

# OFFICIAL RECORD OF PROCEEDINGS

Thursday, 14 July 2011

The Council continued to meet at Nine 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 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 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, G.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, J.P.

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, J.P.

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

**MEMBERS ABSENT:**

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

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

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

**CLERKS IN ATTENDANCE:**

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT 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): Good morning, Members. We now continue to deal with the motion "Appointment of a select committee".

## **MEMBERS' MOTIONS**

### **APPOINTMENT OF A SELECT COMMITTEE**

#### **Continuation of debate on motion which was moved on 13 July 2011**

**MR LAU KONG-WAH** (in Cantonese): President, good morning.

Yesterday, this Council started to debate whether or not a select committee should be established to deal with the incident relating to Mr GODFREY. There has been some furore over this incident for some time and being a member of the Panel on Information Technology and Broadcasting, I also took part in the two meetings of the House Committee, and many of the parties involved and even some officials who had returned from the United States were summoned. I have also read countless documents.

On this issue, in fact, Members already have an answer in their mind. Nevertheless, Members certainly have the right to propose motions in the meetings of the Legislative Council. I believe we should follow two principles in dealing with this matter. First, all judgments must be based on facts and we should not just rely on conjectures and speculations, nor should we hold suspicions. Second, it is necessary to be fair to all parties and no harm should be done to anyone. I believe all of us should observe these two principles.

The Internet Learning Support Programme (ILSP) is aimed at giving children, in particular, children in families receiving Comprehensive Social Security Assistance, opportunities of Internet learning and this was also the original intent of the Finance Committee in approving the funding for the ILSP.

Before the Financial Secretary announced the ILSP in his Budget, the Task Force on Internet Learning (the Task force) had been established to discuss it. It hoped that the ILSP could have a commercial element and that it could develop sustainably. These elements are also mentioned in the papers for the Finance Committee.

At that time, a member of the Task force asked if the implementation of the ILSP could be taken charge of by certain organizations. A member suggested some organizations immediately and I think this is understandable. This is just like the issue of the restaurant in the New Legislative Council Complex. I learnt that Ms Emily LAU had proposed at a meeting of the Legislative Council Commission that Café De Coral or Fairwood be brought in to operate the restaurant and that she had also asked questions about these companies.

In that case, was Ms Emily LAU being partial? She was not. I think it is understandable if Members suggest at a meeting that a certain organization be given the charge of implementing something. However, ultimately, the tender procedure must be followed and the incident relating to Mr GODFREY is precisely related to the selection process after the invitation for tender.

The first step in the selection process was the evaluation of the proposals by the Evaluation Panel. The Evaluation Panel comprised of civil servants from three government departments and they were responsible for handling the proposals in a professional manner. If the claim that the Financial Secretary had designated the Internet Professional Association (iProA) as the organization to be awarded the tender were true, the three government departments would surely have given it full scores, or all the people would be inclined towards choosing iProA and as a result, the outcome of two to one would arise. Only a result of this kind can prove that there was political interference or that the selection result was subjected to the dictates of the Financial Secretary.

However, the result was the exact opposite. Of the three representatives of government departments, two of them chose the Hong Kong Council of Social Service (HKCSS) and only one of them chose iProA, and this person was none other than Mr GODFREY. When we asked him in a special meeting whether or not he had been subjected to political interference, as a result of which he chose iProA, he replied in the negative. Since he said he had not been subjected to political interference and the other two representatives of government departments both chose the HKCSS, this shows that the claim of political interference does not hold water.

Of course, given that the voting result was two to one, Mr GODFREY should have awarded the tender to the HKCSS. However, he chose to handle this matter in another way by proposing that the two front-runner organizations co-operate in implementing the ILSP, thus leading to the adverse consequences that arose later. Of course, subsequently, he had to reap what he had sown.

Subsequently, as the Government found that there could be procedural omissions in the evaluation process, as the HKCSS should have been awarded the tender and it was unjustified for the two front-runners to co-operate in implementing the programme, so a review committee headed by a Permanent Secretary was formed, and its members included a representative from the Financial Services and the Treasury Bureau and one from the Education Bureau, to conduct a comprehensive review.

There was also unfairness in respect of the scores. The full score was 10 points and some members of the Evaluation Panel gave the HKCSS 10 points, whereas some members considered it unfair to let these two front-runner organizations co-operate together in implementing the ILSP or not to conclude the entire evaluation process conducted earlier on.

Therefore, even though the two organizations had discussions on their co-operation from July to November of the same year, they also did not agree very much with such an arrangement and had heated arguments a number of times. We can learn about all these from the documents. In addition, although there were also different views in the Government and even though his superiors or his five subordinates did not agree with his course of action, Mr GODFREY still decided to push ahead with his decision.

In the end, on 3 November — I think that day was the turning point of the whole incident — someone or some people with certain motives exposed this incident through the mass media and turned it into a political issue, accusing the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) of benefiting from it and Mr Gregory SO, who was the Under Secretary at that time, of making interference, so a political overtone was cast on the whole matter, thus changing the nature of the whole incident.

Mr GODFREY also said in the paper submitted by him in November that he had begun to feel political pressure. The political pressure came from the



mass media's speculation about him and he began to show changes. Prior to this, he had never talked about political pressure.

Another turning point occurred on 24 December, when Mr GODFREY sent an email to his superior, Miss Elizabeth TSE. The day on which he sent the email, 24 December, was two weeks before the day of his resignation. In between the lines, he mentioned such issues as "political assignment", "political interference" and "political agenda" for the first time. However, the thrust of his entire email was his repentance for being over-sensitive, emotional and suspicious. For this reason, he apologized, hoping that Miss Elizabeth TSE can become his coach in the future and that their relationship could be rebuilt.

This incident has developed from the discord between a superior and her subordinate, through the various tactics adopted by two organizations involved in a keen competition and the over-sensitivity and suspicion of Mr GODFREY, to a political party (the Democratic Party) jumping out to tarnish the DAB and the asking of a question by Mr Fred LI of the Democratic Party in May this year — President, I trust you still remember this — clearly accusing the DAB of such matters as transfer of interest, so I think this is not right. The accusations made by Mr GODFREY on each occasion were better than that of the Democratic Party because at least, he would come out and state clearly in writing that this matter had nothing to do with Mr Gregory SO and Dr Elizabeth QUAT. However, the Democratic Party was still unwilling to stop and I found this most regrettable. The whole matter is about someone wanting to continue to make a scene.

The popularity rating of the Legislative Council is already quite low now and Members can only command 10% of their support. Yesterday, an Honourable colleague said jokingly that 10% was already very low and may be later on, there would be a rebound. However, another Honourable colleague said that below 10%, the rate could reach 0%. If the support for Members is 0%, what should we do?

Many people think that Legislative Council Members always make criticisms regardless of whether something is right or wrong. Even though nothing has happened, they still want to carry out investigations. This is unfair to many Honourable colleagues because they do so only for political reasons and for the sake of mud-slinging.

On the lack of response to the invitation for tender for the restaurant of the New Legislative Council Complex, several Members have carried out a "death inquest" privately and found that there were two causes. First, the Legislative Council itself is just as hot as a large kitchen, so if another kitchen is to be set up here inside this kitchen, it would even be hotter and more unbearable.

Meanwhile, some people also think that the legislature is a "bullies' den" and these people just want to lambaste or investigate anything. How could the public find this acceptable, I must ask? We have to conscientiously reflect on this clearly. What we do must be acceptable both to others and to ourselves.

Yesterday, Ms Emily LAU read out a name list and talked about it at length, pointing out who on the list were delegates to the Chinese People's Political Consultative Conference (CPPCC) and who were members of the DAB, as though they were all villains. I think it is not right to do so. CPPCC delegates have their national functions and if some people look at them through tinted glasses, it does not matter but please do not direct attacks at them because they have made contribution.

If it is said that there are one or two DAB members in an organization, what then? Does one mean that if a member of the Democratic Party patronizes prostitutes, it can be concluded that all members of the Democratic Party patronize prostitutes? I think doing so is unfair. Ms Emily LAU, as the saying goes, "Do not do to others what you do not wish done to you.". We can compete politically or be rivals in politics, but all your speeches or attacks will make people see if you are a fair-minded person.

Therefore, I believe that continuing with this kind of behaviour will damage the image of the whole legislature and the professional evaluations and procedures conducted by civil servants. This is not fair.

My conclusion is that there is no need to continue to investigate this matter. This matter has been developing ever since the mass media reported on it in November last year, so I think we should put an end to it.

We have examined all the information and in fact, this is also damaging to Mr GODFREY himself. I think Members really must not cause any damage to anyone or the Civil Service anymore, nor should they further throw into sharp

relief their design of making political attacks. They also should not cause any more damage to Mr GODFREY. I believe an end needs to be put to this matter today.

Thank you, President.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, I wish to declare my interest as an invited executive member of the executive committee of the Hong Kong Council of Social Service (HKCSS).

President, Mr Jeremy GODFREY, the former Government Chief Information Officer, accused the Government of political interference in the tender procedure of the Internet Learning Support Programme (ILSP) and this is a very serious accusation. It will cast doubts on whether or not there are predetermined positions on the organizations submitting tenders for publicly-funded programmes and in the Government's selection process. Worse still, this will give members of the public negative impressions of the integrity of officials under the accountability system and the ability of civil servants in upholding political neutrality.

In fact, the Panel on Information Technology and Broadcasting has held two special meetings on this incident and government officials appeared to be most evasive about the accusations. All they did was to stress that they had upheld their neutrality in this matter and how impartial the selection process was, without producing any concrete evidence to rebut the accusations made by Mr GODFREY.

What is even more despicable is that the officials adopted the tactic of diverting attention by accusing Mr GODFREY in return of being unable to get along with his superiors and that this was the reason for his elevating this matter to the political plane by accusing the Government of political interference with the selection process.

However, what we found rather lamentable was that not only did the special meetings fail to let all people see clearly the true nature of this incident, they even complicated the incident further and begged even more questions.

First, the Financial Secretary, John TSANG, admitted that in the course of discussion with the Task Force on Internet Learning, he raised specifically the issue of whether or not the Internet Professional Association (iProA) was the suitable organization for implementing the ILSP. When asked if he had also mentioned the names of other organizations, the Financial Secretary chose to be selectively forgetful.

In addition, at the meetings, the Financial Secretary, John TSANG, and the former Permanent Secretary for Commerce and Economic Development (Communications and Technology), Mr Duncan PESCOD, both admitted that iProA was the preferred choice and both the Political Assistant to the Financial Secretary, Mr Frankie YIP and Mr Duncan PESCOD admitted to having enquired about the chances of iProA being awarded the tender.

The Financial Secretary advanced time and again the view that it was because iProA had the commercial experience and professional knowledge of implementing the ILSP that he had made the recommendation, but he could not explain clearly why he only recommended iProA but not other organizations.

Although many officials insisted unanimously that the mention of the name of iProA could not be equated to exerting pressure or designation, can such a claim be truly convincing?

