on the Bill, many Members mentioned the impact of this duty increase — including Ms LI Fung-ying, who is well-versed in the plight of workers of the older generation — the duty increase has dealt the hardest blow to, and produced the most catastrophic impact on, old smokers. We cannot rule out the possibility that some old smokers may find life meaningless because they have no money to buy cigarettes or they have smoked too many counterfeit cigarettes. I would often walk past the smoking areas in some public housing estates, and I find that old smokers are fond of chatting to one another in these areas. I would greet them when I passed by. They often get together as the children of some of them have already moved elsewhere and the spouses of some of them have already passed away. I was told by some old smokers that to light up after a meal was the most enjoyable moment of the whole day, also the happiest moment of their lives. However, Secretary PK CHOW has the happier moment of their lives

CHAIRMAN (in Cantonese): Will the Member please not repeat what has been covered during the Second Reading debate.

MR ALBERT CHAN (in Cantonese): Chairman, I am talking about class discrimination. This is a description of class discrimination. For rich people, it does not matter to them even if they have to pay \$50 for one stick, not to mention \$50 for a pack of cigarettes. It does not matter to billionaires and property hegemonists, too. People as rich as Secretary Dr York CHOW will not care about drinking red wine, will they? It means nothing to them to pay several thousands dollars for a bottle of red wine. Having said that, it is even better if wine duty can be waived, for a lot of money can thus be saved. Henry TANG has been benefited the most. Hence, there exists class discrimination here.

As regards the remarks made by some Members about smoking being hazardous to health, I think that they should say so righteously in the debate just now. While the rich can continue to smoke without being affected by the tobacco duty, why do these Members not be concerned about the health of these rich people? I think that they are absolutely hypocritical, though they always say righteously that they are concerned about public health. If the tobacco duty is really to be used, the Government might as well use the model adopted in Scandinavia for imposing fines for speeding. For instance, the Government may

calculate the ratio between the daily expenses of a smoker and his income, and use a percentage of the income to set the rate of tobacco duty. Insofar as the percentage of expenses on smoking as a share of the income of the general public is concerned, if CSSA is used as the basis for calculation, I believe the expenses for buying cigarettes should account for around 10% of the income. On this basis, all smokers should pay 10% of their income in tobacco duty. Moreover, they cannot buy cigarettes in the name of a company

CHAIRMAN (in Cantonese): Will the Member please confine his speech to the clause we are dealing now.

MR ALBERT CHAN (in Cantonese): Chairman, I am only analysing the tilting of taxation. I do not think I have strayed from the question. I am only analysing the amendment proposed by Mrs Regina IP to show that it is actually class discrimination to increase the tobacco duty in phases. I am merely using a special example to illustrate my point. Nevertheless, the tobacco duty arrangement is, generally speaking, class discriminatory. Hence, on behalf of the People Power, both Mr WONG Yuk-man and I cannot support Mrs Regina IP's amendment.

MR ANDREW CHENG (in Cantonese): Chairman, I think that Mrs Regina IP's amendment basically seeks to turn the one-off tobacco duty increase into a phased increase. Actually, it is still a measure to increase duty, only that the increase will be effected over a period of five years. On the surface, Mrs IP supports increasing the duty, only that she hopes to enable smokers to slowly adapt to the new duty or accept it in a gradual and progressive manner.

This proposal actually has potential difficulties. On hearing the proposal, I think that there is an assumption that smokers will feel a small pain when there is a slight increase in tobacco duty. They will feel a bigger pain with a further increase until they finally quit smoking altogether when they find it too painful to bear. However, from another angle, they may feel a small pain when there is a slight increase in tobacco duty, but then they will become accustomed to the pain. Even if there is a further increase in tobacco duty, they will still get used to the pain, and hence, they will continue to smoke.

Chairman, I paid great attention just now to the notions advanced by those Honourable colleagues who opposed increasing the tobacco duty. I hope you will not say that I am straying from the question as no one is going to speak now. Tonight, it is earlier than expected

CHAIRMAN (in Cantonese): I still have to remind Members not to repeat what was covered in the Second Reading debate.

MR ANDREW CHENG (in Cantonese): I know. But since

CHAIRMAN (in Cantonese): Please confine your speech to this clause.

MR ANDREW CHENG (in Cantonese): I have spoken from the angle of the tobacco duty increase or the rate of increase. I will try my best to confine my speech to this angle and the content of the speeches delivered by Members.

An Honourable colleague pointed out just now that some of the notions in support of the Government's proposed tobacco duty increase are not entirely logical. Mr Albert CHAN even pointed out in his speech just now righteously that it was hypocritical to support the Government's proposed tobacco duty increase. Chairman, I must speak with all righteousness and make a direct reference to such remarks, because there must be mutual respect among us as Members of this Council. It is already an act of disrespect to give the Secretary a new name. I find it even more disgusting and revolting to describe some of the beliefs expressed by Members as hypocritical. Chairman, I hope Members can speak their own minds and express their own views.

At the beginning of her speech, Mrs Regina IP mentioned that a government official had once indicated to her that the Government might not increase tobacco duty again in the coming few years if she could withdraw her amendment. In this case, is the Government actually hesitant over this issue, not so committed really?

I have no idea how that government official lobbied Mrs Regina IP, but I believe if the Government can demonstrate its boldness in the course of lobbying as I mentioned during the Second Reading, the Government has somewhat given some Members the impression that some underlying beliefs of the Government might have to be compromised for the passage of this Bill on tobacco duty increase, and it is precisely this compromise that has given some Members the impression that the Government is lack of strength, boldness and commitment. I am not entirely pleased with this.

Just now, Mrs Regina IP said to me outside the Chamber that Members should not think highly of Secretary Dr York CHOW and that the Government internally was actually like this and that. I have never thought highly of the Secretary. During the resumed Second Reading debate just now, I only said that throughout my career as a Legislative Council Member in the past 10-odd years, I was quite satisfied with Secretary Dr York CHOW as a government official for his tobacco control efforts. I still find that he has not done enough in many ways. When arguing with him, I still "pounded on tables and chairs" to express my discontent. Therefore, I will definitely not think highly of the Government. I am only choosing the lesser of the two evils.

Dr LAM Tai-fai has claimed that — a secondary school is actually named after him, and it is called Lam Tai Fai College — he is promoting education. I hope he can think twice about this because the impression he has given me appears to be the same as how I felt when I spoke for the first time, and that is, he would oppose the Government's proposed tobacco duty increase and the phased duty increase proposed by Mrs Regina IP. In a word, he is against all duty increases, for he thinks that it is wrong to increase the duty. Personally, I think that prohibitive tax does not run counter to education or the approaches in other respects.

Increasing the tobacco duty, education, smoking cessation and tobacco control are among the measures required to be taken. These measures must be integrated to make the overall public health policy comprehensive. This is my personal opinion in this regard.

Chairman, I can never understand what class discrimination means. Why would there be class discrimination? According to Mr Albert CHAN's suggestion, there would definitely be no more class discrimination if those people are put to jail. But then, someone might say that there is class discrimination,

for a tycoon is different from a poor person whose family members are all waiting for him to make money to feed them, though both of them are jailed for seven days. Unlike the poor guy, the tycoon would only treat the prison as a hotel. Hence, there is again discrimination here.

Insofar as a sentence or a penalty is concerned, drink driving involves road safety, while tobacco control and increasing tobacco duty involve hygiene and health. There is neither discrimination nor differentiation here. So long as we are talking about ordinary people, not robots, we should believe that smoking will affect health if an objective standard indicates so.

I have heard many objective opinions. It is also indicated clearly in an expert report of the World Health Organization (WHO) that there is a need for us to follow closely the objectives of the WHO. It is hoped that we can use the increased tobacco duty this time to make up for the shortfall of tobacco duty because there were no tobacco duty increases in past years. It is impossible for us to keep our conservation going if we find this unacceptable. If someone does not heed expert advice, it is simply because he has the presumption that increasing tobacco duty will not help tobacco control. What more can we say if this is the case. Nevertheless, there is no need to make oblique accusations and irrational condemnations and criticisms. In my opinion, this should not exist in the present-day society.

I hope Honourable Members here — especially Mr CHIM Pui-chung because he indicated just now that he did not know whether or not he would be present when it comes to the vote — I wish to appeal to all Members to vote on major bills because I believe every vote counts. According to my calculation, we are only short of two votes if we are to oppose today by separate voting Mrs Regina IP's proposed amendment of increasing tobacco duty in phases.

As a person who believes that Hong Kong should become a smoke-free city in the next five to 10 years, I will proceed without hesitation. I hope that I will not be labelled again for my behaviour and be described as hypocritical. Actually, this is only because our views are different. There is no need for personal attacks.

Thank you, Chairman.

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

MR LEUNG YIU-CHUNG (in Cantonese): Chairman, Mr Andrew CHENG expressed at the end of his speech his hope that Hong Kong could be turned into a smoke-free city. I think that this is also the hope of everyone. However, I do not think that this target can be achieved according to the way he suggested because according to his proposal, which is based on the approach of the WHO, tobacco duty should be increased to around 75%. But then, the rich can still smoke, so how can Hong Kong be turned into a smoke-free city?

The simplest way to achieve the goal of turning Hong Kong into a smoke-free city is to ban smoking. Only through classifying cigarettes as poisons, narcotics or contrabands can Hong Kong become smoke-free. If this is what Mr Andrew CHENG is seeking to express, why does he not put forward such a proposal? What is the point of proposing phased measures persistently, which would only raise tobacco duty to 75% in the end? If I were you, I would propose a bill every year calling for classifying cigarettes as contrabands. It is meaningful only when this is done. We must hold on until the end. But now, has he held on until the end? Hence, even if many Members here express the same hope of turning Hong Kong into a smoke-free city, and this is also what I think as I have said that I do not support smoking, it is impossible for this to be achieved under the existing system. Therefore, I do not think this should be done.

Furthermore, many colleagues have persistently asked whether or not a class or discrimination problem will be created. Actually, such problems exist simply because it is easier for the rich people to smoke. They may smoke even more cigarettes so long as they like to do so. However, it is very difficult for the poor people to smoke one or two or a few cigarettes. They have difficulty to do so because of financial reasons. Actually, I think that increasing the tobacco duty can achieve some effect. I do agree that a little effect will be produced. However, the effect thus produced cannot achieve our ultimate goal. I insist on this view because I consider it most important in particular, the Government is reluctant to classify cigarettes as contrabands. I think what can be done at this stage is not to raise tobacco duty in order to tackle this issue. Instead, publicity and education work should be carried out. Compared to increasing the tobacco duty, the effect thus produced will be even better. At least, colleagues here will agree that more publicity and education work should be undertaken. Who will

disagree? The Government has done this before, but unfortunately, it has not done good enough. What has it done? As I have talked about it earlier, I do not wish to repeat it because I do not want to waste Members' time. If it intends to achieve the effect through raising tobacco duty, why should it be raised to 75%? I am really baffled. What will happen to these smokers? What about those who can still afford cigarettes? As the Government will still allow them to buy cigarettes, how can the effect be achieved? This is a question of logic. If we are really determined to do something, we must do it more thoroughly. We must not emphasize formality more than the reality. I find this most disgusting. I would rather not do it if it is not done thoroughly. Why did the Member not pay attention to this, given that the situation has been described as so serious?

In contrast, I consider the speech delivered by Paul TSE just now quite good. He thinks that the idea of freedom or choice should, on the contrary, be taken more seriously. This is because the situation will really be terrible if the public do not even have the opportunities to choose, particularly if the grassroots are deprived of their only enjoyment. I really find this unjust and unfair.

I have always believed that it is important to have choices in society. Given their financial capability, the number of things the grassroots can choose is already very small. Now, they are even deprived of their freedom to choose to smoke. I think that this is absolutely unacceptable. Although it sounds very pleasant to the ears for Members to say that they do so "for the sake of health", it is still imposed on smokers forcibly because they know what it is all about. It is not the case that they do not understand or they have no knowledge of the related health problems. Given that they still want to smoke despite their knowledge and understanding, I think that they should be allowed to smoke. Of course, some colleagues opine that while smokers can smoke, they must not harm other people because passive smoking will affect others. Actually, colleagues should look more carefully and find that smoking is already prohibited in many places. Members of the public can even request smokers nearby not to smoke. It is possible to do so. Why should some colleagues still insist that smokers are compelling others to be passive smokers? A number of laws are already in place. Let us consider this issue again when no smoking areas are found to be problematic. Why do people not be allowed to have a choice when this is the only thing they have?

Chairman, I so submit.

MR WONG YUK-MAN (in Cantonese): Chairman, according to the Government's proposal to increase tobacco duty, which took immediate effect, duty is payable at \$1,706 for each 1 000 sticks of cigarette, representing an increase to 70% from 62% of the retail price. Mrs Regina IP pointed out in proposing the amendment that a \$200 increase per annum in tobacco duty would result in a year-on-year increase in the percentage of tobacco duty as a share of the retail price. As a result, smokers would expect smoking costs to get increasingly high and thus plan to quit smoking. A year-on-year increase in tobacco duty would increase the frequency of smokers facing rising smoking costs.

Whenever tobacco duty was increased, smokers would say that they would quit smoking. Have Members not heard these words before? However, they have failed again and again to kick the habit, just the same every time. I used to be a heavy smoker. I would tell myself to quit smoking whenever tobacco duty was to be raised. However, I would continue to smoke soon afterwards. I had simply not quit smoking. I had merely kept saying that I would quit smoking. I would rather save some money in other areas than kicking the habit.

It really depends on one's will to quit smoking. Chairman, I am one typical example. I had smoked for 30 or 40 years since the age of 14. However, after throwing away my pack of cigarettes when I decided to quit smoking, I have never taken a puff again. An old friend of mine, Ah Ngau, once stated determination to quit smoking. On one occasion, he was invited to speak on the stage in a programme produced by Radio Television Hong Kong in 2003. I said to him, "Ah Ngau, you must not speak on the stage, since you will definitely not quit smoking. Don't stand up there and say you will quit smoking but then smoke again shamelessly." But soon afterwards, he smoked again.

So far, I have not taken another puff again. I am in perfectly good health, Professor. I drink a cup of water when I wake up in the morning. Neither do I cough constantly, nor do I need to light up the moment I open my eyes when my teeth are not yet brushed. I used to lead such a life. Now, I have completely got rid of all this. This was purely my personal business. Of course, I know that "smoking is hazardous to health". Do I still need to be told? The problem is that the Government is not thorough enough. May I ask the Secretary how much effort the Government has made in publicizing the message that "smoking

is hazardous to health"? The Government has emphasized formality more than the reality, exactly like what Mr LEUNG Yiu-chung said just now.

Hence, sorry, I cannot support the amendment proposed by Mrs Regina IP, but I did offer some terms when negotiating a deal with her. You are not the only one who could offer her some terms. I bluffed her and said, "Come to talk to me again when you have secured enough supporting votes." I may give it some thoughts if she is only short of one or two votes before she can secure enough supporting votes. We should choose the lesser of the two evils, given that her amendment is better than the Government's proposal. Do Members understand? I am very honest. Judging from the situation today, I have already given Mrs IP a lot of face by not casting a dissenting vote. For me, there is no room for discussion because her amendment similarly seeks to raise tobacco duty.