In fact, an incident of this nature also happened in 2008, that is, the "harmony incident" that happened at Tai O. At that time, the Secretary for Home Affairs, Mr TSANG Tak-sing, used his influence to exert pressure on the social service organizations there by reminding them of the need to maintain harmonious relationships with the local community. As a result, a good social worker devoted to serving the local community resigned.

Of course, the Secretary denied that this amounted to exerting pressure. With various parties making different claims, the best course of action is to establish a select committee, so that the truth of this incident can be uncovered. However, it is despairing that if a scandal involves a member of the pro-establishment camp, the establishment of a select committee to carry out an investigation would be extremely difficult. It seems that they would just look at the people involved rather than the issue itself.

I believe that since we are discussing issues in the legislature, we should look at the matter itself rather than the people involved and we have to handle an incident in a fair, open and impartial manner. Therefore, I hope all Members can be more rational, rather than being affected by emotive outbursts, and they should support the establishment of a select committee. If individual Members do not support this, I hope they can still cite reasons to convince us.

For example, a Member of the pro-establishment camp pointed out that the target of Mr GODFREY's accusations was not clear, so he suspected that Mr GODFREY was angered by the Government's decision not to renew his contract and that he wanted to embarrass the Government. However, what is the basis of this claim? Although the legislature is not a Court of law, we cannot make a judgment rashly based on personal speculations, then draw the conclusion that the claim of political interference is completely a fabrication. If one wants to put forward an argument, one should produce evidence to rebut other claims. Most importantly, how could something happen without any reason? If the Financial Secretary had never mentioned iProA, how could this furore have arisen?

However, it looks as though Honourable colleagues opposing the establishment of a select committee believe that the findings would definitely not be in their favour, and should the Legislative Council (Powers and Privileges) Ordinance be invoked to investigate government officials, they would be brought into disrepute. In that case, is it necessary to make amendments to the Legislative Council (Powers and Privileges) Ordinance to exempt all government officials, in particular, officials who are Secretaries of Departments, so as to preserve their repute?

In addition, I am also particularly concerned about the fact that quite a number of areas in the whole selection mechanism indeed call for improvement. First, of the five organizations putting in a bid, why were only two of them, that is, the HKCSS and the eInclusion Foundation Limited, given two opportunities to make presentations, whereas the others were only given one?

I really do not understand how an organization can get full scores in the 10 evaluation items. Moreover, the weight of the scoring criteria was also rather skewed. Business skills accounted for as much as 20% but community service

networks only accounted for 10%. One cannot help but suspect if the selection system was tailor-made for a certain organization.

I wish to stress that the proposed select committee is intended to investigate the incident and study and draw up rules, so as to enhance the existing selection system. There are definitely neither presumptions, nor any intention to undermine anyone's credibility. Just like the spirit of the law in Hong Kong, before someone is found guilty, he is assumed innocent. I hope Members will believe in the impartiality of the select committee.

Therefore, if we want to find out the truth, the best way is to establish a select committee to investigate the incident thoroughly. Unless officials have a skeleton in their cupboard, what are they afraid of?

With these remarks, President, I support the establishment of a select committee.

**DR SAMSON TAM** (in Cantonese): President, first of all, I declare my interest as the incumbent executive members of both the Hong Kong Council of Social Service (HKCSS) and the Internet Professional Association (iProA). I am a committee member of the Information Technology Committee of the HKCSS and also a council member of the iProA.

President, being the Deputy Chairman of the Panel on Information Technology and Broadcasting (the Panel), I have participated in the two special meetings on the incident relating to Jeremy GODFREY. At these meetings, some government officials came here to give explanations to Members and the Panel also received a lot of documents.

Regarding the question of whether or not it is necessary to invoke the Legislative Council (Power and Privileges) Ordinance (the Ordinance), I have also received some letters from my voters, who expressed their wish for a thorough investigation into the incident. Meanwhile, I have also heard quite many voices saying that the Ordinance should not be invoked casually as there was insufficient evidence at present. I could hear voices both from those for and against this course of action.

At past meetings of the Panel, I have also made decisions not to take part in the voting. Since I am the executive members of the two organizations concerned, I have decided not to take part in the voting in order to uphold my neutrality.

**MR RONNY TONG** (in Cantonese): President, yesterday and today, many Honourable colleagues said that the popularity rating of the Legislative Council had hit a new low. Just now, Mr LAU Kong-wah was right in saying that it is standing at only 10% currently, but this is not as low as it can get, that it could reach 0% and even negative. Mr LAU Kong-wah asked us why Honourable colleagues were urged to do this — I believe he was referring to the pro-democracy camp — and he called on us not to oppose practically everything but to do something practical and perhaps in this way, our popularity would not be so low.

President, I wish to recap some past facts. In fact, ever since the reunification, how many motions or bills proposed by the Government in the Legislative Council have been negatived? President, as far as I can remember, there was only one, that is, the one relating to a landfill, which aroused the wrath of the whole town and it was only on account of this that the bill proposed by the Government was negatived.

Let us now look at how many motions concerning people's living or social justice proposed by Honourable colleagues were passed. President, the record shows that the great majority of them could not pass through the Council. Who opposed them? President, they were Members from functional constituencies. For example, yesterday, it was obvious that someone had violated the Rules of Procedure but the relevant motion could not be passed because it was negatived by the functional constituencies. If the popularity rating of the Government also happens to be low and the public think that the Legislative Council is incapable of monitoring the Government, how possibly can our popularity rating be high? President, that our popularity is so low is entirely attributable to the disregard of some Honourable colleagues in the Legislative Council for social justice and fundamental principles as well as their handling of matters underpinned by a perception through tinted political glasses. This is what makes the Legislative Council devoid of credibility in the eyes of the public.

President, this also applies to the question under debate today. I think this motion will not be passed. Is it the case that the issue involved in this motion does not conform to the principle of justice? This is not so. However, due to political factors, Members of the pro-establishment camp and functional constituencies will negative it as a matter of course. President, what question are we discussing? We are discussing the political erosion of a time-honoured selection mechanism that originally had high credibility. This is the question we are discussing today.

However, Honourable colleagues of the pro-establishment camp, such as Mr LAU Kong-wah, have great skill in blurring the focus of a question and shunning the issue. For example, we are discussing whether or not the selection mechanism was interfered with but they would put this matter down to a labour dispute, and that due to some discord between the employer and employee, someone made some unfounded accusations. Alternatively, they would say that the facts have been laid before our eyes and it has been proven that there was no interference, so why do we still want to discuss it? President, I think this kind of comments also contribute to the low popularity rating of the Legislative Council.

President, very simple, we need only ask two questions. First, was there any interference; and second, was the selection mechanism interfered with. On the first question, according to the information obtained by us so far, first, prior to the selection exercise, the Financial Secretary had expressed his particular preference for iProA. President, in fact, it was all right for him to give such an indication. If he privately thinks that he likes A but not B, this is perfectly all right. The problem lies in whether or not this message was conveyed to the official in charge of the selection exercise. If it was, the next question we have to ask is whether or not the conveyance of this message was intentional or not. Was the conveyance of this message intended to affect the decision of the official in charge of the selection exercise? If it was, there was interference. Next, we can ask the second question. After this message had been conveyed to the official in charge of the selection mechanism, was he affected? If he was, there was interference. These two questions are related, but we have to look at them separately.

On the first question, obviously, the Financial Secretary admitted that he had indicated, prior to and during the selection exercise, his special preference for



iProA. I said just now that it was all right to merely express such a preference. However, the question is why his message was conveyed to Mr GODFREY through various channels and various officials. Why was it necessary to pass the message on to him? Why was it necessary for Mr GODFREY to know the special preference of the Financial Secretary for iProA? What was the reason? We are not talking about a person telling Mr GODFREY this message unintentionally. This was not the case, President, rather, three officials did so. Three officials told Mr GODFREY this message separately on various occasions. Prior to this, the Permanent Secretary, Mr Duncan PESCOD, said that during the selection exercise, two other officials had enquired if iProA had succeeded in winning the tender. What was their intention in telling Mr GODFREY this message? Was this really done out of curiosity? President, even if it was done out of curiosity, it was still wrong. As a Secretary of Department under the accountability system — I mean the Financial Secretary — he should have known that even if he had some sort of preference in his mind, he should not have spoken out about what he thought. In particular, given that there was the possibility of the message reaching the ears of the official in charge of the selection mechanism, doing so was all the more unwarranted.

However, President, we did not have the chance to ask the Financial Secretary questions to find out if, regarding the conveyance of this message, first, he did so deliberately. If the answer is in the positive, then he deliberately interfered with the selection mechanism. But if he says that it was an inadvertent mistake, he has to sit here and tell the general public why this kind of inadvertent mistake was made.

Furthermore, why did the three officials mentioned by me just now call Mr GODFREY to tell him that? Did they think that because the Financial Secretary had requested them to make the calls, they had to do so? Or were they just being too nosy? Was it because they had nothing else to say that they called Mr GODFREY to ask if iProA had won the tender? What was the actual situation? What explanations do these three officials offer? We do not know. Given such a state of affairs, why do some Honourable colleagues still think that an investigation into this incident is not warranted? Do they think that this selection mechanism is worthless, that it is fine if it has credibility but if it does not, it does not matter either?

President, the present situation is that there is a total lack of credibility. Concerning the whole selection process, all people have questions in their minds about whether or not some officials had been involved in some behind-the-scene manoeuvres and the conveyance of messages, specifying which organization was preferred? The final outcome was that the bidder that had got the highest scores was not necessarily the one chosen, rather, it was the bidder preferred by officials that was chosen. How can such a doubt be dispelled? May I ask all of the Honourable colleagues in the pro-establishment camp to stand up and tell us how such a doubt can be dispelled?

President, assuming that it is already known, and the various statements made by the Government have also confirmed, that the message of the Financial Secretary's preference for iProA was conveyed to Mr GODFREY clearly and continually, the next question is: Was the selection mechanism really interfered with? In this regard, I think Mr GODFREY should also be reprimanded. Why did he put himself on the moral high ground? Either he was interfered with or he was not. If he says that he was not subjected to any interference, this matter does not end here. Rather, it is still necessary to consider why the Financial Secretary tried to make interference. His being unsuccessful does not mean that he is not guilty. Even any attempt is not allowed because such attempts will still affect the credibility of the selection mechanism. However, if he was successful in effecting interference, he is all the more guilty.

No matter if the Financial Secretary was successful in effecting interference or not, Mr GODFREY should still come forward and be questioned by us thoroughly. On the last occasion when I asked him questions, his attitude was most ambivalent. I do not support him either because he said he really did not know, that being that his superiors had conveyed such a message to him, he would make the decisions in view of this situation and as a result, he injured the credibility of this selection mechanism. Therefore, he cannot absolve himself of the blame either, for he was a conspirator. However, does his being a conspirator mean that this incident of interference never happened? Does it mean that the selection mechanism was not interfered with?

President, this is not so. In a lot of criminal behaviour, in particular, in acts involving conspiracies or criminal offences, often, no one would write letters of repentance, saying, "Sorry, I truly admit to my mistake. I have really done something wrong.". This would never happen, rather, it is necessary to make

deductions from the circumstantial evidence. Often, it is necessary to find the whistleblower to give evidence. President, in many places and countries, there are laws to protect the whistleblowers but there is none in Hong Kong. In the United States, there is a whistleblowers act. Sometimes, it is with such laws that some shady, covered-up, illegal or unjust deeds are exposed.

However, today, we are not discussing whether or not such a mechanism should be introduced. Rather, since something has happened, why do some Honourable colleagues think that it would do just to cover this incident up and that there is no need to investigate further? Indeed, we have said many times, President, that we want to lay this matter before all of us according to the procedures, hoping that the truth can be uncovered. However, I dare say that the motion today will not be passed.

Our popularity rating tomorrow will not be 10%, but 5% or even lower because the public will find that after stuffing ourselves, we have nothing to do but sit idly here. President, it is useless for me to come back at 9 am to speak. We cannot monitor the Government because there is a group of people sitting here to denigrate our efforts to monitor the Government.

President, I think it may not be advisable to make so many grumbles early in the morning but honestly, we have really reached a tipping point. President, how much lower can the credibility of 10% get? Unless it really goes into negative. I think there is no other legislature in the world with such low credibility as our legislature because no other legislature in the world is so devoid of the power of monitoring as our Legislative Council. President, I am really ashamed of this.

**DR PAN PEY-CHYOU** (in Cantonese): President, if the Legislative Council is capable only of trying to catch something elusive and making all sorts of innuendoes, I believe it is possible that public support for the Legislative Council will go into negative. The question under discussion now is whether or not a select committee should be established to investigate the incident relating to Mr Jeremy GODFREY. I have done an analysis on this issue. First, we have to clarify what criteria or indicators the Legislative Council has on the establishment of select committees. Conducting an inquiry requires considerable resources and Members also have to devote a large amount of time to it. Just now, Mr

Ronny TONG spoke passionately, saying that Members' duty was to monitor the Government. I believe we all agree very much with this point. However, we also have to see if our time is really spent on matters that worth the while.

The Rules of Procedure (RoP) of the Legislative Council does not spell out the standards or criteria for deciding the establishment of a select committee. It only says that it is up to the Legislative Council to decide. This being so, we have to look at what factors must be considered in making the relevant decisions.

First, we have to ascertain if is worthwhile for the Legislative Council to investigate the subject of the study or inquiry. This involves a value judgment and the issue of cost or return, that is, whether or not the results obtained by an inquiry on a matter will justify our efforts. Second, we have to consider the issue of resources, that is, the time devoted by Members, the manpower of the Secretariat, and so on. Third, we have to consider if the Hong Kong public expect the Legislative Council to conduct an inquiry into this matter. I think that when considering these several factors, there are four criteria that can help us in deliberating whether or not it is worthwhile to establish a select committee to conduct an inquiry.

First, whether or not the nature of a matter is serious; second, whether or not the issue involves significant public interest; third, according to the initial information that can be verified — and I mean information that can be verified — can such information make us believe, in a material and preliminary way, that such an incident has really happened; fourth, whether or not the inquiry can serve to alleviate the damage caused by this incident or prevent the recurrence of similar incidents.

I have tried to see if the four indicators mentioned are applicable to past incidents for which the Legislative Council established select committees to conduct investigations. Generally speaking, the foregoing indicators were applicable to those incidents. The chaos on the airport opening day and the incident in which Mr LEUNG Chin-man worked for a private consortia after retirement all showed that the foregoing indicators can be applied to such incidents.

To cut a long story short, concerning the incident relating to Mr GODFREY, I have also carried out an analysis afterwards to see if these four indicators are applicable to this incident. It can be said that the accusations made by Mr GODFREY are quite simple. He said that he had received some messages, very clear ones, that made him understand that he had to make some arrangements — when he was still serving as the Government Chief Information Officer — to let the Internet Professional Association (iProA) and the eInclusion Foundation Limited (eInclusion) that it subsequently formed with the Boys' and Girls' Clubs Association of Hong Kong secure the contract or win the tender for providing low-cost Internet broadband services to poor families.

Through his information channels, he learnt that this assignment was designed to enable a certain political party — I think it does not matter if I name it here — that is, the people of the DAB, to provide services to poor families and get in touch with this group of people through the provision of an Internet broadband service programme to them, so that they can stand to benefit in their electioneering efforts. I believe his accusations are very clear.

He mentioned four people in particular, one being a former civil servant of the Commerce and Economic Development Bureau, and subsequently, we all learnt that this person was Mr Bassanio SO; the other was a civil servant in the Office of the Government Chief Information Officer, that is, his office, who reported to him that he had received a call from the staff of the Financial Secretary's Office asking him about the progress of this programme and to relay to Mr GODFREY the question of whether or not he knew the requirements of the Financial Secretary in relation to this programme.

Third, Mr GODFREY also mentioned his superiors, that is, the former Secretary for Commerce and Economic Development, Mrs Rita LAU and the Permanent Secretary for Commerce and Economic Development, Miss Elizabeth TSE. He pointed out that his superiors had sent some relevant messages to him. In addition, he also mentioned another person who had knowledge of this affair but did not belong to the civil service establishment and his identity was confidential. Mr GODFREY said that unless the Legislative Council established a select committee and invoke the Legislative Council (Powers and Privileges) Ordinance, he would not disclose the identity of this person. All these were the people mentioned by him.

The accusations made by him were quite serious. He accused the Government of having the design of letting a certain designated organization or body win a government contract, and this is quite a serious accusation.

Now let us look at the preliminary evidence produced by him. Basically, the evidence produced by him was basically oral evidence. In addition, he also put down what he wanted to say by writing a speech. Third, he also drafted an affidavit and this affidavit is intended for oath taking. If what he says is different from this affidavit, he will have broken the law.

Apart from the several pieces of evidence provided by Mr GODFREY himself, including his oral evidence, written statement and the affidavit, so far, he has not provided any other documents, and by that I mean documents not prepared by him or documents which he did not play a part in their preparation, for example, photocopies of emails, audio recordings or other relevant proof.

So far, Mr GODFREY also has not provided any material witness. Is there any reason that prevents him from doing so? We know that the Government has given Mr GODFREY the permission to produce any material evidence, if he thinks it is material. Even though he has been given the permission by the Government, he still refuses to produce it. Therefore, we cannot say that the Government has prevented him from producing evidence. He deliberately refrained from producing evidence, or he simply does not have such evidence. This we do not know.

If we look at Mr GODFREY's evidence and accusations again, I believe there are several points that are rather strange. The first point is the reason for his resignation. On 12 February, he resigned for personal reasons but on 18 April, he said that his resignation was related to government affairs. This is the first inconsistency.

Second, who passed the relevant messages on to him in the incident? Initially, his accusations included the Financial Secretary, his former superior, the Secretary for Commerce and Economic Development, Mrs Rita LAU, and the Permanent Secretary for Commerce and Economic Development, Miss Elizabeth TSE. However, when Mrs Rita LAU issued a statement denying that such a thing had ever happened and that pressure had been exerted on Mr GODFREY to

ask him to execute a political assignment, Mr GODFREY changed his claim. This is the second inconsistency.

The third issue has to do with some claims made by Mr GODFREY on whether or not Dr Elizabeth QUAT was involved in this matter. We know that Dr Elizabeth QUAT is a member of the Central Committee of the DAB and at one point, Mr GODFREY said that this matter had nothing to do with Dr QUAT but at the same time, he was adamant that the DAB was definitely involved in this incident. If Mr GODFREY thinks that a group or a political party, for example, the DAB, is involved in this matter, may I ask on what ground he believes that the Central Committee of the DAB could be unaware of this incident and had nothing to do with it? I find this point rather strange. On what ground does he think that Dr QUAT was not involved in this incident? This is the third inconsistency.

Fourth, it was around November 2010 that Mr GODFREY raised this issue of a political assignment, but he also said that he had learnt about this matter several months ago. In that case, why did he not speak out earlier? Was he afraid of offending other people or what? Why did he seek to have his contract renewed at the end of December? If he considered this matter to be so underhand and dishonourable, he could have actually looked for other career pathways, so why did he want to continue to work in this post? Why did he want to continue to be an accomplice? Why did he rise in revolt only after he had left his post for several months, speaking out about this incident all of a sudden, and to speak out together with certain Honourable colleagues on my right in what can be described as an orchestrated act? All these doubts are all very mystifying.

At the same time, the Administration has provided a large body of evidence, such as numerous papers, emails, and so on, as well as a lot of witnesses. There is no need for us to talk about the quantities. What we can see is that all the witnesses and evidence point to one thing, that is, be it the superiors or subordinates of Mr GODFREY, and as we can see, even the entire department to which he belonged — and according to the Deputy Government Chief Information Officer, Ms LAM, all the people in charge of the relevant programme in the department — opposed the decision made by Mr GODFREY. What decision did he make? It was to insist on letting iProA become one of the organizations that implement the programme. The result of the evaluation was very clear, with two teams of assessors giving the tender proposal of the Hong

Kong Council of Social Service (HKCSS) the highest scores but it was Mr GODFREY alone who insisted time and again, regardless of the voices of opposition from all his subordinates, on letting iProA play a part and awarding the contract to the runner-up. What was the intention? All his subordinates could not figure it out no matter how hard they thought about it. Maybe you can say that this group of subordinates were not privy to the conspiracy of senior officials.

What about the superiors of Mr GODFREY? The messages delivered by his two successive superiors, Mr Duncan PESCOD and Miss Elizabeth TSE, as well as the former Secretary for Commerce and Economic Development, Mrs Rita LAU, to Mr GODFREY were all very clear, that is, it was only necessary to deal with this matter according to the procedure and Mr GODFREY himself also agreed with this point. Why did he defy the orders of these three superiors? Even though he was the Controlling Officer, why did he go so far as to defy the orders of his three superiors and insist on following his own idea? Honestly, I really cannot make head or tail of this. Such a situation cannot be explained with common sense.

Some witnesses said that Mr Frankie YIP of the Financial Secretary's Office or the Financial Secretary himself had mentioned the name of iProA, but what is so unusual about this? For example, he said that he had heard of this organization, saying that some people had said that it was quite good, so he had an impression of it. What is so unusual about this? If the mere mention of a name amounts to interference with the evaluation process, we really have a very low opinion of the established practices and approaches of the Civil Service.

In sum, we really have to consider if we want to catch something elusive and think that someone was there because a strand of hair can be found, or on seeing one person, think that there was a team, a group or an army. I think this is not something we should do.

I so submit.

**MS CYD HO** (in Cantonese): President, concerning this motion calling on this Council to invoke the Legislative Council (Power and Privileges) Ordinance to investigate the tender procedure, which was in a complete shambles, I hope Honourable colleagues who spoke last evening and this morning can consider this



matter from another angle because most of them have focused on the discord between Mr GODFREY and his superiors, thinking that it was Mr GODFREY's personality or attitude in handling matters that led to such a great hubbub over this matter.