However, the Secretary must give a response later. Mrs Regina IP, a former Secretary for Security but now a Legislative Council Member, said that she had a deal with you, right? The Secretary must really give a response. If she was talking nonsense, the Government must tell us clearly later in this Chamber. Otherwise, I will say that the Government is hypocritical in raising the tobacco duty. As pointed out by Mrs Regina IP just now, the Government is really messing up, for it can refrain from increasing the tobacco duty for several years. I had thought that the Government had to increase the duty every year. After the increase in 2009, the Government has now resorted to increasing the tobacco duty frantically with the lapse of just one year. The tobacco duty will be raised later again.

The point is, can the Government ensure that no one in Hong Kong will smoke because of the tobacco duty raise? I do not think that the Government can achieve this. Over the years, Mr Andrew CHENG has even before I became a Legislative Council Member, I already saw him oppose smoking. At least, he is persistent. I will never describe Mr Andrew CHENG as a hypocrite. However, he is fighting a lone battle. I am afraid his ideal of a smoke-free city can hardly be materialized in his lifetime. I am really sorry that I have to throw a cold blanket on him. It is not easy to build a smoke-free city, is it? We can only minimize the hazards of smoking.

Today, we oppose the frantic increase in tobacco duty on the following grounds: first, from the standpoint of class; and second, I do not think such an increase will really do any good to public health. I do not believe such a means can make the smokers in Hong Kong make up their mind to quit smoking. It really depends on one's will to quit smoking. If one does not have a strong will Honestly, smoking is very often sort of a psychological addiction. I had been a smoker for decades. I wonder if the school principal has ever smoked. Smoking is sort of a psychological addiction, or obsession.

Are there any ways for the Secretary to rid smokers of their psychological obsession? Can the Secretary do something about mental health? Can Prof LAM, who is sitting up there, do more about mental health? There are no other ways but to allocate more resources. According to my personal experience, the physiological discomfort caused by smoking cessation lasts several weeks at the most. However, psychological addictions are very difficult to tackle. "Mr Elephant²" is sitting here. Members may ask him whether or not it is very difficult to quit smoking. Of course, it is. It is a psychological barrier, an obsession. Even the Government cannot help "Mr Elephant", not to mention this person. One can smell the cigarette odour on him even if he is four feet away. He would smoke under whatever circumstances. So, what can be done? It has been proven by evidence that it is really very difficult for the Government to make smokers quit smoking through increasing the tobacco duty. It is precisely based on these reasons that we oppose the tobacco duty increase.

Regarding the Government's accusation that we are elevating the issue to the political plane, I do not want anyone to exaggerate and accuse us of neglecting the health of Hong Kong people and being the enemy of public health, either. When did I say that I want to be an enemy of public health? I am a typical example myself. Since I had been a smoker for decades, I would not wave my hands or express displeasure even if someone smoke before me, in the hope that they would go away. I used to be like that. I used to smoke before others for many years. So, I will either go away on my own initiative or put up with it. There is nothing else I can do.

I do not know whether or not the Chairman was a smoker. Ms Miriam LAU used to be a smoker. Many people used to smoke but have now quitted

² The nickname of Legislative Council Member Mr WONG Ting-kwong

smoking. Just now, I said during the Second Reading that the living environment is very important. In order that the living habits of the public can be changed, there must be a good living environment to facilitate the public in changing their habits in life. Undeniably, smoking is a bad habit, and so is drinking. I have admitted that drinking is a bad habit, too. Sometimes, I find the harm done by drinking even more serious than smoking.

Take beating one's wife as an example. People often say that we Chiu Chow men like to beat our wives. I wonder if this is the case with Mr CHAN Kam-lam. On the contrary, I am beaten by my wife. Very often, incidents of wife battering are caused by drinking. However, will someone beat his wife because of smoking? If such a far-fetched analogy is made, Members would criticize me for making an inappropriate analogy, as if I am advancing a straw argument. But this is actually the case.

Despite its great emphasis on public health, the Government has failed to provide the ancillary facilities. Can the Government do this? It is unable to do so, and this is the problem precisely.

Like the plastic bag levy, Chairman, the tobacco duty is regressive. The lower the income, the heavier the tax burden. This is in breach of the principle of wealth redistribution. It seemed like we were going to kill his father when we requested the government official to increase profits tax by 1%. To LI Ka-shing, this is just like a drop in the bucket. However, to some wage earners, the plastic bag levy and tobacco duty are all direct taxes, which mean that they are regressive, not progressive taxes.

CHAIRMAN (in Cantonese): Please do not repeat what has been covered during the Second Reading debate.

MR WONG YUK-MAN (in Cantonese): I have not repeated anything. This point was not raised by me just now. Chairman, you were not present as the meeting was chaired by the Deputy President then. What I am saying is brand new.

CHAIRMAN (in Cantonese): Mr WONG, please confine your speech to this clause.

MR WONG YUK-MAN (in Cantonese): I am pinpointing the regressive issue. The tobacco duty is regressive as it is raised year after year. We do not want to see such a phenomenon. Our society is getting more and more unfair, with our wealth gap ranking taking the world's top spot. In addition, inflation is now even fiercer than a tiger. However, the ordinary and poor masses are invariably targeted by the Government. The Government might deny this, claiming it is acting in the interest of public health. However, in order to achieve the objective effect of public health, there is no way for the Government to spare the poor and the grassroots, for everyone has to pay the price. Whenever a policy is introduced by the Government, many people in society have to pay the price. Why does the Government not arrest all smokers and shoot them down or impose a total ban on smoking? Nevertheless, it is unable to do so.

The point is that it is meaningless to increase the tobacco duty year on year. It is said that the Government has responded to the proposal of not increasing the tobacco duty in one go by promising not to raise the tobacco duty again in the next few years should the amendment be withdrawn. I have to ask the Secretary again to really answer this question later. Otherwise, there may be far-reaching implications, for Mrs Regina IP might have lied. Nevertheless, I believe that this Secretary should I personally think that the former Secretary I often confronted her over Article 23 of the Basic Law. However, this is politics — there are no eternal enemies, or friends. Although I do not support her amendment today, as an elected representative of the people, I think that she has performed very well in proposing the amendment because of her determination to choose the lesser of the two evils and her view that the Government's proposal does not work. However, as regards the question of whether the Secretary has negotiated and exchanged terms with her, I hope the Secretary can explain to the public, especially Members of this Council, later. Otherwise, I would think that the Government has a serious problem with its integrity.

The Government likes to justify its policy of increasing the tobacco duty with the WHO Report on the Global Tobacco Epidemic, 2009: Implementing smoke-free environments. According to the report, tobacco duties account for 70% or more of the retail prices of cigarettes in the top 10 countries in the world, far lower than the 62% in Hong Kong. The Government has only compared Hong Kong with these countries, which are mostly Western European countries,

in a biased manner while deliberately avoiding comparing these countries with Hong Kong's relatively high price index and median per capita income. Not only is the per capita income in Hong Kong lower than that in Western Europe, the wealth gap of Hong Kong also ranks the first in the world. Moreover, the incomes of people in Western Europe are generally higher than those in Hong Kong because, unlike Hong Kong, their societies are relatively even. So, faced with such a situation, as I pointed out just now, and given such a living environment, the Government still wants to increase the tobacco duty to further aggravate the burden of the lower class. I think that this is utterly ridiculous. Now, even the tobacco duty in Hong Kong is brought on a par with that in Western Europe. And yet, Hong Kong people, especially the poor, are living in dire straits, though Hong Kong is not on a par with West Europe in terms of democracy.

Just now, I described this as patriarchal mentality. What do I mean by patriarchal politics, Chairman? It means that the masses are treated as the children, and the ruler is regarded as the father. The father will definitely act in the interest of the children: the happiness of the children is to be decided by the father. What has my smoking to do with you? Right? This is called patriarchal politics. Although I deeply sympathize with Mrs Regina IP's amendment being vetoed later, there is nothing I can do to help.

I make it clear again that I oppose the tobacco duty increase. I oppose the increase not because I consider public health unimportant. I consider the Government extremely hypocritical to use the tobacco duty increase as a means of public health protection. Furthermore, the Government has failed to provide other ancillary facilities. After the tobacco duty increase, there may not be a substantial rise in the number of quitters. Even if some figures might be seen initially reflecting an increase in the number of cases seeking smoking cessation services or assistance immediately after the tobacco duty increase, it is ridiculous for the Government to present these figures for discussion. During the one or two weeks after the tobacco duty increase, the Government will talk about this and that from time to time, but then it will stop talking about the tobacco duty because people will be found smoking again, though the Government will not say anything about it. I also find the views held by Ms Lisa LAU of the Hong Kong Council on Smoking and Health extremely ridiculous, though she is not as ridiculous as Prof LAM Tai-hing, Chairman.

Full stop.

CHAIRMAN (in Cantonese): Dr LAM Tai-fai, you may speak for the second time.

DR LAM TAI-FAI (in Cantonese): Chairman, just now Mr Andrew CHENG spoke about Lam Tai Fai College and LAM Tai-fai in a rather frivolous manner. I feel compelled to speak in reply. Maybe Mr Andrew CHENG has been a civil marriage celebrant on many occasions recently, so he would think that all is well that ends well. In weddings we often hear the bride and the groom exchange vows and people wish them a long and happy marriage. I do not know if any couple whom Mr CHENG has served as a civil marriage celebrant breaks up in the end. In any case, I do not think he would want to see that.

I think we should look at and handle things in the light of the practical situation. Mr Andrew CHENG has said that he wants to see Hong Kong become a smoke-free city in five years' time. This is what he has said, right? Brother Chung, you are right. This is not thinking in the light of the practical circumstances. Shall I enter into an agreement with you to see if that will really happen in the end? Ideals are ideals, and reality is reality. We live in a real world and we should think and act according to the practical circumstances. Brother Chung was right when he said that even if there was a total ban on smoking, Hong Kong could not become a smoke-free city. It is like when drug addiction is banned in Hong Kong, Hong Kong cannot become a city clean of drugs.

There is a need for the Customs and other enforcement agencies to combat the criminals and eradicate smuggling. So there is often a gap between ideal and reality. Mr Andrew CHENG mentioned Lam Tai Fai College and what he said was since I was the school supervisor and part of the sponsoring body, why did I raise objection. Did he not listen to my speech? All along I have said that I do not encourage smoking. I support smoking cessation and tobacco control. I have to be very careful about my words and acts, lest my school and my students will be affected. Please do not pin labels on me. What I oppose is the imposition of tobacco control by increasing the tobacco duty and by a punitive means. For example, if there are students who smoke in my school, I will advise them not to smoke and teach them not to do so. I would make them realize the harms of smoking. If the students in question do not succeed in quitting smoking, we will continue to provide some service to help them. We will not

punish them by increasing the tuition fees, subscription fees and stationery fees. We will not increase their school fees by two or three times next year if they go on smoking.

I do not favour the use of punitive means. He was right. I agree that a diversified approach should be used. A duty increase may be one of the approaches. But has the Government ever proposed any other suggestions? The duty increase is clear enough, and it is 41.5%, but the Government has not said how much will be used on other areas of work. I am a representative of a school, but I have not said that I support or encourage smoking. I have not said that I will condone people doing it. Do not ever get these wrong, otherwise there will be grave consequences.

Why do I support Mrs Regina IP's amendment? I have explained that earlier. I do not agree to raising the tobacco duty. But since that is passed, we have to act realistically. Since the tobacco duty will be increased, I hope that it can be increased in phases and in stages. This will reduce the impact caused. If a longer period for adaptation is put in place, then people can have more time to adapt to the increase. Things should be done in an orderly and gradual manner. We should strive to strike a balance and we must not do anything regardless of the consequences. Thus I have to make it clear once again. Chairman, please do not interrupt me. I must make that clear. Apart from Mr CHEUNG Man-kwong, I am in the education sector. I will never encourage anyone, especially the young people, to smoke. If they smoke, I will urge them to quit as soon as possible. I hope that the Government can do its tobacco control work well through various channels. I also hope that Hong Kong can really become a smoke-free city some day. But I have to emphasize once again, that increasing the tobacco duty is not the most effective way. It makes people hostile to it and those business operators will also be affected.

Chairman, I so submit.

MR WONG TING-KWONG (in Cantonese): Chairman, I believe the Secretary, when he makes a concluding speech later, will certainly call upon Members not to support the amendment by Mrs Regina IP. Mrs IP has said that the authorities have bargained with her. I also want to bargain with the Secretary now. I want to ask a question and that is, Mr Andrew CHENG has said that Hong Kong will

become a smoke-free city in five to 10 years' time, and WANG Guang-ya, the Director of the Hong Kong and Macao Affairs Office, has also said that the SAR Government should have vision, then does the Secretary have any long-term planning for the future development of the tobacco industry in Hong Kong? Will the tobacco industry be eliminated in a few years' time? As this has an effect on the livelihood and well-being of those employed in the tobacco industry, I hope the Secretary can comment on that later. He should explain his position on that issue when he wants to persuade Members not to support the amendment by Mrs IP. This will enable the industry concerned to get prepared and the public can also have a basis for consideration.

The second issue in this negotiation is that I want to ask the Secretary, when the charges for smoking cessation service, such as the registration fee and the charges for the drugs not included in the Drug Formulary as mentioned by Dr LEUNG Ka-lau just now, be waived? When can comprehensive services be provided to the smokers to save them from tobacco dependence? If that can happen, I will be the first one to thank the Secretary because I also hope that he can do something to save me.

The third point is, as I pointed out in the Second Reading debate, the existing law forbids persons under the age of 18 to buy cigarettes and the sale of cigarettes to them, but there is no law which forbids them to smoke. I once cited a funny situation and that is, an obedient son who buys cigarettes for his father will be arrested; but a disobedient son who smokes his father's cigarettes secretly is not punished. Will the authorities consider when laws can be enacted to rectify this ridiculous situation?

CHAIRMAN (in Cantonese): Mr WONG, what is the relevance of your speech to this clause?

MR WONG TING-KWONG (in Cantonese): Well, I was thinking about whether I should support Mrs Regina IP's amendment or not based on the response from the Secretary. If he can do the few points I have said, I will certainly have reservations about the amendment by Mrs IP. Right? So I hope that the Secretary can comment on these issues. Since the authorities have

bargained with Mrs IP regarding her amendment, I also want to bargain with the authorities. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, you are speaking for the second time.

MR ANDREW CHENG (in Cantonese): Chairman, as there are a few Members who have mentioned the views expressed by me in my last speech, I will respond to their comments and see if we can convince each other.

First, I must mention Dr LAM Tai-fai. All along, I have not spoken in a frivolous manner about his position in a school. I do not mean to say that since the name of the school bears his name, there is no reason why he will not support the Government. I do not mean that. However, I have said that because he will worry that the public will ask why, as an educational worker or a school supervisor, he does not support a government measure which an ordinary person would consider worthy of support, that is, by resorting to an increase in duty or other means to prevent the young people from forming the habit of smoking. I do not intend to label him or say that he is really not correct for, being a school supervisor, he does not agree to an increase in tobacco duty. This is not what I mean. I heard very clearly earlier that when he spoke, he said although he was a school supervisor and an educational worker, he hoped to explain why he did not support the measure. I respect his views. However, I hope to convince him. First, he has said that many people are hostile to that. But I do not think that the people are hostile to that. Of course, some people are hostile to that. Some Members who represent the functional constituencies may think that this method should not be used. They will certainly be hostile to that. But with respect to the question of how society would look at this increase in tobacco duty, I dare argue with him that the mainstream view in society approves of the increase. Of course, there are some other views too, say Mrs Regina IP's proposal that the tobacco duty be increased in phases. I do not think that since the matching measures by the Government are not done properly, then it can be a reason for not increasing the tobacco duty and maintaining the *status quo*. I think that is irresponsible. I would think that Members should all exert their best in tobacco control and the issue of smoking. They should support the Government in raising the tobacco duty as much as possible, so as to reach the standard set by the

World Health Organization (WHO). On the other hand, if the matching measures are not satisfactory, we can criticize the Government strongly and urge it to improve the smoking cessation service. For example, Mr Vincent FANG said that the increased revenue should be used specifically for that purpose. I agree with that. If the Government fails to let the people see that it will use the revenue thus collected on smoking cessation service, then the people will have another reason to chide the Government.