President, I wish to explore this matter in the light of the procedure for evaluating the proposals. The relevant evaluation procedure was summarized by me from the information provided by the Government.

Each year, the Government spends tens of billions of dollars of public funds on procurement or the implementation of infrastructure projects, so the tender procedure must be fair and the proven practice of the past was to follow an open and stringent tender procedure. The right to operate a service or implement a project was not decided by the personal wishes of a government head. No matter if that government head is Mr GODFREY, Miss Elizabeth TSE or the Financial Secretary, the same applies. If the will of a government head can control who is awarded services or projects that involve large sums of money, thus leading to the transfer of monetary interest, we would return to the years of rampant corruption before the establishment of the Independent Commission Against Corruption and the living of the public would be affected. The international status of Hong Kong and the rule of law in Hong Kong will also be seriously injured.

President, I am not going to explore this matter from the angle of the personality flaws of people. I stress that my speech today is based on the information provided by the Government and the relevant Policy Bureau to this Council, and so are my questions.

Just now, a Member said that we had to get hold of material evidence first and should not try to catch something elusive. The material evidence in my hand now is provided by the authorities. However, I do not have any answer and I can only raise a lot of questions. I wish to use the information provided by the Administration to catch something elusive and explain why it is necessary to invoke the Legislative Council (Power and Privileges) Ordinance to carry out an investigation.

President, my questions are based on the minutes of the four meetings held by the Evaluation Panel. First, let us look at the first meeting.

The first meeting of the Evaluation Panel was held on 30 April 2010. Paragraph 11 of the minutes of this meeting points out that at that time, the Department of Justice had already told the Evaluation Panel that a so-called "multi-parties" situation, that is, more than one organization being awarded the contract, had to be avoided. The advice of the Department of Justice (DoJ) was that only one non-profit-making organization should implement the Internet Learning Support Programme (ILSP).

There is a post-meeting note in that minutes of meeting. The Evaluation Panel had another discussion with the DoJ on 3 May and the latter reiterated, "As advised by DoJ, the selected non-profit making organization should be the only contractual party with the Government in the funding agreement.". The view of the DoJ was very clear.

The second meeting was held on 13 July and at that time, the Evaluation Panel had received the proposals from the five organizations that had put in tenders. Although the Evaluation Panel had not yet examined these proposals and the organizations that had submitted the tenders had yet to give presentations on their proposals to the Evaluation Panel, at the meeting on 13 July, for some unknown reason, a possible mode of co-operation was floated. I will read out the relevant part of the minutes of meeting in English, "The meeting noted that there was such a possibility for recommending a joint venture among two or more proponents instead of selection of one proposal."

Who proposed this mode of collaboration? Was it the Secretary? Although the advice of the DoJ was quite clear, why did the people attending the meeting not follow the advice of the DoJ? Moreover, given that the Evaluation Panel had not yet discussed with the five bidding organizations the details of their proposals, asked them questions or listened to their explanations, why was it able to foresee the future in this short period of time and why did it think that a "dual implementer" mode of collaboration would appear?

At the meeting on the same day, that is, on 13 July, the Evaluation Panel discussed the scoring method. This has to do with the criticism directed by Ms Elizabeth TSE at the representative of the Education Bureau. Why did it give all items scores of 100.

President, I believe you would also shake your head on listening to this passage written in English, because you too will not understand it. The original text reads like this, "The score should be normalized such that the proposal judged to be with the best on its specific evaluation criterion was scored full mark for that criterion."

I am not very confident of my English standard and I too do not understand it after reading it. Therefore, just now, when I was outside, I asked Mrs Regina IP, who often finds fault with the English proficiency of officials, what "such that" means. At that time, an Administrative Officer was sitting next to us and we all could not help but shake our heads. Would "so that" make it clearer? In addition, what does "normalized" mean?

This sentence gives one the impression that on the score requirements, whichever party that does a better job would be given a full score of 100. Why was such a view formed in this meeting within such a short period of time? Subsequently, Miss Elizabeth TSE queried why the representative of the Education Bureau had given all requirements scores of 100. Was there any misunderstanding at this meeting?

The last paragraph of the minutes of the second meeting of the Evaluation Panel also makes it clear that if members of the Evaluation Panel changed their scores, they should document the reasons and the discussion fully in the Evaluation Report.

A member of the Evaluation Panel really changed his scores: Mr GODFREY subsequently changed his scores. Mr GODFREY gave the final scores in such a way that the eInclusion Foundation Limited (eInclusion) scored half a point more than the Hong Kong Council of Social Services (HKCSS).

Why did he change the scores? Did he come to the final result by adjusting the original scores downwards or upwards? Secretary, on all these, I could not find the answers in the Evaluation Report. It is necessary for us to continue to follow up these questions.

The third meeting was even stranger. The third meeting was called on 27 July and it was the first one after the Evaluation Panel had discussions with the bidding organizations on their proposals.

In a tender procedure, such a situation would often arise: After members of the Evaluation Panel had read the proposals, they would ask the bidding organizations questions to clarify some of the proposals. This is the normal practice. Of course, whether or not there was any need to clarify the proposals depended on whether or not the proposals had made everything very clear.

Originally, this meeting was intended to let the three bidding companies make clarifications and these three bidding companies had also been given ample time to give responses (the deadline for giving responses was 9 am on 30 July). However, the relevant minutes of meeting carries a post-meeting note saying that the original decision to let the three bidding companies make clarifications was suddenly changed to the convening of a special meeting to allow only the eInclusion and the HKCSS to make clarifications more effectively.

Why were not all the three bidding companies invited? When was the meeting with the HKCSS and the eInclusion scheduled? The deadline for giving responses was 9.30 am on that day. Could the Evaluation Panel understand the responses of the two bidding organizations within such a short time? Why was the number of bidding organizations reduced from three to two? Who made the decision? Why was it necessary to show particular favour to the HKCSS and the eInclusion?

Moreover, there were a number of post-meeting notes in these minutes of meeting but this is not the normal practice of the Government. Important matters should be discussed at a meeting or at the next meeting. Such a major decision as changing the number of bidding organizations attending the meeting from three to two was simply dealt with by means of a post-meeting note (the Secretary may think that this is the normal practice) and we precisely want to find out the reason for this. Why are people more and more accustomed to such inappropriate practices of work?

President, the fourth meeting was held on 30 July and the minutes of meeting says that Mr GODFREY adjusted his scores slightly. However, we do not know what his original scores were. The minutes of meeting makes no mention of this. The final conclusion was that after the Evaluation Panel had endorsed the Evaluation Report, the Controlling Officer (that is, Mr GODFREY) would consider it and make the final decision.

President, there is a major problem with such a procedure. Mr GODFREY was the Chairperson of the Evaluation Panel and he had influence over it. Yet, he was also the one to make the final decision. In that case, would the entire procedure not be even more partial?

In addition, the evaluation report had an initial version and a final version and the greatest difference between the two lies in their conclusions. The conclusion in the initial version is that members of the Evaluation Panel all agreed with awarding the contract on the ILSP to the HKCSS, and it was said that legal advice would be sought on composing an agreement as soon as possible, so as to let the HKCSS sign it. However, the conclusion in the final version of the evaluation report was changed to one saying that the majority of the Evaluation Panel agreed with awarding the contract on the ILSP to the HKCSS but the final decision would be considered by the Controlling Officer (that is, Mr GODFREY), who would have the final say.

Given such different conclusions, what meetings had actually been convened in the interim? What people had tendered their views? Precisely because we do not want to speculate and want to find out the relevant information, we have to invoke the Legislative Council (Powers and Privileges) Ordinance to summon witnesses to give evidence in meetings under oath, so as to make them assume legal responsibility.

After the evaluation report had been approved, in fact, Mr GODFREY could not act in a hegemonic manner. On 18 August, he sent an email to his two superiors (that is, Miss Elizabeth TSE and Mrs Rita LAU) to formally suggest the "dual implementer" proposal to them. In the email, Mr GODFREY clearly invited his superiors to express their views and lend their support.

Had these two superiors considered the "dual implementer" proposal inappropriate, they could have put paid to it at that time. However, in an email issued by Miss Elizabeth TSE to the Education Bureau on 20 August, she said that the "dual implementer" proposal would be adopted. Again, what happened in those two days?

Although the Government said that the evaluation process was generally impartial, in fact, it was inconsistent in its claims. If the evaluation process had indeed been generally impartial, there would have been no need to take other

actions subsequently. However, if the evaluation process was really partial, what the Government needed to do was to relaunch the tender exercise instead of splitting one contract into two.

Recently, we often talk about the issue of "the loser wins". This is the case with the replacement mechanism and tenders because a loser can become a Member and the bidding organization getting the lowest scores can still get half of a contract. How much is left of the political neutrality and procedural justice that civil servants have stressed all along?

President, whether or not there is political interference is a matter to be discussed later. The most important thing is to ascertain what actually happened in the entire process and to draw a fair conclusion from the information: Did the civil servants make a mess in discharging their duties or was there any interference? We should delve into these issues. However, why do some political parties in the Legislative Council and officials prevent us from making the Government accountable and monitoring the Government? Were there any unspeakable secrets?

Thank you, President.

**MR LEE WING-TAT** (in Cantonese): President, I came back early and heard the speeches delivered by Mr LAU Kong-wah and Dr PAN Pey-chyou. They raised many queries on whether or not a select committee should be established and even made some accusations. Dr PAN said that the present course of action is tantamount to catching something elusive, and Mr LAU Kong-wah said that this was to make a mountain out of a molehill and that this was all about the rivalry between political parties.

Of course, it is not unusual for political debates to arise in the legislature and in the discussions on public affairs. The primary focus now is on whether or not the Government has conformed to the principle of fairness, impartiality and openness in its procurement policy and whether or not this policy is subjected to unreasonable interference from officials on political appointment or from their subordinates. Unreasonable interference and whether or not the officers concerned have voiced some detailed views are two different matters. All committees of inquiry are established on one premise, that is, if there is sufficient

evidence, there is no need to carry out any more investigation. Just now, the two Honourable colleagues said that there was no sufficient evidence and that the case was not clear enough. Frankly, if the case were already very clear, there would have no need to establish a select committee. As in the case of the Public Accounts Committee, which is chaired by Dr Philip WONG, who is now present, it is also necessary to clarify issues through the asking of questions.

In fact, whether or not a select committee should be established depends on whether or not a *prima facie* case can be firmly established and whether or not there are reasonable doubts. Regarding this incident, the reasonable doubt is that officials under the political accountability system have interfered with the so-called open and fair procurement policy of the Government.

I believe that a *prima facie* case has been established. First, after the two special meetings, we have drawn some conclusions and it seems that no one dares deny them. Three officials, including the Financial Secretary, the former Permanent Secretary, Mr Duncan PESCOD, and the Political Assistant to the Financial Secretary, Mr Frankie YIP, all made enquiries with Mr GODFREY and Mr Bassanio SO about the situation relating to iProA on various occasions. Their enquiries were different. The Financial Secretary said in an internal discussion that iProA was an organization very much suitable for implementing this programme. Mr GODFREY said at a special meeting that in a gathering, Mr Duncan PESCOD said privately to him that the Financial Secretary wanted to convey a message to him to tell him that on letting iProA implement this programme, the "senior level" held a certain view. Of course, Mr Frankie YIP was the one who made it the clearest. Before the tender exercise had been concluded, he called Mr Bassanio SO to ask if he knew about the progress of the tender exercise. Did iProA have any chance of being shortlisted? Mr Frankie YIP said in his written submission that he had asked about two organizations, that is, iProA and the HKCSS, but in a meeting of the Legislative Council, Mr Bassanio SO said categorically that he had heard Mr YIP ask only about one organization, that is, "if iProA has any chance of being shortlisted".

If we draw conclusions after learning about a small amount of information, of course, it means that we do not have any material evidence and are only trying to catch something elusive. However, the three officials all had such a clear message to convey on three different occasions and over such a long period of

time, so one cannot help but suspect that the Financial Secretary had some sort of political preference and hoped that iProA would be awarded the tender. I do not know why. Maybe as some analyses in the press claim, Mr Charles MOK, who is a member of the pro-democracy camp in the information technology sector, had managed to organize some members of the information technology sector who support democracy and freedom, but to the Liaison Office or the Central Government, it is another group of people who do not belong to this group organized by Mr Charles MOK but who also work in the information technology sector that matters most. If the latter needs assistance and if they can be assisted in winning the tender, so that they can provide this service, certainly, this can be one of the methods.

I have read all the documents. As we all know, scores were given in the tender procedure. Just now, a Member made a criticism, querying why the Education Bureau had given an organization full scores. This kind of criticism is unfair to the Education Bureau because it was never stated that full scores could not be given to any organization in the evaluation. This being so, why was the Education Bureau criticized afterwards? Was it because it was not obedient and did not obey the Financial Secretary? Why was the Education Bureau scolded even for giving an organization full scores? Generally speaking, if one gets full scores in a tender procedure, one can win a contract and this is perfectly normal. As regards the alternative proposal made by Mr GODFREY, this can be debated.

As we all know, in this process, his superiors thought that something was not satisfactory, so they approached Mr Stanley YING with a view to establishing a review committee. I do not know what its Chinese name is. Is it called "覆檢委員會"? Mr Stanley YING said in the report that the tender procedure was by and large serious and acceptable. Please bear in mind that it was not us but Mr Stanley YING who said that. The Secretary appointed him to conduct a review of the first tender exercise carried out by the panel comprising Mr GODFREY and representatives of the Education Bureau and the OFTA. His conclusion was that generally speaking, the exercise was serious and acceptable. In that case, what more can be said?

After I had read the information in that paragraph, I thought the conclusion would be that if these two organizations could not collaborate with one another, the whole matter should return to the basics, that is, the highest scorer should be awarded the programme. This is the basics and Mr Stanley YING did not say



the programme should be put under the charge of which organization. He merely drew a conclusion. All right, where does the problem lie? President, I am not a very stupid person but after reading all the documents, I could not find the conclusion.

Moreover, on 30 September, when the review was being conducted, Miss Elizabeth TSE sent an email to Mr GODFREY and in the sixth paragraph, she said, "The option for seeking collaboration (geographical split of responsibilities between the two implementers should not be ruled out at this stage)". President, I am someone who draws his conclusions using common sense. What is the common sense here? If Mr Stanley YING said that this tender exercise had gone all wrong and should be carried out anew, it should be conducted anew and that would not be a problem. However, Mr Stanley YING did not say so, rather, he said that the tender procedure was by and large serious and acceptable.

The authorities asked the two implementers to try to collaborate and implement the programme in Hong Kong but since they were unwilling to do so, collaboration was not possible. I do not know what prompted Miss Elizabeth TSE to send such an email and why she made such comments all of a sudden. Why does the proposal floated by Miss Elizabeth TSE arouse my doubts? Because as a civil servant and a Permanent Secretary, simply put, she should have followed the rule and the rule is that if a tender exercise could not yield any result, the tender should be put out anew instead of making that kind of suggestion. Otherwise, since Mr Stanley YING said that the tender exercise was generally acceptable, the HKCSS, which got the highest scores, should be tasked with implementing the whole programme, so why was it necessary to raise that kind of proposal?

Miss TSE believed that the option of seeking collaboration (geographical split of responsibilities between the two implementing agents) should not be ruled out. I have read the discussion papers over and over again and could not find anybody making the same suggestion. President, I did not have the opportunity to ask Miss Elizabeth TSE from where she got that idea; even if I had, she would not answer my question, unless before a select committee. As the Permanent Secretary, why did she express that kind of view? Should she not offer her opinion on the procedure? This is the most important thing.

Therefore, is this making a lot of trouble for no good reason? President, those people who have read all the documents did not cause all the trouble for no good reason. Of course, President, I still have many questions that I want to ask. I have read those emails and tagged them because I found that some email exchanges were discontinued for no apparent reason and some emails are missing, but I have no opportunity to ask about them. President, when something is missing, one will not be able to get the full picture. Of course, some people say that such an approach would turn the result considered by Mr Stanley YING to be serious and by and large acceptable into one that catered mainly to the preference of the Financial Secretary, that is, no matter what approach is adopted, iProA could still play a part in this programme. In fact, I do not understand, and maybe the Secretary can tell me, from what the conclusion of a geographical split of responsibility for this programme was drawn. If the proposal made by Mr GODFREY was adopted and the request on the two implementers to collaborate is unreasonable, the tender should be awarded to the organization given the highest scores. However, President, the authorities did not carry out another tender exercise, so up to now, I still cannot answer this question.

There are still a few minutes left, so I wish to answer several questions raised by Mr LAU Kong-wah. Recently, why have so many retired government officials come out to voice their views? We all know that as government officials, they were subjected to a great deal of pressure in their teams and if they drew the ire of their superiors by saying something that greatly displeased their superiors, they would be subjected to even greater pressure. That was what happened to Mr GODFREY this time. However, what Mr GODFREY encountered was some tarnishing tactics that accused him of being over-sensitive and problematic in his handling of matters. However, I do not understand what motive Mr GODFREY possibly has in coming forth to expose this matter. Why did he raise such a hue and cry over this issue, or as Mr Ronny TONG said, and become a whistleblower to tell people that it was improper?

Mr LAU Kong-wah said just now that Mr GODFREY had stated personally that this matter had nothing to do with Mr Gregory SO and Dr Elizabeth QUAT, but I remember that in a special meeting, an Honourable colleague from the DAB asked Mr GODFREY if he meant that this matter had nothing to do with the DAB. Mr GODFREY's reply was most intriguing. He said, "I have never said that the DAB was not involved.". Of course, he did not say it was involved either; all he said was that he had not said the DAB had not

been involved. However, we must not forget that in the several rounds of discussions, Mr GODFREY said that he still had a witness who could tell all the truth only under the protection of the Legislative Council (Powers and Privileges) Ordinance. I do not know if this witness mentioned by him is still in public office, has retired or is doing other kinds of work. However, if a select committee cannot be established, it seems that this witness will not disclose any information. President, in fact, the only missing piece to the puzzle is this witness. I think that based on Mr GODFREY's comments and the doubts caused by the emails alone, we already have a *prima facie* case. If this witness mentioned by him can come forth and give evidence under oath to confirm that the political assignment or political pressure as claimed by Mr GODFREY did exist, the truth of the whole matter can then come to light.

President, I believe that today, after a number of Honourable colleagues, in particular, those of the DAB, have smeared Mr GODFREY, they will not support the establishment of a select committee. However, I think justice is in the hearts of the people. President, if a *prima facie* case has been established and a former senior official is willing to reveal his identity and speak out despite all the pressure, yet we in the Legislative Council do not discharge our duties, we will have neglected our duties indeed. Thank you, President.

**MR ANDREW LEUNG** (in Cantonese): President, at the two special meetings of the Panel on Information Technology and Broadcasting, I had listened to the responses made by Mr Jeremy GODFREY and the relevant officials to this incident, and I had read the documents submitted by the Government which were almost one foot thick.

All the facts about what happened have been brought to light. Firstly, during the evaluation process, Mr GODFREY disrupted the rules of the game to the neglect of procedural propriety. In the tender or selection procedures for any service, the organization with the highest score is normally selected. But in this incident, Mr GODFREY dismissed all dissenting views, including the views of his superiors and all the subordinates, and insisted on a collaborative approach between the two highest-scoring proponents. As a result, the Request for Proposal exercise had to be terminated, wasting all the time, manpower and resources.

From the documents and answers to questions raised at the two meetings, we clearly understand that the Permanent Secretary had reminded Mr GODFREY to be cautious about the procedural issues, rather than raising these concerns out of thin air only at the later stage of the programme. The Permanent Secretary reminded him as early as in an email on 20 August of the procedural problems with the collaborative approach, pointing out that the selection and scoring methodologies were unfair. The Permanent Secretary had made suggestions to Mr GODFREY who regrettably did not accept them and even made allegations about excessive micro-management on the part of the Permanent Secretary.

President, Mr GODFREY had neither made any report on his so-called "political assignment" to his superiors nor lodged any complaint with the Civil Service Bureau during his office. He made an open accusation against the Government suddenly only some time after he had resigned. At the first special meeting, Mr GODFREY explained that he did not leave his office immediately because he was supported by his colleagues and his intention was to come up with the best proposal for low-income earners.

However, at the second special meeting of the Panel, I asked Miss Joey LAM, Deputy Government Chief Information Officer, who was a colleague of Mr GODFREY at the time, to describe what Mr GODFREY was like as a colleague. She said that Mr GODFREY was a person with whom communication was very difficult, adding that he had dismissed all dissenting views and pursued collaboration by the two organizations without the support of anyone.

If the Government's decision was made out of political considerations, it could, in fact, directly instruct that a certain organization be selected, without having to take a tortuous approach of going through an open tender, an evaluation process, and so on. Moreover, from the papers submitted by the Government consisting of over a thousand pages, I cannot find any substantive evidence of political interference in the programme. To me, it is very difficult to confirm any suspicion of political interference merely on the strength of verbal allegations made by Mr GODFREY alone or from his side of the story.

In reply to Mr GODFREY's view on the ILSP on 11 October, Mr GODFREY's colleague, Assistant Government Chief Information Officer Dennis PANG, gave a reminder in good faith (and I quote) "..... with the best intention

in the world, to conclude the exercise with no selection and to embark on an operating model yet ascertained could attract serious criticism — time and bidders' and their partners' effort wasted, undue delay and fueling speculation about political influence, all that could be very damaging both to you and to the government alike." Dennis already advised him against doing this, for it might arouse speculation about political influence which would be damaging to Mr GODFREY himself and to the reputation of the Government and yet, Mr GODFREY insisted and did not change his mind.

In an email on 24 November, he even instructed his subordinates to consider the feasibility of his plan without having regard to the procedures. After reading the emails exchanged between the Permanent Secretary and Mr GODFREY, I can say that that the Permanent Secretary is not a person who opposed his proposals for no reason, as alleged by Mr GODFREY.