The same applies to illicit cigarettes. Chairman, I am not going to speak at length on that. This is because it is really if the Government has the determination, I am sure there is nothing it cannot do. I hope that the strategy used by the Government I hope that Members will not oppose this just because the Government has not done a good job in other matters.

I also want to place a bet on the question of whether Hong Kong can ever become a smoke-free city. Chairman, Mr WONG Yuk-man said that I would never be able to see it for as long as I live. Then I will make some calculations based on my limited medical knowledge and the average life expectancy of a male. Chairman, it seems that the average life expectancy of a man is 78 years, or 79 rather. Dr LAM Tai-fai was right when he said 79, for he is a scholar and a school supervisor. I am 51 years old now. When 79 are deducted by 51, it means I still have 28 years to wait. Twenty-eight years are not long, but they are not short either. I hope Members can assume a greater responsibility in striving for a smoke-free city. Of course, the Government is duty-bound, and so are the governments of other countries and the WHO. I hope to achieve a smoke-free city in five to 10 years' time. The period of 28 years is twice the length of the time I would expect and so I dare to place a bet with him on that.

Some people may say that I am a fool and doubt if there can be a smoke-free city. They will say that even if laws are enacted to ban the sale of cigarettes, there will be people who smoke illicit cigarettes or break the law. But we are talking about the law forbidding the sale of cigarettes. Once laws are enacted for this purpose, then our city can be called a smoke-free city. There are always people who break the law. Members should not say to me that provided that there is a stick of cigarette in this society, it will mean Our city is now a drug-free city because our laws forbid the taking of drugs. You cannot say that this is not a drug-free city if there is a small amount of drugs here. This is not what I mean.

Chairman, there is another point of view which upsets me after hearing it. Some people say that our grass-roots elderly I have been a directly elected Member for a very long time. Chairman, since 1994, I think the number of elderly persons who I have come across are no less than those whom Mr Albert CHAN has come across. I often go to the housing estates and talk to the elderly persons. If a Member or an advocator or leader of public opinion has found something wrong in society, such as smoking is bad for the elderly, then the Member should speak up. Every time when I see the elderly smoke, I would advise them to smoke less or try to do other things. By and by the elderly persons would realize that there are still a lot of things worth doing in the housing estate. Smoking is not the one and only enjoyment for the elderly persons. Chairman, I would think that this view is an exaggeration. I have just thought about it carefully and found that there are many other things that the elderly persons can do. An elderly person has once told me that he has quit smoking and he now looks after his grandchildren, goes to a restaurant to drink tea, plays a game of chess, mahjong or tai chi. And he also goes to a park or even trek in the mountains. There are a lot of things to do. All these do not need any money at all. Certainly, Chairman, one may lose money in a game of mahjong. But one does not always lose and mahjong is just a game to kill time.

I therefore strongly disagree with the idea put forth by Honourable colleagues, that smoking is the only enjoyment for the elderly. It is not the one and only enjoyment for the elderly. If an elderly person says that smoking is his one and only one enjoyment, I will certainly try my best to tell him that it is not. And on top of that, a healthy life can be very colourful.

Mr LEUNG Yiu-chung also mentioned my name. He said that this policy from the Government is not radical enough and it should not be put into practice. He thinks that it will not lead to any result and so it should not be implemented. Other people even criticized this idea of a smoke-free city as too idealistic. But I think people should have ideals. A person who does not have any ideal is like a zombie. My ideal is that Hong Kong can really become a smoke-free city. I hope the Government can work towards this as much as it can. The way I see it is that the present approach is certainly not the best one and there are many defects. I have criticized the Government a lot on this and I do not wish to repeat it now. I hope Members can tell the difference between the rate of increase in duty and the phased increase spreading over five years as proposed by Mrs Regina IP. I wish to tell Members that if the tobacco duty were increased in phases, it would exactly play into the hands of some tobacco merchants. If the

Government is not allowed to increase the duty in one go but increasing it slowly, the tobacco merchants will use a lot of gimmicks and resources to lure the young people into smoking. Mr CHEUNG Man-kwong also mentioned this earlier. We know that judging from the living standard and affordability of the young people, a small increase in tobacco duty will have no effect on them. However, we certainly hope that this tobacco duty can be increased as much as possible. But if it is to be increased in phases, the tobacco merchants and other people with an ulterior motive may resort to many gimmicks or methods to lure more young people to become smokers. Once they are hooked to it, if the Government wants to increase the tobacco duty and provide smoking cessation service for them later, it will have to use more resources. So it is not a proper option.

I emphasize again that the Government must listen to the views put forward by Honourable colleagues on this topic earlier. I am sure Secretary Dr York CHOW will see the point. However, if we want him to turn Hong Kong into a smoke-free city all of a sudden, it would be very difficult. And Mr LEUNG Yiu-chung said that it would be the best if a motion on that is proposed every year for a debate or even Chairman, in fact, I have thought about it. Yet, as we all know, how can Members have this power to do it? They cannot propose a private Member's bill. They have no power to make laws. Motion debates are no more than talking forums. But that does not mean that I do not have the heart for it. Actually, whenever a debate is held, all the eyes of the community are set on the Members, and the people will want to see what the Members say and what they can do to push the Government to go a step further. I hope we will not just choose a lesser evil, but take a step forward. We should do as much as we can. As in the case of a smoking ban on indoor premises, at first the ban was only confined to indoor premises, but as a result of what we did, the ban was extended to semi-enclosed places like a bus stop. So we need to go step by step and things can be possible. In some cities, smoking is prohibited when there are three persons waiting. This is what we need to do as well. In some cities or countries, a smoking ban is imposed in all public places, both indoors and outdoors. I believe this is what we should do step by step. We cannot afford to wait until all things are ready before we do anything.

So, Chairman, I hope Members will not misunderstand me. First, I have not criticized any school supervisor in a frivolous manner, saying that he does not support the increase in tobacco duty. And I do not want to compete with other

people to see who can live longer. But I really hope that I can live to see Hong Kong become a smoke-free city. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, speaking for the second time.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, whether or not Hong Kong can become a smoke-free city is very important to many people. Should Hong Kong become a smoke-free city, we would not be able to survive. What has dealt the heaviest blow to human health is not cigarettes, but pollution caused by industries. Members actually know what the problem is but not the cause of it. Bhutan has no industries and it can, of course, be a smoke-free city. Even if smoking is banned in New York or smoking is banned in Hong Kong, can these two cities become smoke-free then? We should always look at things more clearly. How many countries in the world are like the Kingdom of Bhutan? Bhutan is the Shangri-La. Where exactly are we now as we have digressed from the topic of discussion? Chairman, why do we not open all the windows in this Chamber and use no electricity because the use of electricity will generate smoke and then there will also be the nuclear problem. So, where are we taking the discussion to? This Council is indeed of too low a standard; it is so pitifully low.

I seldom travel for leisure, but I do travel for business more often. I have never been to Bhutan. CHEUNG Man-kwong may have been there. It is surely smoke-free there, because no industries can be found there and it is an agricultural country. Frankly speaking, this is also a problem of commercial goods

CHAIRMAN (in Cantonese): Mr LEUNG, please come back to the clause under our examination now.

MR LEUNG KWOK-HUNG (in Cantonese): No, I just think that since we have come this far as to talk about becoming a smoke-free city in a decade's time, as if conducting an electioneering campaign here, I, therefore, made those remarks just now. Let me tell you, Chairman, that I also would like Hong Kong to become a smoke-free city 10 years down the road. But I know that if I include this in my

election platform for the Chief Executive election, I will certainly be beaten to death because, in order to be smoke-free, motor vehicles will not be allowed to run on our roads, and this will not be allowed and that will not be allowed. The engine idling prohibition alone has already taken so long to achieve. So, Members please stop scrambling for the moral high ground anymore.

I really have to ask Members, the 58 colleagues, this: What methods do they have to make Hong Kong a smoke-free city? Is this feasible?

CHAIRMAN (in Cantonese): Mr LEUNG, please come back to the clause under examination now.

MR LEUNG KWOK-HUNG (in Cantonese): But you permitted the Member concerned to say this, and she was canvassing votes, saying that this is the reason, and she talked about places all over the world

CHAIRMAN (in Cantonese): You were repeating what you already said during the Second Reading debate.

MR LEUNG KWOK-HUNG (in Cantonese): Alright. My view is simple. I cannot support the proposal of Mrs Regina IP. This actually involves a most basic common sense question. What happens now is that the people who exercise the public powers vested in them are saying that smoking is bad to you and they are suspecting that you will adversely affect other people and so, they seek to stop people from doing it by levying a duty. This is a very bad thing to do, downright tyranny.

For example, what direct harms does smoking cause? Is smoking not bad to health? Many Members described smoking as most hazardous, saying that even non-smokers may be exposed to second-hand smoke and that this is not good to family members. They think that if a person always smokes, his son, when seeing his father smoke, will imitate him, and this is very dangerous, as it will certainly result in

This is like saying that if the contents of a book are not good, anyone who reads it will imitate it and so, it must be censored. This is an argument advanced by Karl MARX when he discussed the freedom of press.

Following this logic, people will definitely say in future that since the thinking and speech of a person are not good to society, he must be prohibited from publishing books. But then, people can say that never mind, if the author still wishes to publish this book, he can pay a tax. If the book is going to be sold at \$10 each, the author has to pay a tax of \$20,000 before he is allowed to publish the book. This is to impose a tax in order to stop people from doing something. Now that my colleagues — colleagues who stand up for human rights — are outrageously making these remarks, do you not think that this is horrifying?

Chairman, I must really get this off my chest. Although I do not belong to the education sector, I would like to do some teaching here. There are so many Members who come from the education sector, and every one of them is giving guidance and advice patiently. Let me tell you that this is a very horrifying concept. For example, I can point a finger at Dr Margaret NG any time, saying that one of the points she made has a bad influence on children or her elders, and tell her to cease to be a Member of this Council. But then, I can say that I understand that she has human rights and so, I can let her speak but she must first pay a "misleading tax". Can I do this?

The question of smoking under discussion now is just the same. There is no more second-hand smoke because it is already "cut" off. This is the direct loss in a zero-sum game. That is to say, when I smoke, you inhale the second-hand smoke and so, you directly suffer from what I do. But if the indirect losses have to be counted, it would be impossible to

CHAIRMAN (in Cantonese): Please come back to the clause in question.

MR LEUNG KWOK-HUNG (in Cantonese): No, I think there is a reason for me to oppose it. It is actually wrong to levy a tax. What is the best way to do it? It is best to intimidate them. As you can see, a few broken-down vehicles used to be placed at the biggest roundabout to tell people that this is the result of speeding. Imprisonment can also be an option, or the fingers of smokers can be prodded by needles and they will be frightened. It will be successful if they are frightened, in which case is it still necessary to levy a tax? So, it is not workable to stop a behaviour by way of taxation. Even if you consider the behaviour of other people improper, it is not a crime to act improperly and so, I do not support Mrs Regina IP's amendment. I must get this off my chest after listening to the

speeches of Members. I hope that Members can visit Bhutan Chairman, I would suggest that you lead a deputation comprising of the 59 Members to Bhutan to find out about the situation there and what "smoke-free" really means there. It does not mean having no cigarettes. It means not having smoke from other sources.

CHAIRMAN (in Cantonese): Dr LAM Tai-fai, speaking for a third time.

DR LAM TAI-FAI (in Cantonese): Chairman, first of all, please allow me to take a little bit of time to thank Mr Andrew CHENG for his speech earlier on. He clarified some misconceptions, so that Members would not misunderstand my views. In his speech earlier, he had spoken with a very sincere and serious attitude indeed, and I accepted that. Besides, what he said has dispelled Members' misunderstanding about me opposing tobacco control and encouraging smoking. I must stress that I absolutely do not encourage smoking. I absolutely hope that everyone can quit smoking and stop smoking. I thank Mr Andrew CHENG for his clarification.

I am also very happy to hear him say just now that he is a man with ideals, not a "zombie". Being his colleague, I am very happy indeed to be able to know a colleague with such ideals. I must learn more from him.

The remarks that he made earlier

CHAIRMAN (in Cantonese): Dr LAM, I do not mean to interrupt you but please come back to the relevant clause.

DR LAM TAI-FAI (in Cantonese): I am coming back to the subject matter.

What Mr CHENG has said is related to Mrs Regina IP. He said that the work of tobacco control should be carried out by all means and that even if work is not carried out satisfactorily in some areas, does it mean that the duty rates cannot be increased? This argument seems to be a bit specious. Why? If the result is not satisfactory, the authorities should make improvements and it is not a must to increase the duty. I am most worried that his view would give the

Government a wrong impression that once the result of its work is unsatisfactory, it can increase the duty rates as a solution, thinking that Members will throw weight behind it. Then, the Government, feeling complacent, will think that it can act sluggishly in other areas of work without having to get its job done properly. This wrong impression will mislead the Government. It will give the Government a wrong idea in thinking that increasing the duty rates can be a solution to the problem and that this can get the support of Members.

Some Members pointed out earlier that the total number of smokers has not dropped following the increase of tobacco duty two years ago. In that case, who is the only beneficiary? It is the Treasury. The number of smokers has not dropped but the Treasury has pocketed the revenue from the duty. As Mr Vincent FANG said earlier, the revenue generated from tobacco duty will not be allocated for a specific purpose. The additional revenue generated by the duty increase receivable by the Treasury is not required to be spent specifically on tobacco control. Such being the case, who knows whether or not the money is spent on planting flowers? Who knows whether or not the money is spent on building a playground? Nobody knows.

CHAIRMAN (in Cantonese): Dr LAM, as this is the third time that you speak, please do not repeat what you have already said.

DR LAM TAI-FAI (in Cantonese): Chairman, I have not made any repetition. I really have not.

I support the proposal of Mrs Regina IP because her proposal can dispel a misunderstanding of the Government, that a one-off duty increase can be a solution to the problem of the smoking population. This is why I support her proposal to increase the duty rates in phases. Her proposal will enable the authorities to make consideration calmly. If, in the first year after the duty rates are increased, the result is found to be unsatisfactory, the duty rates should not be increased further. A one-off duty increase will leave no room for manoeuvre because all the tax revenue will be channelled to the Treasury.

Chairman, I so submit.

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

(Mrs Regina IP raised her hand in indication)

CHAIRMAN (in Cantonese): Mrs Regina IP, you will have time to reply later. If no other Member wishes to speak, I will first call upon the Secretary for Food and Health to speak.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, now I would like to respond to Mrs Regina IP's amendment.