On 24 November 2010, as the Permanent Secretary already mentioned, she had been trying very hard to make collaboration possible between the two organizations and she even stated that she would throw great weight behind Mr GODFREY's proposal if its feasibility could be established. But at a special meeting held some time ago, Mr GODFREY said that the Permanent Secretary had put great political pressure on him, in an attempt to make her statement more credible. However, the Permanent Secretary already said in the email that the only pressure she had was one on timing.

At the special meeting Mr GODFREY admitted that he had never been a civil servant before and that this was perhaps why he did not understand the rule that he, being a civil servant, should follow all the procedures in his work. He proposed collaboration between the two organizations but in reality, collaboration between the two organizations was impossible in any case. In his email to Dennis on 24 November, he did admit that the collaborative approach was not going to work.

Mr GODFREY had made contradictory remarks repeatedly at the meetings. For example, he said at first that the incident had nothing to do with Secretary Mrs Rita LAU but later, he accused Mrs LAU of saying that the selection of iProA as the implementer would be the best political outcome, describing Mrs LAU as a key figure in the incident. In the end, he clarified all of a sudden that Mrs LAU did not deliberately attempt to interfere in his work in the process.

Moreover, he affirmed that the evaluation was fair and impartial, and in the Evaluation Panel, he was the member who gave the eInclusion Foundation Limited the highest score but then, he said categorically that it was a political assignment. He was indeed contradictory and illogical.

President, we always say that the Legislative Council (Powers and Privileges) Ordinance is the imperial sword of the Legislative Council, and we must be very careful in considering whether this sword really has to be unsheathed. At the two special meetings, the government officials involved in the incident, including the Financial Secretary, the Secretary and the two Permanent Secretaries, as well as the Political Assistant to Financial Secretary had attended the meetings to answer Members' questions. Throughout the entire process, we basically could not find any substantive evidence showing that there was truly political interference.

At the special meeting on 16 June, former Permanent Secretary for Commerce and Economic Development, Mr Duncan PESCOD, clearly said that he had a feeling of discomfort in being summoned as a witness under the Legislative Council (Powers and Privileges) Ordinance at the request of Mr GODFREY. He said (and I quote), "This is of course nonsense." He said that the allegations were unreasonable and he explicitly stated that he was willing to answer Members' questions at the meeting. Mr PESCOD said in his conclusion that this issue had arisen from a personal clash between Mr GODFREY and the Permanent Secretary and did not justify the allegations of political conspiracy as he said, "..... it certainly does not to my mind justify the allegations of political conspiracy." Since everyone has answered all the questions honestly, why is it still necessary to invoke the Legislative Council (Powers and Privileges) Ordinance?

President, I have read very carefully the emails exchanged between Mr GODFREY and the Permanent Secretary. On 24 November Mr GODFREY wrote, "Up to now, I have had consistent guidance that decisions on the ILSP should be motivated solely by the objective of achieving the best possible outcome for the low-income families, irrespective of any political or other considerations. I should be very sorry to feel that this guidance had been changed." From his wording we can see that he was very angry at the time but he did not mention political assignment.

Sorry, President, my iPad has suddenly ..... *(the iPad that the Member was using to display the script of his speech was not working; he then switched to a notebook computer to continue with his speech)*

In his email on 27 November, Mr GODFREY explicitly stated that he was aware of the need to follow the instructions of superior officers and that he understood the Civil Service Code. Such being the case, if Mr GODFREY really felt that it was a political assignment, why did he not complain to the Civil Service Bureau? In the same email Mr GODFREY said that it was difficult to do as he was instructed and repeatedly implied that he would resign as a threat. However, even though he sounded so furious in his email, he did not mention political assignment. Why would this be entirely turned into a political assignment a few months later?

The Permanent Secretary reminded Mr GODFREY again on 29 November that he must understand the feasibility of his plan and the procedural problems involved in reality. It was in December when Mr GODFREY learnt that he was highly unlikely to be offered a renewal of contract that he sent an email on 24 December to extend an olive branch to the Permanent Secretary. He said, "..... I have communicated with you in ways that show a lack of respect for your office and your experience. I am very sorry that I have not been more understanding of your perspective and have not had more self control." He also admitted that he was over-sensitive, as he said, "Over time, this has led me to magnify the importance of even the smallest signals — an unreturned phone call or an instruction given directly to one of my deputies — and to interpret them as evidence of an agenda to block my plans." He added that he would rectify his mistakes and he hoped that the Permanent Secretary could assist in the renewal of his contract: "I would like to benefit from your coaching about government culture and procedures. I would benefit from more regular private meetings with you as a line manager and coach perhaps monthly — as well as earlier interaction on particular issues."

From this we can see that this issue has arisen from a major divergence in opinion between a superior and a subordinate to the extent that co-operation between them is out of the question, but this has been raised to a higher plane of principle and brought to the attention of the Legislative Council. President, in a nutshell, the entire incident was the result of Mr GODFREY turning a deaf ear to the reminders and advice repeatedly tendered to him by his superior and

subordinates and wanting to implement only the plan in his mind to the neglect of procedures and rules. The several meetings mentioned by Ms Cyd HO earlier were all chaired by Mr GODFREY. I hope the Secretary can explain clearly later that these meetings were chaired by Mr GODFREY. The fact is that he first held a grudge because his views were not accepted and then, when his contract was not renewed by the Government, he, therefore, came forth to accuse the Government of exerting political influence on the programme.

I think this incident is purely a labour dispute between Mr GODFREY and the Government. In the entire process, Mr GODFREY's remarks were contradictory and he had failed to give any convincing explanation. The allegation of political interference cannot in the least be substantiated. Therefore, there is not sufficient evidence at this stage to support his allegation. I think the Legislative Council should not invoke the Legislative Council (Powers and Privileges) Ordinance to handle this issue.

President, I so submit.

**MR CHIM PUI-CHUNG** (in Cantonese): President, like me, the public may not understand what exactly has happened, whereas some members of the public may be interested in this issue and have tried to gain a fuller understanding of it. The Panel on Information Technology and Broadcasting has held two special meetings. I am not a member of the Panel, but when the first special meeting was held, I watched it very carefully on television to understand the whole issue and I could see a rather clear picture of it. As for the second special meeting, I attended it and took part in asking questions.

From my personal understanding, it has been the Government's established tendering policy that the highest-scoring proponent wins. Some officials might have found injustice and therefore expressed concern and mentioned other bidders, while a certain gentleman who considered himself clever and smart suspected hidden agendas and preferences on the part of other officials. In order to show that he is intelligent, or for the purpose of his contract renewal or other reasons, he proposed that the programme be implemented jointly by the two organizations with the highest score and the second highest score. He was the Chairman of those several committees and so, that was a decision made by him. In other words, he must be held fully responsible for this, no matter what reasons



or feelings he had that made him come to this decision. This is his own responsibility. However, he shifted the responsibility of this outcome or decision to other colleagues because, in his mind, he thinks that he is superior to others, a mindset that belonged to the colonial era.

At the second special meeting I asked that gentleman this question: Which official is higher in rank, one at D6 or one at D8? At that time, the Chairman of the Panel was almost telling me with a smirk on his face that such a question would be unnecessary. But how did he answer it? He gave no answer. In other words, he did not agree that D8 is higher than D6, and he said that he was almost like the controlling officer. This is already a full reflection of his sense of superiority, thinking that he surpasses other colleagues and surpasses other representatives in the several committees. Tell me, how can such a mindset be considered normal?

The second question that I asked was not intended to attack him. But since he made such an important allegation and accusation, I certainly must ask him this question. In fact, other colleagues also asked similar questions. I asked him whether or not he had any written evidence, recording, and so on. If he can go out to make allegations against this person or that person solely based on his own account of what happened, how possibly could the Government operate?

The third question. Since he had long been aware of the problem, why did he not raise it earlier? When his contract was not renewed by the Government, he took a completely different attitude and employed nasty means to serve his purpose. He is a person who refuses to bear the responsibility for his own decision and who tries to shift his responsibility to other people. How will a person with a normal frame of mind do such a thing?

On that day I also asked him whether he had ever checked his brain. I meant whether he, as a senior official, had undergone any pre-employment body check-up. He replied immediately that he had undergone a health check-up, that he had had a scan and that no problem had been found. Will someone who really does not have any problem admit these? I am not making any allegation or accusation. I only try to draw an inference with common sense, but it may not be entirely correct to draw an inference with common sense.

What experience can the Government learn from this incident? It is how the Government should recruit senior civil servants. According to those Permanent Secretaries, there is a full set of rules and procedures for recruitment or tendering, just that the relevant departments have not enforced them to the letter and the Government can do nothing about it. These circumstances do warrant a review by the Government.

Now, let me talk about our colleagues in the Legislative Council. This morning I read some reports that the 59 Members of the Legislative Council — it should be 60 Members including the President but let us not discuss the case of the President in detail. Each one of us has our own views and perceptions, and Members are not allowed to make insulting remarks on the decisions of other Members. Members can say how brilliant and great they are, and they can speak highly of themselves but if they accuse other colleagues ..... I can say that the President's ruling is not right. This morning Mr Ronny TONG blatantly accused some Members of being unfair to the public in making such a decision. The President should have reprimanded him and taken him to task and yet, the President just sat there and took no action. It was an indirect insult to other Members who have their own thinking and the right to make decisions. I hope that at this last meeting of the current Session — there is still one year to go in the remaining term — the President can effectively uphold the rights and interests of other Members.

It is not a sin for any Member to hold different political views or political stances on any issue. The public may give a Member a score of 10 because of these views or stances, or they may even give zero point to some Members who made certain gestures. Do not think that you are superior to other people because you stand on the opposite side of society and times. Indeed, the legal profession has a hierarchy of seniority. Senior Counsels are in the first class, barristers the second, and lawyers the third. In spite of this, they carry on their own business separately, and Members must not say that they stand on a political high ground and so, other Members are all wrong. I hope that Members who have made such allegations will reflect on themselves.

I represent my constituency. I have my mission, and I may not need the support or recognition of other people. But it is the most basic principle and requirement for Members to respect their colleagues. Could it be that Members

still do not appreciate this principle and requirement? How will such Members command the respect of the public?

Another point is what I have always called on my colleagues to do. That is, they can talk about their views from no. 1, 2, 3, 4 to 100, and they can claim that each and every view of theirs is correct, but they absolutely must not say that other Members are wrong. Why? Because other Members are not appointed or returned by their fellow colleagues, and each Member does carry his respective representation.

I wish to take this opportunity to talk about the attacks on the Government. We have seen that the Government already cannot fare any worse. What are the reasons? Certainly, this is attributed to the efforts of some Members because their thinking is poisoned. It is poisoned by one word. What word is it? It is "democracy" which has poisoned them.

Democracy is universal, and different countries and territories have different interpretations. However, some colleagues ..... Perhaps some colleagues in this Chamber will stand up later challenging me to say who I am referring to. I will not stop anyone who wants to pigeonhole himself into this, and whoever stands up is the person whom I am referring to.

President, let me tell you this. Anyone who is poisoned by "democracy" will be made use of by other people without his noticing it. Who will make use of him? The answer is those people who make use of the word "democracy" to infringe on the democracy and freedom of other countries. Let us not talk about the more distant examples, and let us just look at the recent case of Libya. No matter what different political parties, different races and different political conditions there are in Libya, it is, after all, a country. But some countries in the world have, in the name of the United Nations, blatantly invaded other countries. If Members of the Legislative Council have the concept of democracy, who have had the guts to speak up on this? Have they ever uttered a word about it? What is it if they are not poisoned?

I hope that apart from showing respect to each other, colleagues will also speak up on any inadequacy in the government structure. For example, if, in this incident, there is inadequacy on the part of the Government, we hope that they will do better and conduct a review to make improvement. The most

important idea and thought is not to bring shame to the Government and not to waste public coffers in delivering services to the public. Rather, we must ensure that the overall operation better meets public interest.

However, this is not what we are doing. Instead, we have attempted to seize every opportunity to pull the scab right off the Government's sore. Of course, our thoughts and views may be different, but insofar as the entire incident is concerned, the public really do not know how exactly they will be affected. Is there irrefutable evidence and 100% proof that the Government has made mistakes that have affected the operation of a policy? I am only stating my own views according to what I have seen, what I have heard and the information obtained from the questions asked. But I do not wish that the public will say that we are wasting time discussing some pointless issues.

Of course, I do not absolutely think that these issues are pointless, and the Legislative Council will make use of its imperial sword when necessary. For example, an inquiry is warranted for the Lehman Brothers incident which is a most unfortunate incident. The Subcommittee is in the course of writing up the report of its inquiry. The findings of the inquiry and the pressure hence created will make banks become willing to help the victims, thus enabling a conclusion to be reached by all sides from the angles of the economy and commercial interests. Such an inquiry by the Legislative Council is warranted, so is the pressure exerted by it on the Government.

However, are the disputes under discussion now really pointless? As I said earlier, I am stating my views based on my conscience, my understanding of what happened and the several reasons that I have just stated. President, I am not subjecting Mr GODFREY to unfairness. The fact is that I did put three to four questions to him on that day.

There is still one point that I would like to make. That is, any target or objective must have a focus. If it is out of focus, it will lead to the problem of departing from the facts. Members may not understand what exactly I am saying, but just look at Mr GODFREY's eyes and they will know. I am not saying that he has any problem. I hope ..... basically, with his past experiences, he should have been able to effectively take the Government forward and give play to his talents in policy issues relating to high technology after joining the Government.

It is a great pity that he had reacted too quickly perhaps because he is a technology man and as a result, the Legislative Council has to hold these unnecessary discussions here. With regard to this unnecessary outcome, I call for the understanding and forbearance of the public. I also hope that the Government will learn from the experience of this incident and sincerely conduct a review. Members of the Legislative Council have different opinions on different issues and different viewpoints, but the opportunity must not be taken to make unnecessary attacks on each other, and only in this way can we have the understanding and forbearance of the public.

President, I initially intended to use up all the 15 minutes and now, 40 seconds can be saved.

**MR LEE WING-TAT** (in Cantonese): President, I had particularly waited until Mr CHIM Pui-chung finished his speech. I did not stop him, and I now raise a point of order only after he has finished. In a paragraph of his speech earlier (that is, the paragraph that he came to after speaking for six to seven minutes), Mr CHIM Pui-chung mentioned that the President had inappropriately allowed or the President should not have allowed Mr Ronny TONG to criticize other Members. It was a challenge to the President's way of presiding over meetings and to his ruling. Normally, what the President will do is that — during the Presidencies of John SWAINE, Andrew WONG and Rita FAN — if any Member challenges the President's way of presiding over meetings or his decisions, the President will normally invite the Member to a discussion in his office. If this Council is dissatisfied with the President, we will resort to a vote of no confidence when we are most dissatisfied, without debating with the President the propriety of his ruling or his way of presiding over meetings.

I would like to ask the President whether you have been more and more lenient in chairing meetings, which is why Members seem to be not showing much respect to your authority all the time as you have taken no action at all when they pass strictures on you about anything. Do you wish to see this Council go on developing in such a way? Thank you, President.

**MR LAU KONG-WAH** (in Cantonese): President, with regard to the situation mentioned by Mr LEE Wing-tat just now, those challenges actually often come from Members of the Democratic Party. I wonder how the President has dealt with such cases before?

**PRESIDENT** (in Cantonese): I think what the two Members have raised is not really a point of order. *(Laughter)*

The speech made by Mr CHIM Pui-chung just now was not specifically targeting a certain ruling that I made. As Mr LEE Wing-tat may have noticed, it is not the first time that Mr CHIM put forth his views on the way that I preside over meetings. The speech made by Mr Ronny TONG earlier did not violate the Rules of Procedure and so, I did not interfere with it. I also hold that the speech made by Mr CHIM just now did not violate the Rules of Procedure. We should now continue with such a debate.

As Mr LEE Wing-tat has just said, should Members have any comment on or wish to raise objection to the way that I preside over meetings, I would be glad to exchange views with Members outside the meetings.

Does any other Member wish to speak?

**MR PAUL TSE** (in Cantonese): President, I feel a bit uncomfortable and I have to clarify something because Mr CHIM Pui-chung said earlier that Senior Counsels belong to the first class, barristers to the second class and lawyers to the third class. I think even Dr Margaret NG will not agree to this. As a matter of fact, with regard to "律師" (lawyers) and "大律師" (barristers) — the character "大" (which literally means big) is questionable — this is no more than a difference between litigation solicitors and solicitors. They perform their own scope of duties, and there is no question of whether they are big or small, or whether they belong to the first, second or third class.

Besides, I do not quite agree to the view that Members must not criticize each other because sometimes, the issues being discussed ..... Let us look at Britain, the Mother of Democracy or Father of Democracy. Their most spectacular debates often feature scorn and mockery, and they are very

interesting. But there must not be personal attacks, and there must be a little more sense of humour. This is welcome by all.

President, what I am going to say today has more or less been raised in the House Committee, and I just wish to add a point or two. President, the first point is that I think we have to distinguish between communication and interference. A team cannot function with its members working independently or doing their own job separately, as there will be chances for communication anyway. In a political party, if it is necessary to explain to the public the communication among its members, I think it would be very embarrassing to all political parties because they may have pulled wool over the eyes of the public or even purposely misled the public on many issues. Whether in the face of crises or where overall co-operation is required, communication is always necessary. A team is like the Government. With an establishment of so many civil servants, it is impossible that there is no internal communication for carrying out organization or defence work in respect of certain issues or matters.

I could not help laughing on hearing the example cited by Mr LAU Kong-wah earlier. The Legislative Council Commission has held discussions on the tender for the restaurant in the New Legislative Council Complex, and Members did mention such names as Café de Coral, Tsui Wah, and so on. This is not a problem at all at the stage of discussion. The most important thing is whether, in the actual selection process, there is anyone deliberately interfering with the process by exerting pressure or whether anyone is being subject to interference. This is the point that is truly important, and Members must be clear about this point. More importantly, we have to look at at which stage the incident took place. As I have said before, it would be fine if it took place at the stage of initial discussion, or the so-called brainstorming stage, when the pros and cons are discussed or views are expressed. On the contrary, when we moved onto a stage where things have to be handled very stringently, no unnecessary pressure should be exerted on the relevant person or the committee concerned. This is important.

Moreover, have we considered whether the relevant person or the committee concerned was really subject to interference? From time to time, there will be some Nosy Parkers. I very much appreciate a famous line by Mr CHIM Pui-chung that I always bear in mind. He said, "A person gossips about other people when he is sitting and becomes the target of gossips when he is

standing, so don't be too serious about gossips". This is true. Where there are people, there are mouths and with their mouths, people naturally talk about other people. So, everyone ..... government officials are, after all, human beings and they may, from time to time, become nosy and ask, "What does your political party think?" or "What is your department up to now?" This is just normal. It is another matter as to whether organized interference is at work. So, we must be clear about this. We must put things in perspective and within some reasonable parameters. We must not be too detached; nor should we be too idealistic, not allowing a speck of dust and wanting everything to be watertight. These things are said only to coax the voters once in a while. We, being Members, all know how things are handled and the thinking behind them. We, therefore, should be more realistic in looking at this incident.

President, another point that I would like to mention is that the inquiry that we are now ..... rather than calling it an inquiry ..... We are discussing the setting up of a committee to look into what mistakes Mr GODFREY, a former civil servant, had committed in this incident. Of course, if he is still a civil servant, it would be a very serious incident because Members have a lot of questions about what he did. But since he is a former civil servant who has already left the Government, is an inquiry worth it? This is another matter. Because instead of investigating into whether there are problems in the entire selection process, it is better to investigate into whether there are problems with individual participants. In fact, as Members can see, there is nothing wrong with the system itself, just that there are problems with its enforcement, and this is an isolated incident. Did that official fully comply with the rules in handling this issue or in the process of selection, or was he more special or was he a man of strong character or did he put in his personal view? This is the key point. Certainly, considering that the incident has already passed, is this still worth doing? I will come back to this point later.

President, I would like to share with Members a press report. When this Session of the Legislative Council is approaching the end, many newspapers and the media have, as usual, shown an interest in the performance of the Legislative Council or in finding out the "lazybones", and I do not wish to mention too many names here. But I read an article in the *Oriental Daily News* on 12 July (Tuesday) titled "Rushing to snatch the limelight on hot issues; Becoming invisible when controversies faded". It says that in order to canvass for votes and steal the limelight, Members have always constructed "unauthorized building



works" onto the structure of the Legislative Council by setting up various special committees to investigate into and discuss hot or controversial issues in society, but many of them have eventually turned out to be making a fine start but ending in a shabby way or just "a loud thunder with little rain". Members who proposed to pursue the matter are at first enthusiastic in holding meetings to follow things up closely but when the controversies faded, they become "invisible" as they are absent from meetings or they will even withdraw their membership in these committees." This article mentioned a number of Members. It happens that one of them had spoken vociferously just this morning, asking why we do not do something for justice, and this is why I must name this Member. This may not at all be fair to him because he does not have the right to speak again, but if I have said anything wrong, I trust that his party comrades will speak up for him. That article says, "The Subcommittee set up to study issues relating to the Lehman Brothers minibonds which is now working on its report is another committee hard hit by Members starting out enthusiastically but ending up in a shabby way, as many Members have withdrawn from the Subcommittee, while the attendance of those Members who stay on varies greatly. Particularly, the attendance of Ronny TONG of the Civic Party is as low as 13%, as he explained that he did not attend the relevant meetings because he had always opposed the Subcommittee summoning victims of the Lehman Brothers incident to give evidence. Priscilla LEUNG and Philip WONG of the Chinese General Chamber of Commerce have an attendance of below 50%." Actually, there is a rather big difference between 50% and 13%.