First of all, I have to emphasize that the tobacco duty increase is just one of our measures of tobacco control. It is not the comprehensive and the most important initiative. Of course, to increase tobacco duty at different times will achieve different effects. So in this regard, I should make it clear that there are many other tobacco control measures, including the legislation enacted in October 2006, at the Government's disposal, apart from increasing tobacco duty. In many cases, our enforcement action has achieved certain effects. Coupled with the tobacco duty increase, the smoking problem in Hong Kong can be ameliorated continuously and passive smoking can be reduced.

Just now, some Members have queried whether we have any objective of transforming Hong Kong to a smoke-free city. Although this is a desirable goal, it is not possible for us to set a timetable at this stage. We believe that if fewer and fewer young people smoke and at the same time more and more smokers kick the habit, I see no reason why Hong Kong cannot become a smoke-free city one day. In this regard, we have to tie in with policies in other aspects instead of dealing with the problem simply by increasing duty rates.

On the other hand, to help smokers quit smoking is a very important responsibility of the authorities. As I said earlier, publicly-funded smoking cessation services operated by non-governmental organizations are all free, including those mentioned by me and Mr WONG Ting-kwong. For instance, the smoking cessation services provided by Pok Oi Hospital and the Tung Wah Group of Hospitals are all free. Funding has also been provided to the Hospital Authority so that medication for smoking cessation can also be provided to smokers free.

Regarding the question raised by some Members concerning whether legislation would be enacted to ban people aged 18 or below from smoking, we should conduct a study so as to understand the consensus of society in this regard before giving consideration to it.

In her amendment, Mrs Regina IP has proposed to increase tobacco duty on cigarettes to 83% in phases over a period of five years. In other words, the duty will be increased by \$0.2 per stick in each year so that it eventually accounts for 75% of the selling price of cigarettes, which is the threshold recommended by the World Health Organization (WHO). Specifically, the price of a pack of cigarettes will be increased by \$4 annually from the present to 2015.

The Government does not support this amendment. As I already pointed out in my speech earlier, tobacco price has a strong inverse correlation with tobacco consumption, which is well established internationally and empirically. To increase tobacco duty in one go will be more effective than a small amount of increase in phases. To increase the prices of tobacco products through a substantial increase in tobacco duty is the most direct and effective way to reduce tobacco consumption and encourage people to quit smoking. The pressure of price adjustment will not be keenly felt by smokers if tobacco duty is increased in phases. This will simply undermine the effect of a duty increase on tobacco control and whittle down the power of tobacco control measures.

We believe that only a substantial increase in tobacco duty in one go can provide sufficient incentives to smokers to smoke less or kick the habit, especially the young smokers. It will have certain effect on preventing the youngsters from being exposed to tobacco and forming the habit of smoking. The youngsters are more price sensitive, less addicted to smoking and feel more keenly the impact of an increase in cigarette price. In fact, according to an opinion poll conducted recently, over 40% of smokers said that they would smoke less because of the tobacco duty increase this time around. If the duty rate is reduced now, it will reduce the momentum and effectiveness of tobacco control. And the determination of smokers to smoke less and quit smoking on their own initiative will also be swayed.

Mrs IP's proposed amendment will also have the effect of pre-setting the tobacco duty rates in the next few years. As a result, tobacco companies and distributors may stock up cigarettes on the old rate before the duty increase in the next phase is implemented so as to avoid the duty and maximize their profits.

We agree that in the long run, we may have to follow the WHO recommendations that tobacco duty be increased to a level that it accounts for 75% of cigarette prices. In spite of that, any adjustment in tobacco duty must take into account various factors, including the effectiveness of tobacco control, the trend of smoking prevalence, the acceptability of tobacco control by society and its aspiration, cigarette prices, the world trend, and even the economic situation of Hong Kong as a whole. Furthermore, tobacco companies can change cigarette prices at any time on commercial grounds. So it is impossible to predict the tobacco prices in each of the next five years up to 2015. Therefore, regarding the question of whether the increase in tobacco duty proposed by Mrs Regina IP will eventually lead to the 75% threshold recommended by the WHO, we should not and do not have sufficient justifications to pre-set the tobacco duty rates for the period from the present up to 2015.

We understand that Mrs IP's amendment seeks to reduce the impact of tobacco duty increase on smokers, and her proposal will undoubtedly be more acceptable to smokers. However, I have to point out that we will not be able to achieve immediate results since the proposal may nullify the effectiveness of the increase. A moderate increase will not cause smokers to do any profound soul-searching and take any concrete action to smoke less or try to kick the habit.

I would also like to make a clarification. After learning about Mrs IP's proposal, we have communicated with her in order to understand her views and those of her party. However, we consider her amendment unacceptable and will insist on the Government's prevailing policy in respect of increasing tobacco duty without any compromise.

I know that it is not easy to quit smoking. But precisely because of this, we should encourage and help smokers kick the bad habit. If a tobacco duty increase, coupled with appropriate smoking cessation counselling, can directly or indirectly reduce their frequency of smoking so that they can ultimately say "No" to smoking, then this will bring them the maximum benefit.

Chairman, regarding the policy of protecting public health by increasing tobacco duty, we will not make any compromise. If Members support the Government's tobacco control policy and concur that there is a need to step up tobacco control measures, we do not see any reason why we should cripple ourselves, significantly reducing the effectiveness of the tobacco duty increase as a measure of tobacco control.

From the perspective of protecting public health and reducing the number of smokers, especially youth smoking, our current proposal of increasing the tobacco duty is fully justified. For this reason, we oppose Mrs IP's amendment.

Thank you, Chairman.

MRS REGINA IP (in Cantonese): I am grateful to the Secretary for the response, as well as the many Members for their speeches. Although I belong to the minority, there are Members like Dr LAM Tai-fai who care so much and generously lend me their support. There are even Honourable colleagues who say that even though they cannot support my amendment because they are against the increase in tobacco duty in principle, they have spoken out in support of the minority view. I am very grateful to them.

I think this phenomenon has great significance. Students of parliamentary systems have told me that parliaments in foreign countries are so designed as to protect a number of rights. First, the rights of the majority. Second, the rights of the minority. And third, the rights of those not in attendance. So when Members propose amendments in the Council to protect the rights of the minority, I think that it is a very healthy thing.

The Secretary has reiterated the arguments against my amendment. Actually, both the Secretary and the Under Secretary told me before that spreading out the increase in tobacco duty in five phases was like trying to cook frogs with lukewarm water. The effect will not be marked. But this practice has been adopted in the United Kingdom for a long time. I have examined the amendments moved in the British Parliament during the past 20 years and found that the relevant amendments are based on inflation. They also have an index and some are based on "inflation plus 1% or 2%". In most cases, they are based on "real increases". At most, it is 5% and 41.5% is very rare.

Now the rate of increase proposed by the authorities can be said to surpass that in the United States and the United Kingdom. The proposed rate of increase is very substantial. The arguments used by the Secretary and the Under Secretary to persuade me to withdraw my amendment are, for example, if the approach of a notice in advance is used, the people may hoard the commodities and there will be difficulties in enforcement. But this practice is adopted in the United Kingdom nonetheless.

Are the Chancellor of the Exchequer of the United Kingdom, Alistair DARLING, and the Prime Minister, Gordon BROWN, less intelligent than our Secretary? Are there no difficulties in enforcement in the United Kingdom? They made the announcement and said that the rate of increase over the next two years would be a certain percentage and the smokers, tobacco merchants and retailers all had a chance to get prepared. The policymakers know that a full-scale smoking ban is not possible. So if a law is really enacted to ban smoking, that would really lead to big problems in enforcement.

Of the many arguments presented, the remarks made by the Under Secretary are most unconvincing to me. He said that if I could withdraw my amendment and so spare everyone of the hard time Chairman, I feel more repulsive because of such remarks. Who does not have a hard time? Chairman, you have just been married and you have a wife at home, but you are still presiding over the meeting here. So is our Chairman not having a hard time? Our salary is no match with that of the Secretary and Under Secretary. We have to hold functions on the streets during father's day and mother's day. Do we not have a hard time? This kind of idea is completely unacceptable.

Coming back to the question, the Under Secretary said that if I could withdraw my amendment, the Secretary could undertake not to increase the tobacco duty in the next few years. I think this kind of remarks is ridiculous. This is because if the Secretary can undertake not to increase the tobacco duty in the next few years, it would mean that the Secretary is admitting that raising the duty to discourage people from smoking is not effective. If the tobacco duty is not increased in the next few years, when added to the effect of inflation — the inflation rate this year is 4.5% and even WANG Guang-ya, the Director of the Hong Kong and Macao Affairs Office, also reminded us to watch out for this problem of inflation because it may top 7% at the end of this year — a few years from now, this increase of 41.5% will become totally ineffective. What is more, the Secretary has said that he cannot guarantee that the WHO standard of 75% can be achieved.

So I think that my amendment is the most upright and justified and it can enable all the people concerned to know the scheduled increase in tobacco duty. And the target to be achieved is 75% as advocated by the WHO. I think it is only fair and reasonable to reflect the harms done by smoking on society in the prices of tobacco products.

I implore all Honourable colleagues to support my amendment. Thank you.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mrs Regina IP be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (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 LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Vincent FANG, Dr

Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHEUNG Kwok-che and Mr IP Kwok-him voted against the amendment.

Dr LEUNG Ka-lau, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, 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 Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Mr WONG Kwok-hing, Mr WONG Kwok-kin and Mr Albert CHAN abstained.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, four were in favour of the amendment, 18 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, one was in favour of the amendment, 24 against it and three abstained. 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.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 3 stand as 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.

(Members raised their hands)

Mr Vincent FANG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Vincent FANG has claimed a division. The division bell will ring for three minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, please cast your vote.

(Mr LEUNG Kwok-hung pressed the button to vote)

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Emily LAU, Mr Andrew CHENG, Mr Timothy FOK, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Ronny TONG, Prof Patrick LAU, Mr KAM Nai-wai, Ms Cyd HO, Mr Paul CHAN, Mr

CHAN Kin-por, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Dr Samson TAM, Mr Alan LEONG and Miss Tanya CHAN voted for the motion.

Mr LEUNG Yiu-chung, Ms Miriam LAU, Ms LI Fung-ying, Mr Vincent FANG, Dr LAM Tai-fai and Mrs Regina IP voted against the motion.

Mr CHAN Kam-lam, Mr WONG Yung-kan, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr LEUNG Kwok-hung and Mr Albert CHAN abstained.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that there were 54 Members present, 33 were in favour of the motion, six against it and 14 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2011

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the

Dutiable Commodities (Amendment) Bill 2011

has passed through Committee without 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 Dutiable Commodities (Amendment) Bill 2011 be read the Third time and do pass.

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.

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): As we cannot finish all the items on the Agenda before midnight today, I will declare the meeting suspended at around 10 pm.

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.

Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Emily LAU, Mr Andrew CHENG, Mr Timothy FOK, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Ronny TONG, Prof Patrick LAU, Mr KAM Nai-wai, Ms Cyd HO, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Dr Samson TAM, Mr Alan LEONG and Miss Tanya CHAN voted for the motion.

Mr LEUNG Yiu-chung, Ms Miriam LAU, Ms LI Fung-ying, Mr Vincent FANG, Dr LAM Tai-fai, Mrs Regina IP, Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the motion.

Mr CHAN Kam-lam, Mr WONG Yung-kan, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 54 Members present, 33 were in favour of the motion, eight against it and 12 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 2011.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 2011

Resumption of debate on Second Reading which was moved on 13 April 2011

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): President, in my capacity as Chairman of the Bills Committee on the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011 (the Bills Committee), I shall now submit the report of the Bills Committee and brief the Council on its major deliberations. The object of the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011 (the Bill) is to implement the measure proposed in the 2011-2012 Budget relating to the increase of rate for each tax band for the First Registration Tax (FRT) for private cars by around 15%, in order to control the total number of vehicles and to ease traffic congestion. The Bills Committee has held four meetings to scrutinize the Bill, and to receive views from members of the public as well as deputations of the relevant trade associations.

The Administration has advised that the net increase in licensed private cars started to show a rising trend in 2004. In 2010, the net increase in private cars surged to 5.4%, which was a record high in 14 years. Moreover, car journey speeds declined throughout the territory in 2010 for the first time in five years, at an unprecedented decline rate of over 5% across the board. The

Administration therefore considers it necessary to take decisive measures to curb the growth of private cars before traffic congestion deteriorates.

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

During the deliberations of the Bills Committee, some members of the Bills Committee have queried that the traffic congestion is not necessarily attributable to the growth in private cars. They have pointed out that many private car motorists only drive on weekends and holidays, and that the large public bus fleet may in fact account more for the congestion problem. Members consider that the Administration has not provided adequate justifications to support its view that the traffic congestion problem is caused by the growth in private cars, and the current FRT increase proposal is therefore unfair to private car owners. The Bills Committee also notes that notwithstanding the growth in private cars, the vehicle kilometrage (VKM) figure of private cars steadily accounted for around 38% of the VKM of all vehicles every year from 2000 to 2009.

In order to tackle the problem of traffic congestion effectively, Bills Committee members in general consider that the Administration should launch a comprehensive plan to ease traffic congestion. Some members consider that measures such as buying back the Western Harbour Crossing and Eastern Harbour Crossing, rationalizing franchised bus routes, and implementing park-and-ride would be more effective in easing traffic congestion.

To meet the objective of containing the growth of private cars as proposed by the Administration, many members have suggested that consideration should be given to encouraging scrapping of old private cars by offer of tax incentives, which would achieve the effects of containing the growth of private cars and improving air quality. Some members have put forward a "one-for-one" proposal, that is, to exempt buyers of newly registered private cars from paying FRT under the new rates provided that the buyers have their old cars scrapped. Some members have further proposed increasing the existing FRT concessions for environmentally-friendly petrol private cars so as to encourage persons who are going to purchase a new car to opt for an environmentally-friendly petrol private car. The Bills Committee is pleased to note that the Administration has

eventually accepted members' proposal of increasing the existing FRT concessions for environmentally-friendly petrol private cars.

Bills Committee members in general consider that for the sake of fairness, exemption should be granted by the Administration to private cars on order but had not yet been registered before the Financial Secretary announced the increase in FRT on 23 February, so that buyers of these cars would be exempted from the new rates when paying FRT. The Administration has eventually accepted the proposed exemption. It has advised that the above-mentioned proposals of tax concession and exemption can be implemented by administrative means. No legislative amendment or amendment to the Bill is required.

The Administration and the Bills Committee have not proposed any Committee stage amendments to the Bill.

Deputy President, next I will present views on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

Over the past three months, the Legislative Council has formed the Subcommittee on Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 and the Bills Committee on the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011 respectively to scrutinize the proposal of increasing the rate for FRT for motor vehicles, receive views from members of the public and the automobile trade, and conduct sufficient discussions. The general controversy over the Bill centres around the following points: First, the Government has not presented adequate justifications to support its view that the growth of private cars has been the major culprit of the traffic congestion problem. Second, the middle class who has all along been enjoying limited social benefits are the people most affected by the increase in FRT, which will make them consider shelving their plan to purchase new vehicles and retain their old ones, or turn to imported second-hand private cars that entail less FRT. This will defeat the principle of environmental protection and slow down the speed of replacing old vehicles with new ones. The roads will be crammed with old vehicles, and this will not help ameliorate air pollution. Third, there are queries about whether the proposed increase in FRT is an effective measure to ameliorate the traffic congestion problem. It is necessary for the Government to consider other means in a holistic manner. Fourth, the increase in FRT is unfair to car

owners who had paid deposits for new cars which had not been delivered prior to the announcement of the tax increase.

During the deliberations, members spent a lot of time discussing whether the growth in private cars was the major reason contributing to traffic congestion. They particularly targeted at the data analysis put forward by the Government. Some members of the public and members of the Bills Committee put forward many different views. For instance, according to the information published by the Transport Department, the overall road usage of private cars in terms of vehicle kilometrage (VKM) in 2009 only showed a slight increase of about 1.1% when compared with their VKM figure in 2000, whereas the VKM of taxis and public buses increased by 15.6% and 11.4% respectively. Moreover, the VKM of private cars steadily accounted for around 38% of the VKM figure of all vehicles every year. In this connection, the Government gave a number of explanations and provided further supplementary data and information to refute the opposing views, indicating that if the 1999 figure was compared with the 2009 figure, the growth in VKM of private cars was 1.8% instead. Furthermore, the growth in VKM of private cars during 1996 to 2009 accounted for 80% of the total growth in VKM of all vehicles. Besides, the road usage rate of private cars during peak hours showed a rising trend in recent years. Thus, the Administration maintained its position that the traffic congestion in Hong Kong was closely related to the growth of private cars. Given the data, was such a presentation an objective analysis, or a subjective wish in which various parties simply extracted what they wanted from the data to present their own views? Both the Government and members were accusing each other. If the argument was about whether the grounds of respective views were substantial and convincing, the relevant argument would remain endless.

Thus, I wish to reiterate that the DAB does not entirely negate the effort to curb the growth of private cars, but we have all along emphasized that resorting to levying tax in order to exercise control cannot be regarded as the only major means to reduce the growth of private cars and ease the traffic congestion problem. In fact, whether the effectiveness of this means is satisfactory is yet to be ascertained. Thus, the DAB opines that the Government must not rely on a tax increase to ameliorate the problem. Instead, it should at the same time adopt other effective means and iron out the negative impacts of the tax increase. For this reason, the DAB and Members of the pro-establishment camp has all along hoped that the Government can perfect the relevant measure of tax increase and

consider waiving the tax increase under three circumstances — when car owners had signed contracts to order new private cars before the announcement of the measure; when car owners replace their old cars with new ones; and when persons purchase environmentally-friendly models specified by the Administration — in order to alleviate the impact brought about by the increase.

Consequent to that, the Government has eventually put forward a revised proposal to be implemented by administrative means. It has proposed that car owners who had ordered private cars before the new tax rate came into effect should be exempted from the tax increase of 15%. Further, the Government has also enhanced the tax concession for environmentally-friendly petrol private cars. To encourage more people to buy environmentally-friendly cars, the concession rate will be raised from the current 30% or a cap of \$50,000 per car to 45% or a cap of \$75,000 per car. Insofar as this issue is concerned, the DAB opines that the Government has heeded sound advice and accepted the suggestions made, which represents a positive response to our concerns.

First, to the car owners who might be innocently subject to tax increase according to the original plan of the Government, the exemption for car owners who had ordered private cars before the new tax rate came into effect is good news indeed, because they had not planned any budget for paying the 15% new tax when they ordered their new cars before the announcement of the new measure. Under the current new proposal, at least they will not bear an extra burden in the face of soaring prices. With regard to tax rebate procedures, we do not see any major problems because when car owners order new cars, they are given documents such as agreements for sale and purchase, bank records and records of the Transport Department as evidence to prove the dates of transaction and payment of deposit.

As for the Government's proposal of enhancing the tax concession for environmentally-friendly petrol private cars, the DAB opines that this reflects that our proposals of exemption for replacement of old cars with new ones and purchase of environmentally-friendly models specified by the Administration have already been jointly considered by the Administration, resulting in subsequent amendments. To a certain extent, we have achieved our objective. Nevertheless, compared to the proposal of replacing old cars with new ones, the revised proposal seems to have imposed more restrictions, that is, owners have to purchase environmentally-friendly models specified by the Administration in

order to qualify for exemption from the tax increase. However, as 43 models of environmentally-friendly cars specified by the Administration are currently available, among which a number of models carry a price tag ranging from \$100,000 to \$300,000, car owners will be able to have more choices. Meanwhile, with more vehicles available for sale to offset the loss brought about by the tax increase, motor vehicle companies will also be benefited. The revised proposal also provides incentives to attract car owners to replace old cars with environmentally-friendly cars. The Administration has advised that given the new concession, the tax payable by 90% of the environmentally-friendly car buyers will not be higher than that of before the new tax rates took effect. For instance, under the new tax rate and the existing tax concession, a buyer of an environmentally-friendly car with a retail price of about \$300,000 will have to pay \$80,000 in tax. But under the proposed new tax rate and the additional tax concession, the amount of tax payable is less than \$70,000. With the revised proposal, it turns out that owners who purchase environmentally-friendly cars do not have to pay the increased portion of tax. Moreover, this proposal also encourages people to use environmentally-friendly cars that facilitates environmental protection as well as reduces roadside air pollution. Furthermore, replacing an old car with an environmentally-friendly car will not increase the number of private cars, and therefore will not exert further pressure on traffic congestion. Insofar as the Government is concerned, under the policy of replacing old cars with new ones, the worry of owners of old cars being eligible for the right of paying tax according to the previous rate on a long-term basis, attributing to the value of old cars and leading to speculation of old cars will be pre-empted. Since the Government has considered our views and made the above revisions to improve the measure, the DAB supports the amendments to the relevant ordinance.

Finally, the Administration has advised that apart from increasing tax, it has all along adopted measures such as constructing railways and rationalizing bus routes and frequencies to ameliorate the traffic congestion problem. The DAB again urges the Administration to adopt a multi-pronged approach to step up efforts in improving the traffic congestion situation, such as reviewing the planning of roads, resolving the uneven flow of vehicles at the three harbour crossings, expanding the public transport networks, lowering fares for modes of public transport, and considering electronic road pricing. Meanwhile, the Administration should be more flexible, and should not follow the established long-standing measures. Instead, it should open up its mindset, make reference

to the experiences of other places, study and adopt more feasible methods, and actively seek to ameliorate the problem.

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

MR VINCENT FANG (in Cantonese): Deputy President, recently, the most popular phrase to describe the Government is "a lame government". Thus, when the Director of the Hong Kong and Macao Office of the State Council attended a lunch banquet in Hong Kong the day before yesterday, he had not forgotten to call on various sectors in the territory to support the administration by the SAR Government. My instant response to this is that, very often, we cannot support the existing policies of the Government even if we want to do. The two Bills which are going to be read the Second and the Third times today, namely the Bill related to tobacco duty increase discussed just now, and the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011, are good examples. The increase in the rate for the FRT for motor vehicles has highlighted the Government's lack of substantial grounds in formulating its policy; and once it meets with resistance, it will give up its original grounds, resorting to making piecemeal changes in order to get the Bill passed. I would like to quote from a newspaper report (I quote): "The SAR Government had originally stood firm and refused to make any concessions. But facing the reality that it could not secure enough votes in the Legislative Council, it eventually announced two major concessions regarding the increase in the rate for the FRT for motor vehicles. Apart from granting exemption of new tax to car owners who had ordered and paid deposits of new cars before the announcement of tax increase, it has also enhanced the tax concession for environmentally-friendly cars, so that the sale price of environmentally-friendly cars will be even cheaper after the implementation of the new tax rate than before." (End of quote) This concession can be interpreted as the Government's admission that the purpose of increasing the FRT is not to reduce the number of vehicles.

The Transport and Housing Bureau had advised that the reason for increasing the rate for FRT by 15% was to ameliorate the traffic congestion problem, emphasizing its purpose was not to increase government revenue. However, when we held a debate on the subject of repealing this tax increase last month, many Members cited a lot of data to prove that traffic congestion in Hong

Kong was not caused by private cars but public vehicles. Moreover, some foreign commentators also pointed out that the road usage of private cars had seen a year-on-year reduction. Nevertheless, government officials have still insisted on their own views. They have cited figures to indicate that the road usage rate of private cars during peak hours has been on the rise. Motorists are using private cars for going to and from their workplaces. Unlike public modes of transport which travel on roads all day long, private cars stop once they arrive at their destinations.

Therefore, if the Government genuinely wishes to resolve the acute traffic congestion problem during peak hours, it should administer the right prescription to the problem. The traffic congestion problem existed before the tax increase. Despite the increase in the FRT rate, people will still have to go to work and drive their cars according to their office hours. Since this is the case, how can a tax increase ameliorate the traffic congestion problem during peak hours? Thus, this tax increase is not only incomprehensible but also far fetched.

Second, the Government has said that the number of licensed private cars is incessantly on the rise. When compared to the number of licensed private cars in 2000, the number of licensed private cars in 2009 had risen by 18%. However, the number of licensed private cars does not mean that all private cars will be running on the road. We know that many people in Hong Kong own more than one private car, and many people have a hobby of collecting vintage cars.

Meanwhile, the measure this time around also reflects that individual government departments are introducing policies with the aim of making their own achievements without giving regard to the work of other government departments. Increasing the FRT rate obviously runs counter to the proactive efforts of the Environment Bureau in improving air quality and reducing suspended particulates because emissions from old vehicles will cause greater damage in terms of air pollution. Raising the FRT will dampen the desire of car owners to replace old cars with new ones. In this way, the number of old private cars on the road will certainly increase. We can easily imagine its effect on the problem of air quality. By that time, I hope the Environmental Protection Department will not shift the responsibility onto car owners and use this as an excuse to levy a vehicle emission tax.

Like raising the tobacco duty, in increasing the FRT, the Government will not be able to achieve the legislative intent founded on its aspiration. Similar to the case of the illicit cigarettes market, Hong Kong permits the legal importation of second-hand cars which can be exempted from paying FRT. Thus, in enacting this legislation, the Transport and Housing Bureau is dealing a blow to normal business operation on the one hand, and opening a door for the legal importation of second-hand cars on the other. So how can the tax increase this time around achieve the established objective of the Government? This will arouse the suspicion that in enacting the legislation, the Government has the revenue of the Treasury or other objective in mind.

During the meetings of the previous Subcommittee and this Bills Committee, many colleagues have made a number of recommendations which are more effective in reducing the number of private cars than the Government's tax increase. This is particularly so with the measure of replacing old cars with new ones, and the "one-for-one" proposal. As a matter of fact, this concept was implemented in Hong Kong in 2002. According to the regulation at that time, the vehicle registrant must have owned the vehicle for at least one year, and the maximum amount of rebate was \$30,000. According to the existing regulation, owners must prove that the old vehicles will be exported or written off. In terms of containing the growth of vehicles, is this not more effective than raising the FRT? Furthermore, this can encourage car owners to "get rid of" their old cars, which will ameliorate the problem of air pollution. However, we do not understand why this has not been considered by the Government. The only explanation is that the Government's objective of raising FRT is to increase the revenue of the Treasury. In view of the current strong financial position of Hong Kong, we do not understand why the Government should continue to be such a miser, and even resorts to fleecing the general public.

There was an item of titbit concerning the Liberal Party last month. It was reported that two "fake banners of the Liberal Party" appeared in Central, claiming that we supported the Government in increasing the FRT. As a result, the Liberal Party was bombarded with expletives by car owners throughout the territory. That act was very silly because everyone knows that the Liberal Party hoists the banner of an "Industrial and Business Party". How can we support a move that raises the commodity tax? Thus, the Liberal Party opposes increasing the FRT. Even if we fail in fighting against it today, we will continue

negotiating with the Government, and hope that the "one-for-one" measure of 2002 will be adopted again. I so submit. Thank you, Deputy President.

MS AUDREY EU (in Cantonese): Deputy President, on behalf of the Civic Party, I speak to oppose the Government's increase of the FRT.

The last time the Government increased the FRT was in 2003. I was already a Legislative Council Member then. In fact, I was the Chairman of the relevant Bills Committee at that time. Back then, I supported the Government in raising the FRT. Thus, I have to say in the first place that, in principle, I do not oppose the increase in FRT. However, the reason cited by the Government in raising the FRT the last time was different from the one it has given this time around. The reason the Government gave the last time was that Hong Kong was experiencing economic difficulties, so the Government needed to generate additional revenue. Back then, the Government also claimed that since a new car was a luxury, it needed to levy additional tax on such items. Based on this reason, I supported the measure. However, the purpose of the Government's proposal on increasing the FRT this time around is not to bring in more revenue for the Treasury. It cannot use this as the reason because everyone knows the Treasury is currently "flooded". It is impossible to introduce a new tax or levy additional tax under such a circumstance, so the Government must submit other reasons.

The reason given by the Government this time around is that there has been a drastic increase in the number of private cars, with a drastic surge in 2010 in particular, which also results in the obvious aggravation of the traffic congestion problem. In other words, the Government is shifting the responsibility of the existing traffic problem onto private cars. Since this is the case, we have to carefully consider whether the reason is justified. Moreover, we also have to assess from the perspective of environmental protection, and evaluate whether the increase in FRT is contradictory with or runs contrary to the Government's environmental protection measures.

According to the data provided by the Government, there was a sudden surge of 5.4% in the number of private cars in 2010. The increase in private cars was 2.8% in 2009, 2.9% in 2008, 3.3% in 2007, 2.8% in 2006, 1.8% in 2005, and

1.7% in 2004. In other words, the number of private cars had increased every year. And in 2010, there was a sudden surge of 5.4%. Meanwhile, the data also show that there was an overall drop in vehicle speed, being more than 5%. The Administration has linked the two, indicating that the increase in the number of private cars has resulted in the drop in vehicle journey speed. However, after studying the data provided by the Government again, we found that the road usage rate of private cars had not shown an increase over the past decade or so, but had maintained at about 38%. Of course, the Government has adopted other methods to analyse the data and also put forward a series of methods for us to study.

I had also looked up the statistics on vehicle journey time surveys and the annual reports of traffic statistics, as well as carefully examining Annex III of the paper provided by the Government. Statistics on vehicle journey time surveys were recorded in the Annex, which included vehicle journey speed (kph) of a number of major roads from 2005 to 2010, in which an across-the-board decline by 5% in 2010 was shown.

However, when we looked at Annex III which listed a number of roads and the vehicle speed on these roads, we found that the fluctuations were substantial. Take the first road in the Annex as an example, that is, Connaught Road Central of Hong Kong Island, the vehicle speed at the section from Des Voeux Road West to Murray Road was 12.5 kph in 2005, 9.7 kph in 2006, 8.5 kph in 2007, 13.8 kph in 2008, 12.1 kph in 2009, and 11.9 kph in 2010. In short, sometimes the figures rose, but sometimes they dropped. A trend indicating the incessant growth of private cars had led to the incessant slow down of vehicle speed could not be detected. Instead, the fluctuations of both rises and drops were substantial. This was only one of the examples. We could also find such a case in many other examples. When we asked the Government, it responded that it should not be calculated in this way, because the relevant figures were average figures. Besides, the situation during peak hours had also to be taken into account.

I further looked at other data provided by the Government which was the road usage proportion of private cars among other vehicles during the peak hours from 8 am to 9 am. Take Harcourt Road which is a very busy road as an example. When I looked at the figures in 2008 and 2009, we found that the road usage proportion of private cars had dropped. The proportion of private cars

was 38.2% in 2008, which dropped to 37.6% in 2009. On the contrary, the road usage proportion of other vehicles on Harcourt Road from 8 am to 9 am had risen from 2008 to 2009. For instance, the road usage proportion of buses was 3.9% in 2008, but it was 4.1% in 2009. The same trend was also found in non-franchised buses. The figure was 3.6% in 2008, but it was 5% in 2009. And there were goods vehicles. There were two kinds of goods vehicles. The figure for the first kind was 1.5%, and 7.5% for the other. These were the figures in 2008. In 2009, the figures became 2.3% and 7.8% respectively.

Let us take a look at another place besides Central — Queensway — we also compared the road usage proportion during peak hours in 2008 and 2009. The road usage proportion of private cars among other vehicles was 34.8% in 2008; but it dropped to 33.6%. Likewise, there were rises for other vehicles, such as public light buses. In 2008, the figure was 2.8%; but in 2009, the figure was 3%. And then there were taxis. The road usage proportion of taxis among other vehicles was 36.1% in 2008, but the figure was 38.5% in 2009. This was the situation found in peak hours and busy areas. It was found that when private cars were compared to other vehicles, the road usage percentage had not risen but dropped. Thus, we should not say that the increased number of private cars will certainly result in increased road usage, or will certainly cause traffic congestion. Such a claim is unfair.

If the Government really needs to target at the situation or time of road usage, it can use other fairer methods that treat everyone equitably, such as introducing a congestion charge in busy areas and during peak hours. At least this method will be able to pinpoint the causes that genuinely lead to traffic congestion during peak hours in busy areas. Moreover, other measures can also be implemented to target at the road usage of all vehicles, such as levying parking fees; or at least introducing measures in terms of license fees; or levying charges on cars frequently visiting certain areas before they are allowed to visit busy districts. These measures are adopted in London and other large cities where such means as increasing the FRT, which our Government plans to do this time around, are not used.

When the Government initially put forward this proposal, we also asked the Administration to make other concessions. I am pleased that the Government has made concessions in two areas. Just as Mr WONG Ting-kwong mentioned when he spoke for the first time, cars bought before the announcement of the

Budget (23 February) should not be subject to the increase in FRT because car owners had not budgeted the amount when they ordered their cars, and therefore should not be levied the increased FRT due to late delivery of the cars they bought. The Government has made concession in this regard and we welcome this move. The other area where the Government has made concession is providing special concession for environmentally-friendly cars, as suggested by us. In making this partial concession, the Government indicates that this special concession is equivalent to purchasing environmentally-friendly cars without paying for the increase in FRT as the two has offset each other. However, when we looked into the data, we found that, in general, environmentally-friendly cars are more expensive. In addition, there are not many models available for buyers to choose. In fact, the current FRT concession for environmentally-friendly cars to be implemented by administrative means by the Government is insufficient to offset the increase in FRT this time around.

Our major demand is that the Government should implement the "one-for-one" measure on the ground of environmental protection. Given that old vehicles will always lag behind new vehicles in terms of environmental protection, is it possible for the owner's new car to be exempted from the increase in FRT if he is willing to write off his old car? The response of the Government illustrated exactly "the officials can have whatever they want". When we made this demand, the Government advised that apart from being unfair to those who bought their cars for the first time as they did not have cars to write off, this measure would not reduce the number of private cars. But this is not a question of whether it is fair to everyone or those who buy cars for the first time or not, it is a consideration from the perspective of environmental protection. If car owners are still subject to the increase of FRT, there will not be any incentive for them to write off their old cars and buy new ones. With respect to environmental problems, even when we have put forward good reasons, very often the Government will use reasons that are not so sound to reject our proposals. As a matter of fact, the "one-for-one" proposal mentioned by Mr Vincent FANG in his speech just now had been proposed before. In fact, it is implemented in many places. But the Government has all along refused to make concession in this regard, regrettably.

Moreover, on the other hand, we are rather worried. After the introduction of this Bill, I had asked the Government many times that if the argument of raising FRT could result in a reduction of the number of private cars

and the improvement of traffic congestion stood, at what percentage of decline in the number of private cars must be achieved before the Government called a halt to this measure. Otherwise, when the situation of traffic congestion or drop in vehicle speed emerges in the future, the responsibility will be shifted onto private cars due to this precedent. It is even possible for the Government to continue increasing the FRT if the traffic congestion situation is found to have worsened every year. Thus, I asked the Government whether it had a target, plan and timetable; and whether it could give us a roadmap to illustrate at what percentage of decline in the number of private cars it targeted. We asked whether there was a cap on the tax increase. This is because if there is none at all, we can expect that the FTR for motor vehicles will become the scapegoat if traffic congestion continues in the future. However, the Government has all along refused to make any statement or declaration concerning the percentage of decline in the number of private cars it aims to achieve.

Given all of these reasons, we opine that if we support the Government's increase in FRT by 15% on basis of the overall drop in vehicle speed by 5%, we will be setting a precedent that leads us to a never-ending abyss where private cars will again be "targeted" due to traffic congestion in the future. Thus, under such a circumstance and based on the data currently provided to us by the Government, the Civic Party will not support the rate of increase of FRT this time around. Thank you, Deputy President.

MR KAM NAI-WAI (in Cantonese): Deputy President, on behalf of the Democratic Party, I will vote against the Bill at its resumed Second Reading today. As everyone knows, on 4 May, on behalf of the Democratic Party, I moved a motion that sought to repeal the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011. Unfortunately, I was not successful on that day.

First of all, I would like to talk briefly about my arguments on that day; I will not talk in details. The Democratic Party put forward three points. First, it is not reasonable to use tax increase as a means to ease traffic congestion, because it is doubtful whether a tax increase will lead to a reduction in the number of private cars to the extent that it plays an effective role in ameliorating traffic congestion. This is the first point, that is, this is an unreasonable policy.

Second, we think that this policy is unfair in that it has shifted the responsibility of traffic congestion onto owners of new private cars, which is not fair at all.

Third, this policy is not environmentally-friendly. We all know that once the Bill is passed, many people will not buy new cars; instead, they will switch to or continue to use old cars, a practice which will continue to cause air pollution.

Thus, we consider this policy a "three-not" policy, for it is not reasonable, not fair and not environmentally-friendly. The Democratic Party had put forward a demand to repeal the Order on that day, and we oppose the resumption of the Second Reading and Third Reading today. I had talked about the arguments last time, so I am not going to repeat them. Today, I would like to highlight certain points as I did not have the opportunity to respond to the reasons and data for tax increase cited by Secretary Eva CHENG at the meeting on that day.

As a matter of fact, many colleagues have already raised queries about those data just now. I really have to say, although "the officials can have whatever they want", the Government should not distort the figures, and even place members of the public and private car owners in confrontation. This is not right at all.

Secretary Eva CHENG said on that day that in the 10 years between 2001 and 2010, the total number of vehicles had expanded by about 15.7%. On the other hand, the size of the private car fleet had expanded by 21.8%. The number of franchised buses during the same period — over the past decade — had recorded a drop of 9.4%. She pointed out that the growth in the number of private cars had directly reduced the overall efficiency of vehicles on roads and affected the traffic condition. This also had negative impacts on other road users, that is, the 7.2 million passenger trips taking buses, light buses and taxis. Obviously, the Government had placed the 7.2 million passenger trips in opposition to private car owners. Was it necessary for the Government to do that?

Regarding the data I cited just now, many colleagues have also raised a question just now. From 2000 to 2009, what percentage of vehicle kilometrage

(VKM) did private cars account for the VKM of all vehicles? According to the Government's paper, the figure was 39% in 2000. In 2009, that is, a decade later, it was 38%, representing a drop of 1%. In other words, the VKM of private cars had dropped 1%. By comparison, according to the same paper (the data were not created by me but provided by the Government), the VKM of buses accounted for 6.6% of the VKM of all vehicles in 2000. But in 2009, the figure was 7.2%, which represented a rise of about 0.5 to 0.6 percentage points. In other words, the VKM of private cars had dropped while the VKM of buses had risen. These figures illustrated the percentage of VKM of the relevant types of vehicles among all vehicles.

But when we cited these figures, the Government gave us other interpretations. The Government claimed that the annual VKM should not be cited as it was not an appropriate indicator of traffic congestion. On that day, Secretary Eva CHENG said that vehicle journey speed was widely used in the international community to reflect the degree of traffic congestion, and that cities like Singapore, London in the United Kingdom and Copenhagen in Denmark had all adopted vehicle journey speed as an indicator of traffic congestion. The Government advised us not to use VKM as these data were not accurate; instead it advised us to use vehicle journey speed.

Many colleagues have also cited the figures in this aspect just now. In fact, in the Budget as well as other papers, the Government has continuously repeated that the average vehicle journey speed on Hong Kong Island and in Kowloon had dropped by over 5% while the vehicle journey speed in the New Territories had recorded a 7% drop. I am calling on the Government not to distort the figures; and not to make a generalization, talking about some points without mentioning others. If it continues to do that, we will not be able to administer the right prescription to resolve the problem of traffic congestion.

(THE PRESIDENT resumed the Chair)

Ms Audrey EU cited Annex III of the paper just now. In fact, Ms Audrey EU had only talked about one of the paragraphs. I would like to talk about other paragraphs now. The information is about various sections of our major trunk roads, and statistics on vehicle journey time surveys of these roads are listed.

The vehicle speed per hour at the section of Connaught Road Central from Murray Road to Des Voeux Road West was 13.6 kph in 2005. But in 2010, the figure was 14.3 kph, which represented a faster speed. This was the figure of Connaught Road Central. Let us look at another figure, the section of Gloucester Road from Canal Road to Arsenal Street. Everyone knows this is a busy section. In 2005, the figure was 17.9 kph. In 2010, it was 29.6 kph, which represented a faster speed, and much faster than before. The vehicle speed of this section was much faster over the past five years. This was the situation on Hong Kong Island.

Now let us look at some busy sections and trunk roads in Kowloon. Take Gascoigne Road as an example. In 2005, the vehicle speed was 10 kph. In 2010, it was 12.4 kph. The vehicle speed of this section was faster, too.

Let us not talk about Hong Kong Island and Kowloon only. I will take one or two examples from the New Territories. In 2005, the vehicle speed at the section of Route 3 from Shek Wan to Tai Lam Tunnel was 73.8 kph. The figure was 75.5 kph in 2010. The vehicle speed was also faster. We can take a look at another road. Likewise, the vehicle speed of Yuen Long Highway was also faster, rising from 53.8 kph in 2005 to 63.2 kph in 2010. We can also take another road, New Clear Water Bay Road, as an example. The figure recorded a vehicle speed of 22 kph in 2005, and 29.9 kph in 2010.

The vehicle speed of all these major roads I mentioned had recorded a faster speed. Then why was there a slower average vehicle speed? When I studied the table, I found that the vehicle speed of some sections were very slow. I will cite Queensway as an example. In 2005, the vehicle speed was 36.4 kph; but in 2010, it had dropped to 12.3 kph. It was a drop from 36.4 kph to 12.3 kph. This was the figure of Queensway. Another example was Lung Cheung Road. In 2005, the vehicle speed was 49.3 kph. But the figure dropped to 29.7 kph in 2010. Likewise, a drop in vehicle speed by almost half was recorded. Moreover, such examples could also be found in Texaco Road and Tate's Cairn Highway. I am not citing figures for the moment. A particularly drastic drop was recorded in these sections. We have asked the Government to prescribe the right remedy to the problem, and find out what caused such traffic congestions in these road sections over the past few years that

led to a drop in vehicle speed by half when compared to the figure recorded five years ago.

As the figures of vehicle speed of all major sections were added up to calculate an average figure, an overall drop of 5% was the result. The Government had provided us with an average figure that did not accurately reflect the overall situation; instead, it had presented us with a so-called average figure. As a matter of fact, had the Government actually prescribed the right remedy to these road sections with congestion problems? This is a very important question. Thus, we hope that the Government will not distort some figures; on the contrary, it should administer the right prescription with a view to tackling the problem.

On the other hand, the Government has all along been saying that when it increased FRT rates on a number of occasions in the past, a reduction of about two to three percentage points in the year-on-year growth rate of private cars was achieved. I do not understand why the Government has this idea. Please tell me from where the Government has drawn these data later in the meeting.

The Government had provided us with the figures over the past decade. However, when we looked at these figures, we found that the latest experience of increasing the FRT over the last decade was in 2003. With the Government's increase of the FRT in 2003, the growth of private cars in the following year dropped 25% when compared to the figure in 2003 a drop of 25% when compared to 2003. But we all know that it was not attributable to the FRT for motor vehicles. All of us recall that there was an outbreak of SARS in 2003. It had nothing to do with the increase in FRT for motor vehicles.

Hence, following 2004, there was an increase of 20% when compared to the previous year. What was the reason for this? It was because of the economic recovery. As a matter of fact, insofar as the increase in the number of private cars is concerned, unlike the Government's claim, there will not be a reduction of about two to three percentage points when the Government increases FRT rates. Instead, an increase or a reduction in the number is closely related to the economy.

Moreover, the Government also mentioned that the year-on-year growth in the number of private cars was 5.4% in 2010; in other words, compared to the

previous year, there was an increase of 5.4% in licensed private cars in 2010. The Government also claimed that as at February 2011, the increase was more than 5.4%. Compared to the previous year, the increase even reached 5.6%. The Government followed that with alarmist talk and said if the 5.6% growth rate continued every year in the next four years, the total net increase would reach 100 000 private cars, which was equal to the cumulative growth of private cars in the past 12 years.

May I ask the Government how it has arrived at the assumption of a 5.6% growth rate in the next four years. Can the Government tell us the year-on-year growth rate of private cars in Hong Kong over the past decade and the past two decades? On what basis has the Government made its inference of a 5.6% growth rate every year in the next four years? Is this assumption alarmist talk?

President, the Government is good at playing with figures, in other words, twisting and distorting figures and raising alarmist talk. However, we hope that the Government will administer the right prescription to address the traffic congestion problem.

In order to secure votes, the Government has introduced two exemptions. Car owners who had paid deposits before 23 February will be exempted of the new tax rate. The tax concession for environmentally-friendly cars is also enhanced. It is as though an imperial favour has been granted. Just now, Mr WONG Ting-kwong of the DAB and another colleague also said it was a substantial concession, and that the Government had heeded public opinions.

According to Mr WONG Ting-kwong, the Government had listened to the views of the Subcommittee. But I consider this an insignificant touchup that sets the wrongs right only. There are no reasons at all to demand those who had paid deposits to pay tax according to the new rate. This is unreasonable. As for the environmentally-friendly cars, we have policies on environmentally-friendly cars already. So why is there a tax increase? There are no reasons for that. This is only setting the wrongs right with a view to "securing votes". The Government is hoping to "secure" more votes because it has got not enough votes.

Just now the DAB was saying that the most important point was whether the objective of this policy was incorrect. Will the increase of FRT rate for motor vehicles ameliorate traffic congestion? Is the objective of such a policy correct?

The Democratic Party considers this incorrect. Insofar as resolving the traffic congestion problem is concerned, we have put forward many views to the Government, such as buying back the Western Harbour Crossing, introducing park-and-ride concessions, introducing additional concessionary interchange schemes for public transport fare, or setting up a fare stabilization fund, with a view to lowering the fares of public transport and attracting more people to use public transport instead of private cars. Unfortunately, the Government has turned a deaf ear to these views. With regard to easing the traffic congestion problem, we find that the Government is shifting the responsibility into owners of new private cars, which we consider not reasonable, not fair, and not environmentally-friendly.

Thus, the Democratic Party will oppose the Bill at its resumed Second Reading and Third Reading. Thank you, President.

DR LEUNG KA-LAU (in Cantonese): President, I have carefully studied the arguments advanced by the Government and wish to respond to a few points. First, the Government said that compared with public transport, private cars have low efficiency and carry few passengers, while public transport carries a much greater number of passengers and account for less road usage. However, I wish to point out that different modes of transport perform different functions. While public transport may account for less road usage, carry more passengers and is more efficient, the downside is that it is not point-to-point transportation. Very often, it also has limited service hours. For instance, there is no MTR service after midnight. However, private cars offer point-to-point transportation. Even though they account for a high percentage of road usage and are less efficient to start with, they are more convenient for people who need to get around in the middle of the night. Thus, different modes of transport have their respective roles to play. The FRT for private cars in Hong Kong is higher than that in

many regions. It already reflects the fact of their low efficiency. Therefore, it should not be used as an excuse for proposing tax increases every time.

Second, the Government pointed out that the number of newly registered private cars has continued to rise in recent years. However, as the road infrastructure improves, it is natural that the number of cars will also increase, for better road infrastructure will attract more people to use it. Put simply, as road capacity increases, the number of cars using the roads will also naturally increase.

Moreover, as many Members pointed out just now, the growth in the number of private cars does not mean that these cars will necessarily use the roads. The data cited earlier also show that over the past 10 years, private cars only accounted for 36% to 38% of road usage in terms of the mileage travelled, with no marked difference between the figures. Surely the Government would not want to reserve the road infrastructure to be built, such as the Hong Kong-Zhuhai-Macao Bridge, for use by trucks and buses only. Of course, we hope that many private cars will use those roads. I am sure that when the Central-Wanchai Bypass and the Central Kowloon Route are completed, there will be even more private cars in Hong Kong.

There is one last point I want to respond to. As many Members pointed out just now, one of the Government's main arguments is that road congestion is now more serious than in the past. How did the Government reach this conclusion? It is based on a survey on vehicle journey speed carried out by the authorities. However, as several Members suggested, some figures in the vehicle journey speed survey are contradictory. That is why we should use statistics, putting together the 360 different figures from 2005 to 2009 and comparing them with the figures of 2010. This is the scientific way to do it. We should first summarize the figures collected on these 60 routes and then compare them with the current figures. This is a more scientific way.

Yesterday, the bureau finally arranged a meeting between the Transport Department (TD) and me to discuss this issue. First, what are the details of the survey conducted on 60 routes? After the Government has selected 60 road sections, one driver will conduct on-the-spot surveys from September to December each year. Actually, the Government has engaged a consultancy to carry out the surveys for a fee of \$800,000 for two years, that is, \$400,000 for one

year. From 8 am to 9.30 am, the driver will drive a car along the 60 routes, conducting four surveys on each road section, based on which the average journey speed will be calculated. If the figures collected accord with certain principles, an average journey speed will be derived from the speeds of the four journeys. If the difference between the four journey speeds is too great, he will drive the car along the same road section four more times, and an average speed will be derived from the eight journey speeds. There will be some adjustments in the course of the surveys. For instance, the consultancy will require the driver to follow certain rules, such as driving at a speed that is neither too fast nor too slow, or to overtake another vehicle if he has been overtaken.

However, during the meeting with TD officials, they readily admitted that the road conditions can vary greatly during the time from 8 am to 9.30 am. But they did not try to do any standardization. For instance, the Lion Rock Tunnel is quite congested at 8.15 am, but traffic there runs smoothly by 9.15 am. The TD officials finally admitted that this is due to limited resources. If more funds were available, the consultancy could have done a better job to standardize the survey time.

Moreover, we asked the Government whether it had done any statistical tests, that is, the test that I suggested earlier. What are statistical tests? Take the Secretary as an example. Supposing that she pays attention to her weight, we will ask her to measure her weight today, tomorrow and the two following days. From this, we will find that the Secretary's weight varies slightly every day. However, how can we tell if the Secretary has really put on weight and needs to lose weight? One method is to calculate her average weight based on past records, and find the standard deviation. Then, we will analyse it statistically until we arrive at a new figure for the Secretary's weight. Hence, we will come up with a statistical index that shows the probability of the Secretary putting on or losing weight. This is a statistical test.

When I met with the TD officials yesterday, they seemed to admit that the consultancy did not do such tests, but was only responsible for conducting vehicle journey time surveys. Moreover, before I raised this request with the TD officials, they had not done such tests either. After I had made the request, a statistician tried to do a test and compare the figures of 2009 and 2010. However, he did it by using a very strange and interesting method. I cannot help but raise two questions. First, is it right to only compare the figures of 2009 and

2010? Second, why not compare them with the figures of the previous years as well? I can give an example to show why we should put all figures together, instead of calculating the figures for each route separately. For example, for the 10 routes on Hong Kong Island, if you compare the figures of 2010 and those of the preceding years until as far back as 2005, the figures of 2010 are statistically no different from those of 2005, 2006 and 2007. While the figures for many routes in Kowloon vary, there is practically no difference between the figures of 2010 and those of 2006 and 2007 for the New Territories. What test did I use? I used a very standard test that every statistician knows. President, you used to teach mathematics too, right? I used the very simple Paired Sample-T Test.

However, I am not familiar with the methodology used by the TD official, which I have never used or heard. So I asked him at once if he was following someone else's example, that is, whether this method had been used before. The answer was no. He invented it himself. It does not matter. What matters is that by using this method of calculation, he found a discrepancy between the figures of 2010 and 2009. I discussed this with him. Using a standard technique, I calculated an average figure for these 60 routes from 2005 to 2009, and compared it with the figure of 2010. The result was that there really is a discrepancy and that journey speed had indeed become slower.

To find out if car journey speed has really declined and if there really is a discrepancy, we can apply the statistical test called P-value. If the P-value is under 0.05, a discrepancy does exist. But if the P-value is above 0.05, there is practically no discrepancy. If we calculate the car journey speeds on the 60 routes separately using the technique I proposed, only the speeds on 12 of them are proven to vary statistically. But if we combine the figures of the 60 routes, excluding the six routes showing the greatest variations, there is no discrepancy overall.

My point is that I have used a statistical technique to verify all the views, rather than using isolated figures or resorting to cherry picking. In other words, I did not select the figures I wish to use. Which routes have I excluded? The two opposite sections of Queensway, one section of the New Territories Circular Road, one section of Chatham Road North, one section of Lung Cheung Road and one section of Kai Fuk Road.

Actually, even if we find variations in the figures through statistical tests, it does not imply that it is because the number of cars has increased. It could be due to other reasons. For instance, the driver conducting the surveys might have been more cautious. If he slowed down his travelling speed by 5%, the result would be as the one the Secretary told us. If he drove cautiously, a 5% decrease in the journey speed would hardly be noticeable. Thus, even if we find a discrepancy between the figures of 2010 and those of the previous years by using statistical tests, we should try to figure out what the reasons were.

I have explained the technical issues and reasons. Why did I have to talk about the technical issues first? Because if there was a technical error, we should not go on to discuss the policy issues. If the method was unreliable and the principles were incorrect, the Government's explanations for the decrease in car journey speed could be disregarded. Sorry, I have to say this. However, even if I assume that there was no technical error, in terms of policy, I have already said that private cars have their special role. Moreover, some residents mainly drive in the New Territories. For instance, if I cannot afford to buy a flat in Kowloon, Central or the Mid-Levels, and live instead in the New Territories, the area of my activity might be quite large. Whether I go to shop at a supermarket or dine out, it is more convenient to drive a private car. These residents will not be driving to areas where traffic is more congested. Moreover, if I do not drive during the peak hours, but only drive during non-peak hours, what do the traffic congestions have to do with me? Hong Kong people are very sensible and practical and place emphasis on efficiency. If they know certain districts are always congested, they would rather go there by other public transport means, such as the MTR. For instance, I am sure everyone here would choose to take the MTR from Central to Tsim Sha Tsui, and will not be so dumb as to drive there.

Due to the above reasons, that is, certain technical errors and the lack of argument in terms of policy, I do not think there is any correlation between the two. Hence, even if the Government is willing to make some concessions, I will not support the increase of the FRT for cars.

MS MIRIAM LAU (in Cantonese): President, the Government proposes to raise the FRT for private cars by 15%, explaining that the objective is to help ease traffic congestion. The Government cited the reason that the net growth rate of

licensed private cars had reached 5.4% last year, that is, their number has increased by 21 000, higher than the annual average growth rate of 2% to 3% over the previous few years.

Moreover, the Government said that the average car journey speeds in Hong Kong last year (2010) have declined, dropping by 5% on Hong Kong Island and in Kowloon, and by 7% in the New Territories. The increase in the number of private cars and their road usage will result in less efficient use of road space and affect traffic conditions.

While the increase in the number of private cars is an indisputable fact, given the figures before us, the Government must come up with adequate arguments to prove that increased private car ownership is the culprit that causes traffic congestion, in order to justify its proposal for the substantial tax increase.

Earlier, Mr WONG Ting-kwong mentioned an article entitled "Traffic Truth" posted by independent stock market analyst Mr David WEBB on his website. He pointed out that according to the data of the Transport Department (TD), while the number of private cars had increased by 17.7% from 2000 to 2009, the total annual mileage travelled by private cars had only grown by 1.1% in the same period.

The Government was quick to refute this as erroneous, since the mileage travelled by private cars fluctuated from year to year, that is, it could either increase or decrease. Thus, if we compare the figures of different years, we will end up with different results. According to the Government, if we compare 1999 and 2009, the result will be an increase of 8% rather than 1.1%. This is a specious argument.

While we were wondering if the Government was telling the truth, it hastened to add that the overall road usage of private cars had increased by 1.5% on average every year from 1996 to 2009, and the mileage travelled by private cars had also grown by some 800 million km over the past decade or so. When you hear the figure 800 million km, you will believe that private cars are causing the road congestions, because of their large number and the high mileage travelled.

If we think about whether the Government is correct, we will find that it is using the same figures used by Mr David WEBB. That is why I now have a

clearer perspective of the Government's claims. Actually, if we compare 1996 and 2009, the mileage travelled by private cars indeed increased by some 800 million km. However, if we compare 1996 and 2000 (11 years ago), the mileage travelled by private cars had already grown by about 760 million km. If we look at the figures again, from 2000 to 2005, private cars travelled 400 million km less in mileage.

What do the fluctuations in the data tell us? I have reviewed the Government's arguments. After we pointed out earlier that Mr David WEBB's views are worth considering, the Government said that the road mileage changed from year to year. But before we could digest this, it cited the same data to try to convince us that the road mileage travelled by private cars had increased by 800 million km. Is the Government not contradicting itself?

In my view, a more convincing argument is the percentage share of private cars in the total mileage travelled by all vehicles. This will show whether the road usage of private cars is more or less than that of other vehicles.

According to a paper recently submitted to the Legislative Council by the Government, private cars accounted for 37% to 38% of road usage in the 12 years from 1998 to 2009 (based on the total mileage travelled). Several colleagues also cited these figures earlier. These figures show that in terms of the mileage travelled, there was no great difference in the road usage of private cars over the past decade or so.

Of course, the mileage travelled has in fact increased. But while private cars have travelled more mileage, the mileage of other vehicles have also increased. Thus, if the Government uses these figures to accuse private cars of being the prime culprit causing traffic congestions, the argument will not hold water. It would be unfair to punish car buyers with heavier taxes based on these data.

The Government told us that the ratio of private cars in the total number of vehicles had increased from 64.7% in 2004 to 68.3% last year, which is quite a large increase. The ratio of other vehicles has increased at a lower rate, or has even dropped.

Why has the number of private cars grown and their ratio in the total number of vehicles has increased, but their road usage percentage has not?

There can only be one reason, that is, owners have used their private cars less. Thus, even though there are more private cars, they travel less on the roads. I have pointed out repeatedly that as far as I know, more and more private car owners choose to drive at weekends. They might not even drive the whole week, leaving their cars in the garage. Still, the Government refuses to believe it.

If the Government is willing to analyse its data carefully, it will also come to the conclusion that owners in recent years have used their private cars less frequently. If I divide the total annual mileage of private cars provided by the Government by the actual number of licensed private cars each year (an annual figure provided by the TD), I will obtain the average annual mileage of each private car.

The results indicate that from 1999 to 2000, each private car travelled approximately 13 000 km annually, while this figure fell to an average 12 000 km per car per year from 2001 to 2004. Between 2005 and 2009, the average mileage per car per year dropped further to 11 000 km. These are actual figures obtained by calculations. If these figures still cannot convince the Government that car owners have reduced their use of private cars, it is welcome to produce other figures to disprove it. But do not mention the figure 800 million km again.

The Government has provided figures on the journey speeds on the main roads to show the extent of traffic congestion. However, these are overall data on all vehicles, with no breakdown figures available for private cars. In my view, it is hard to pin the increased road congestion on the growth of private car ownership based on this. In fact, the Government claimed congestion had worsened last year because of the 5.4% growth in private cars. However, I have to point out that the car journey speeds on seven of the 60 main routes increased during 2009 (the year before) to 2010. The journey speeds on one route remained unchanged, while the speeds on 29 routes increased compared with the figures in some previous years. For instance, if we compare last year's figures with those of 2006, even though the number of private cars grew from about 360 000 in 2006 to 419 000 in 2010, the car journey speeds on as many as 23 routes were higher than in 2006.

In other words, even though there were not so many private cars in 2006, the car journey speeds on 23 routes were even slower than last year, after the

great increase in the number of private cars. Does this not prove that the variation in the number of private cars has no necessary correlation with the car journey speeds? Otherwise, how come that when there were fewer private cars, the journey speeds were slower than in the years when there were more private cars?

Nevertheless, the car journey speeds also highlight some facts that we should look into, such as the perpetual slow car journey speeds on several routes. Since 2005, the car journey speeds on such roads as Connaught Road Central, Chatham Road North and Gascoigne Road have remained at approximately 10 kph. I am sure that raising the FRT for cars will not have any effect on these roads at all. If car owners are now driving at a speed of approximately 10 kph, even if the number of vehicles may be reduced after the FRT for cars is raised, the car journey speeds on these roads will not be increased to 20 kph or 30 kph.

The drop in car journey speeds was particularly great on certain roads. For instance, the car journey speed on Queensway had been approximately 30 kph over the past few years, but dropped suddenly to 12 kph last year. While the car journey speed on Lung Cheung Road had been 50 kph on average over the past few years, it fell suddenly to 29.7 kph in 2010 (last year). Why are the car journey speeds on these roads perpetually slow? And why did they drop drastically in one year? The Government should carefully study the possibility of introducing traffic management measures to ease traffic congestion. However, even if it asserts that traffic congestions are caused by private cars, I am sure that raising the FRT will not solve the relevant problem. I think the Government's measure is open to question.

Moreover, the Government indicated that the road usage of private cars during peak hours showed signs of increasing in recent years. However, it only cited an analysis submitted to the relevant Bills Committee by an academic. I have studied the relevant analysis carefully. It concluded that from 8 am to 9 am on 35 main routes, the road usage of private cars had only increased by 1.7% from 2006 to 2009.

Let me point out that this analysis is based on one hour only, while the situation at other hours is unclear. Moreover, the percentage of private cars on 13 of the 35 routes was actually lower than in 2006. Only on six routes did it

increase by less than 1%. These figures can hardly convince us that private cars are the main culprit causing traffic congestion.

The Government did not submit other data on private cars. However, the volume of private cars in cross-harbour tunnels may serve as corroborative evidence. If we compare the total volume of private cars in the three cross-harbour tunnels last year with that in 2001 (10 years ago), the daily volume increased by 3 000 vehicles in the West Harbour Crossing. However, compared with 10 years ago, the volume of private cars in the Cross-Harbour Tunnel and the Eastern Harbour Crossing dropped sharply by 4 800 and 5 300 vehicles respectively. As a result, the total volume of private cars in the three tunnels dropped by 6.4%, while the total volume of all types of vehicles in the three tunnels increased by 3.1%.

This shows that the volume of private cars has dropped, while that of other vehicles has increased. If private cars are the main culprit responsible for road congestion, their volume should account for a higher percentage in the three tunnels. But the figures quoted by me show the opposite. The volume of private cars has dropped rather than increased.

President, it is not that the Liberal Party is not unconcerned about the growth of private car ownership. However, we think we should adopt effective measures to control its increase, rather than raising taxes blindly. We are worried that if the Government increases the FRT for cars, it will only force people to buy used cars. As we all know, used cars have higher exhaust emissions. Thus, we propose the following two measures for the Government's consideration.

The first one is the "one-for-one" replacement scheme. If car owners choose the "one-for-one" replacement scheme, scrapping or exporting their old cars, those cars will disappear from the roads. This way, the number of cars will not increase and vehicular emission will drop, since it will only result in one new car.

Second, whether they buy a new car or not, the Government should consider refunding part of the taxes paid to car owners intending to scrap or export their old cars. This would be similar to the tax incentive policy adopted by Singapore and Japan to encourage drivers to replace their old cars early. In

fact, Hong Kong may have become a market for the import of some used cars. The number of imported old cars increased from about 3 000 in 2007 or before to 9 412 in 2010, and the number of registered old cars has also risen sharply. If the Government does not come up with an effective policy, Hong Kong will ultimately dwindle into a "recycling market for old cars" that no one wants, and our air pollution problem will be further exacerbated.

In addition, the Liberal Party is not unconcerned about traffic congestion. To be frank, congestion is at present not too serious in Hong Kong. Very often, it is caused by congestions at the tunnels or by too many buses queuing up at bus stops. The Government should take proper steps to solve these problems, such as adopting improvement measures to regulate and divert the traffic. For instance, the Government should consider such measures as restructuring bus routes. It should also consider introducing a road toll scheme at an appropriate time. This would definitely be more effective than raising the FRT substantially and using prohibitive tax measures.

President, I so submit. On behalf of the Liberal Party, I oppose the Second Reading of the Bill.

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 Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I move the resumed Second Reading of the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011. Here, I thank the Chairman of the Bills Committee, Mr WONG Ting-kwong, as well as members of the Bills Committee for their hard work which has enabled the work of the Bills Committee to complete smoothly.

As we pointed out during the scrutiny of the Bill, there are good reasons supporting the argument that the smoothness of road traffic is closely associated with the growth and use of private cars.

Firstly, the net increase in licensed private cars, excluding private cars of which the registration is revoked, started to show a rising trend in 2004, with the rate of growth rising more and more drastically. The net increase in the number of licensed private cars rose from 1.7% in 2004 to 2.8% in 2006, and further to 3% in 2009. Last year, the net increase in private cars suddenly surged to 5.4%. The growth continued in the first two months in early 2011, reaching a rate of 5.6%, and if this trend continues, it will only take four years to reach a total net increase of over 100 000 private cars, which is equal to the cumulative growth of private cars in the past 12 years in Hong Kong. These figures have clearly revealed a surging trend in the growth of private cars in recent years.

Secondly, the increase in the number of private cars and their growth rate are far higher than those of other vehicles in recent years. Taking 2010 as an example, the net increase in vehicles other than private cars was less than 2 600, representing a growth rate of only 1.4%, which was far lower than the growth rate of private cars in the corresponding period, which was 5.4%, and also the more recent 5.6%, as I have just mentioned.

Thirdly, the increase in the overall road usage of private cars is also higher than that of other vehicles both in terms of their proportion and number. Between 1996 and 2009, the vehicle kilometrage recorded an average annual growth of about 1.5%, which is higher than the average annual growth of all other vehicles, being less than 0.4%.

Fourthly, the road usage of private cars during peak hours has been increasing in recent years. As pointed out by some academics in the paper previously submitted to the Bills Committee, figures reveal that the overall road usage rate of private cars during peak hour shows a rising trend in recent years, from an average of 41.7% in 2008 to 44.5% in 2009. Besides, about 90% of the major routes also recorded an increase in the proportion of private cars during morning peak hours in 2009 when compared with 2008. This shows a rising trend in the road usage of private cars during peak hours.

Fifthly, private cars are a less efficient mode of land transport. Among all passenger journeys taking road-based transport modes, around 15% use private cars, while the remainder of around 85% uses road-based public transport, such as franchised buses, public light buses, and so on. Nonetheless, public transport only has a road usage of 30%, whereas private cars account for close to 40% of road usage. In other words, the efficiency of public transport as a transportation mode is eight times of the efficiency of private cars.

The Transport Department (TD) conducts an annual survey on the overall and regional average vehicle speed of Hong Kong to look into the situation of traffic congestion in the territory. As shown by the survey results in 2010, an overall decline in vehicle speed on Hong Kong Island and also in Kowloon and the New Territories was recorded for the first time in five years. It has dropped over 5% during peak hours on Hong Kong Island and in Kowloon, whereas a drop of about 7% was recorded in the New Territories.

In fact, on easing traffic congestion, the Government has all along made reference to the White Paper on Transport Policy in 1990 and the Transport Strategy for the Future in 1999, and adopted a comprehensive, multi-pronged approach to improve traffic condition. Apart from the proposal to increase the first registration tax (FRT) to contain private car growth, the Government has all along pursued other measures recommended by the White Paper on Transport Policy and the Transport Strategy for the Future. These measures include integrating transport and land use planning, actively pursuing the policy of using railway as the backbone of the public transport system, and implementing appropriate traffic management schemes.

However, the low efficiency, rapid growth, increase in proportion among the vehicle fleet and the rising road usage of private cars will directly reduce the overall efficiency of vehicles on roads and affect traffic condition, and the resulting negative impact on other road users should not be overlooked.

From the traffic management policy perspective, we consider that decisive measures have to be taken to curb private car growth before traffic congestion deteriorates to the point where it could hardly be relieved even if more stringent measures are put in place.

These figures reveal that the proposal to increase the FRT is indeed well justified. Therefore, I do not understand why some Members have refrained from addressing squarely these strong and justifiable reasons and statistics, or interpreted some statistics selectively, or even lumped together the control of the growth of private cars and other traffic-related issues that need to be addressed.

During the scrutiny of the Bill, the views put forward by various sectors on the proposal mainly focus on several areas, including the view that private cars ordered before the Order came into effect but have not been first registered before the new tax rates came into effect should not be required to pay the FRT under the new rates, and the view that the attractiveness of environmentally-friendly petrol private cars should be enhanced whilst containing the growth of private cars. Having carefully studied the views of all sides, we have undertaken to make two arrangements, which include exempting the private cars on order before the Order came into effect from paying the FRT under the new tax rates and enhancing the tax concession for environmentally-friendly petrol private cars.

With regard to exempting the private cars on order before the Order came into effect from paying the FRT under the new tax rates, we understand that the process of ordering and purchasing a car possesses exceptional characteristics, in the sense that it usually takes months for the buyers to get the car ordered after an order is placed. As such, some of those who had placed an order for a private car before the Order came into effect may only receive the new car concerned after the new FRT rates were announced and took effect, meaning that they have to pay the FRT under the new rates when the cars concerned are first registered. The policy intent of raising the FRT for private cars is to disincentivize the public from purchasing new private cars after the adjusted rates have been announced. Those who had ordered a private car before the measure was announced had already made the purchase decision and were not the target group of the new rates being proposed. We, therefore, consider that exempting these buyers from the new FRT rates will not affect our policy intent of continuously containing private car growth.

The main representatives of the motor sales and service sector have told the Bills Committee that the trade will issue formal documents at the time when the order for a car is placed to the buyers concerned. The TD and other relevant departments have examined the issue in detail and considered that the exemption

mentioned above is administratively feasible under the circumstance that formal documents are available to prove the eligibility for the exemption. Therefore, taking into account the circumstances of individual cases, we may also request the relevant distributor or vehicle owner to make an oath for the purpose of providing the necessary document as proof of eligibility for the exemption.

On the other hand, under the new FRT rates, we also propose to adjust the concession rates and cap for newly registered environmentally-friendly petrol private cars from 30% and \$50,000 per car to 45% and \$75,000 per car respectively. Environmentally-friendly petrol private cars on order but have not been first registered before the Order came into effect will pay FRT in accordance with the original FRT rates before the adjustment was introduced. In other words, this enhanced concession will not be applicable to these vehicles.

The purpose of enhancing the FRT concession for environmentally-friendly petrol private cars is to implement the established policy of encouraging their use, as well as to provide sufficient incentives to persuade new private car buyers to go for an environmentally-friendly petrol private car instead of a traditional petrol private car under the new FRT rates, which will help improve the environment. This proposal has positively responded to the view calling for the promotion of environmentally-friendly motor vehicles. Under this proposal, it is estimated that the FRT payable by over 90% of the environmentally-friendly petrol private cars buyers after the passage of the Bill will not be higher than that before the new FRT rates took effect. At present, there are more than 40 models of over 10 brands of environmentally-friendly petrol private cars that are eligible for the concession. Moreover, electric vehicles will continue to enjoy a waiver of the FRT. We have carefully considered the rate of adjustment in this tax concession to ensure that on the one hand, the concession can attract potential private car buyers to switch to environmentally-friendly private cars and on the other, it will not stimulate the sales of new cars but will promote the use of environmentally-friendly vehicles. We will keep a close watch on the situation.

There is the view that the Government should make reference to past experiences and provide concessions or exemption to new car buyers who have their old cars written off, which is the so-called "one-for-one" proposal. Let us look at the facts. At present, no concession is provided for writing off old vehicles and in spite of this, an annual average of about 9 000 old private cars are

written off in recent years. Some of these owners will purchase new vehicles while some will no longer keep a car and may take public transport instead.

Exemption of the new FRT rates under the "one-for-one" proposal will in effect lead to speculation of old vehicles, as those who originally plan to write off their old cars and cease to keep a car under the new FRT rates will be given a new incentive to buy new cars, or resell the old cars to a third party to enjoy the tax concession. As a result, thousands of vehicles will flow back to the market and the roads, thus undermining the effectiveness of the new FRT rates in containing the growth of private cars.

Taking on board the views expressed by various sectors, we propose to enhance the FRT concession for first registered environmentally-friendly petrol private cars with the same objective as that of the "one-for-one" proposal and the enhanced concession may even create a better effect. Those who need a replacement car are provided with a favourable option that is coherent with the principle of environmental protection and the Government's policy intent of containing vehicle growth, which can in turn strike a right balance between promoting the use of environmentally-friendly petrol private cars and containing private car growth. Moreover, this new proposal is fairer and offers an equal treatment to all, as anyone who is willing to purchase an environmentally-friendly petrol private car is provided with the same concession arrangement regardless of whether he or she is already in possession of an old vehicle.

President, the Bill seeks to address the growth of private cars in a timely manner and mitigate the problem of deteriorating traffic condition. Deterioration in traffic condition will render all road users affected, especially the 7.2 million passengers taking land-based public transport, such as buses, public light buses, and so on. Some Members consider that we should not dichotomize private cars and other modes of public transport, but traffic congestion is a matter that concerns all of us, and this is a fact. The proposal to increase the FRT will, from past experiences, lower the year-on-year growth of private cars by 2% to 3%, or even result in a negative growth. We believe the increase of the FRT can achieve the effect as intended according to past experiences.

President, I am very pleased to hear that many Members support the Bill proposed by the Government as well as the two new arrangements put forward by us. I hope that Members who have reservations about the proposal will not neglect the impact of a drastic growth in private cars on other road users, especially members of the general public who take public transport. I hope that these Members can reconsider and support our proposal, in order to improve the traffic condition and contain it at a healthy and sustainable level. I implore Members to support the passage of the Bill, so that resolute measures can be taken to contain the rapid growth of private cars. This will be an indispensable part of our package of measures.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011 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.

(Members raised their hands)

Mr KAM Nai-wai rose to claim a division.

PRESIDENT (in Cantonese): Mr KAM Nai-wai has claimed a division. The division bell will ring for three minutes.

MR JEFFREY LAM (in Cantonese): I wish to declare that I had placed an order for a car before the Bill was tabled.

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.

Dr Raymond HO, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr Andrew CHENG, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Frederick FUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr WONG Kwok-kin and Mr IP Kwok-him voted for the motion.

Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Dr LEUNG Ka-lau, Mr WONG Sing-chi, Mr Paul TSE, Mr Alan LEONG and Miss Tanya CHAN voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 39 Members present, 25 were in favour of the motion and 13 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Motor Vehicles (First Registration Tax) (Amendment) Bill 2011.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in committee.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 2011

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011.

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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 2011

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, the

Motor Vehicles (First Registration Tax) (Amendment) Bill 2011

has passed through the Committee without 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 Motor Vehicles (First Registration Tax) (Amendment) Bill 2011 be read the Third time and do pass.

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.

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam 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.

Dr Raymond HO, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr Andrew CHENG, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Frederick FUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr WONG Kwok-kin and Mr IP Kwok-him voted for the motion.

Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Dr LEUNG Ka-lau, Mr WONG Sing-chi, Mr Paul TSE, Mr Alan LEONG and Miss Tanya CHAN voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 39 Members present, 25 were in favour of the motion and 13 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Motor Vehicles (First Registration Tax) (Amendment) Bill 2011.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at eleven minutes past Ten o'clock.

Annex I

Dutiable Commodities (Amendment) Bill 2011

Committee Stage

Amendments to be moved by the Honourable Mrs Regina IP LAU Suk-yea, GBS, JP

ClauseAmendment Proposed

3

[NEGATIVED]

By deleting subclause (1) and substituting—

“(1) Schedule 1, Part II, paragraph 1(a)—

Repeal

“1,206”

Substitute

“1,406 (from 23 June 2011 to 22 June 2012);

1,606 (from 23 June 2012 to 22 June 2013);

1,806 (from 23 June 2013 to 22 June 2014);

2,006 (from 23 June 2014 to 22 June 2015);

2,206 (from 23 June 2015)”. ”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Ms Audrey EU's supplementary question to Question 2**

As regards information on the police manpower and the rank of the police officers involved in handling animal abuse cases, the Crime Investigation Teams of various police districts have adequate manpower, experience and professional investigatory skills to handle cases of animal cruelty. If there is an increasing trend of animal cruelty cases in a certain district, the police will consider deploying dedicated teams to investigate the cases in a more comprehensive and focused way in order to ensure an early detection of the crimes. For example, to deal with the two suspected cruelty to animal cases which took place in Yau Tsim Police District in May 2011, the police have assigned one of the Crime Investigation Teams in that Police District to consolidate the investigation of the cases. The dedicated team is led by an Inspectorate Officer.