President, the point that I wish to make is that what we should consider now is not whether the Government has made any mistake, or whether there is anything that is worth doing. In fact, in respect of each decision made, if resources are available and if it will be reviewed, this is perhaps worth doing. That is to say, in every decision made and every approach adopted, there is always room for improvement. But the question is whether or not we should deal with it by setting up a so-called investigation committee and invoking the powers and privileges ordinance. Members have discussed this for many times and I do not need to do any more explaining. This is an imperial sword that cannot be used casually; nor is it appropriate to use it casually. This should supposedly be the focus of our discussion this morning.

Today, we cannot and should not examine in detail the contents of each document or the oral evidence given by each witness as suggested by certain

colleagues; nor is it appropriate for us to do so, because this is not the objective of our debate today. We can only look into the general principle from a relatively macro perspective and ascertain whether, on the face of it, an investigation is worth it, whether an investigation should be conducted and whether an investigation must be conducted into this incident. This should be the direction of our discussion.

As I have said before, the "P and P" procedures must not be initiated casually. They are not indiscriminately applicable to all cases, especially not for cases that involve witnesses who have only given oral evidence and do not have other concrete documentary evidence, tables and diagrams, proposals, or written proof of communication or circumstantial evidence. For example, the airport chaos, the substandard piling works incident, and the Lehman Brothers incident have involved many documents, and a great deal of information was available for an in-depth investigation to be carried out.

However, if it is purely about gossiping or nosiness or even some pointless things being said which should not have been said, and when everyone can only rely on memory, and as Members all know, when it comes to memory ..... When it comes to giving evidence, it depends on three conditions on the part of the witness: First, whether the witness has a strong power of observation; second, whether he has a good memory; and third, whether he has a strong power of expression. All these conditions are indispensable, and a witness who fails to meet any one of these conditions is not a good witness. Particularly for cases that happened a long time ago, these three conditions must be met in order for the evidence to be considered credible. More importantly, in the course of litigation, sometimes when we come across cases that do not have too many written documents, which means that we can only rely on the evidence given by witnesses, we would have a feeling of great unease. As all barristers and lawyers in this Chamber know, relying completely on oral evidence will involve a lot of uncertainties and as a result, we will have a lot of considerations to make in deciding whether or not to file a case in Court.

Whether it is the Department of Justice (DoJ) or Members of this Council, in making a decision on whether or not a committee should be established, apart from considering the importance of the issue, it is also necessary to consider whether it is possible to find out the truth. If the evidence given by a key witness is inconsistent or his behaviour — for instance, he is an accomplice or has done certain things — thus causing us to have many questions before the

investigation starts, even when the DoJ is making a decision on whether to institute prosecution ..... as in a recent case of indecent assault and rape which has aroused much concern, it is still necessary to consider the evidence of the victim. Even though she is really the victim, when she gives evidence in Court as a key witness (the result of the case all depends on her evidence), the DoJ will still have to consider whether the witness' behaviour at the time and afterwards will give cause for unease. If no definite answer can be arrived at, the DoJ will not institute prosecution.

By the same token, if the Legislative Council finds that in this incident, the only key witness has provided no other information apart from oral evidence and if the behaviour, background and the past remarks and behaviour of this person have aroused a lot of doubts (let us not comment on whether he is right or wrong), then we must be very careful in deciding whether or not to "press the button", because once we pressed the button, huge sums of money would have to be spent. In addition, as I said just now, many colleagues are very enthusiastic when they first sign up to join the committees but after a while, they will withdraw one after another. Particularly as this term of the Legislative Council is entering its fourth year, meaning that next year will be the election year, I wonder if Mr Ronny TONG will rush to join the investigation committee and if he did, I hope he would participate in the whole process of the inquiry and would not return an attendance of only 13%.

In any case, when we consider whether or not to "press the button", we must exercise great care, or else we would be making a bigger mistake than that of the Government, because we would be wasting public resources on doing something pointless.

Coming back to this incident, even if we really "press the button", and disregarding the uncertainties that I have just said, what objective could we achieve? As Mr GODFREY said very clearly in the evidence he gave on 7 June (page 10 of the verbatim record of the Legislative Council), he considered that even if there would be an inquiry (that is, the setting up of an investigation committee), more documentary evidence might then be produced and yet, he stressed that this was only a possibility. But he clearly said that some officials were very cautious about written documents, and an official even told him not to send emails but to write things down on loose sheets of paper and then dispose of them. This is his side of the story. I do not wish to comment on whether he is right or wrong, but even if what he said is admitted to be all true and highly

credible, it is still possible that not much documentary evidence can be produced then.

Second, he thinks that the only thing that can be done is to find a witness who has not been disclosed before and who is entirely outside the civil service establishment of the Government, and this witness may have more to say about this incident. But who is this person and what is his background? What is the nature of this, whether this is of a "nosy" nature, or is the witness truly authoritative and representative? This is like the discussion on the Chief Executive election, as everyone expresses his or her views and everyone seems to be representing Beijing, but who is credible? The case is the same for witnesses. If a person from outside has made remarks that may constitute allegations against a certain political party, are we going to "press the button" right away based on what this witness may do? This is the second point.

President, the third point is that with regard to this kind of decision, there is no right or wrong in the absolute sense. An inquiry, if conducted, may of course uncover something. I had strongly opposed the setting up of an investigation committee on the incident of Mr KAM Nai-wai (speaking of this, there has not been any finding so far). Can more of the truth be uncovered by setting up an investigation committee? I do not know. Of course, it was said that a witness who would be of great help to Miss WONG Lai-chu could come forth but in the end, everything just disappeared into obscurity as that witness refused to come forth and there were a lot of problems too. When we make any assessment before the event, we can only consider the chance of uncovering anything and the nature of the incident. If the incident is very damaging to the community of Hong Kong, we would have no other alternative but to conduct an investigation. If there are really plenty of substantive evidence and if there is a high chance for the investigation to uncover something, we will conduct an investigation into it. But if there is just nothing and if we still handle the matter in this direction, it would be a blatant ..... It is called "fishing expedition" in law. It would be like a fishing expedition in that we hope to catch some fish once we let down the hook.

If this action will require Members to chip in money, that is, if Members in support of the setting up of an investigation committee have to chip in money, that would be the best, as they should not always act generously at the expense of other people. Are Members prepared to do this? Whether they will contribute

money or efforts, they must promise to achieve a 100% attendance and colleagues will then chip in money for an inquiry to be conducted. This would be the best test. Are Members prepared to do this? Of course, I am not making Members do this. But in fact, when considering whether or not to "press the button", we, being Members in the public service, must not think that we should go ahead and do it as there may be merits and that it is good to put some pressure on the Government and exercise some monitoring on the Government. While the setting up of an investigation committee has some merits indeed, we still have to consider whether its setting up is worth it, and this has to do with the "cost-benefit analysis".

Insofar as this incident is concerned, I am afraid that this line ..... Even though Mr GODFREY may be right in what he said regarding certain issues and some acts of the Government may warrant a review, I think insofar as this incident is concerned, it is improper and inappropriate for us to "press the button"; nor is this what we should do.

Thank you, President.

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

**MS MIRIAM LAU** (in Cantonese): President, first of all, I also have to protest against Mr CHIM Pui-chung's earlier remark that there are three classes of lawyers. I have never admitted that I am a third-class lawyer. As Mr Paul TSE put it very clearly, there is just a difference between solicitors and litigation solicitors, and we are all first-class lawyers. I bet Mr CHIM Pui-chung was only joking.

I do not personally know the key person of this saga, Mr Jeremy GODFREY. But from the comments made by friends around me or their views on his performance during his office, my impression is that he is a professional talent in the IT field, and he is praised highly for his talents in his profession. However, he is at the same time a very headstrong person. He may be very self-confident but sometimes, he may tend to split hairs because he is excessively insistent on certain issues. This is a foreword about my understanding of the key person of this incident.

I think the Legislative Council certainly must handle issues relating to public interest. The public interest premise of this proposal to initiate an investigation into the GODFREY incident under the Legislative Council (Powers and Privileges) Ordinance (the Ordinance) is political interference. This is certainly a serious allegation that we must address seriously. But when it comes to a decision to invoke the Ordinance, what Mr Paul TSE said just now is very correct. He made some very good points despite he being a green horn, and from his views on the use of the Ordinance and the resources required, we can see that he has a very good understanding of the picture.

As a more senior Member of this Council, I have joined the select committees set up under the Ordinance for many times before, and what has given me a particularly deep impression is, of course, the investigation into the substandard piling works incident. It took almost two years for the select committee to complete its inquiry into the issues. Over \$10 million was spent on the resources required and countless meetings were held. This expenditure of over \$10 million has not even factored in the time and effort spent by Members. It entirely just covers the work of the Secretariat, such as the cost for preparing the verbatim record, and so on. This record of resource input has now been broken by the Subcommittee on the Lehman Brothers incident. Although it is only a Subcommittee, it was set up under the Ordinance. Considerable resources have been injected into its work and the investigation has been carried out for four years and it has not yet concluded. How many resources will eventually have to be spent on this Subcommittee? I have no idea.

If we could turn the clock back to three years ago and if we could sit down and think calmly about whether there would be a better way to resolve the disputes at the time, we might have come up with a different conclusion, instead of resorting to the Ordinance. Of course, I will make no criticism. We did take part in the discussion back then.

In saying this, I actually wish to point out that we must be very careful in invoking the Ordinance, because apart from the need to spend time and resources, concern will be aroused in society. Therefore, we must handle this with care, and it should be invoked only when there is an actual need. When there is an incident or issue that truly involves public interest and requires thorough investigation, we certainly must exercise this power. But when there are incidents of our concern or allegations that may be very serious but if they may

not necessarily be supported by facts, we cannot rashly think that an investigation should be conducted alike.

To put it in Mr Paul TSE's words, the use of the Ordinance is not fishing. It is not a fishing expedition. Before it is invoked, a prerequisite must at least be met and that is, we must firmly believe that firstly, the incident is serious and secondly, it is supported by facts. As for the details, an investigation will be conducted to uncover them, rather than launching an investigation when there may be evidence in the hope of finding some evidence. This does not seem to be in line with what we did in dealing with the setting up of a select committee before, and it seems that we have never done this before. For instance, regarding the airport incident, it was because of the chaos that occurred in the airport and as for the substandard piling works incident, it was because there was indeed the problem of substandard piles. It is when a problem has arisen that we investigate into it in depth, rather than launching an investigation into some allegations to find out whether they can be substantiated. This is not the proper approach.

Of course, this does give cause for our concern. When political interference is said to be involved, no Member of this Council will consider this to be right, and we must look into whether this had actually happened. I understand that the Panel on Information Technology and Broadcasting has held a number of meetings for this purpose. I am not a member of this Panel and I did not have the time to attend two of its meetings. But of course, I have paid close attention to the relevant reports in the media, and I have obtained the verbatim record of these two meetings and carefully read twice the record sentence by sentence, as well as all the questions and answers in it.

Why do I have to read them in such a way? I hope to find out from the verbatim record whether a *prima facie* case can be established for political interference. I think it is the most basic requirement for everything to have *prima facie* evidence. Certainly, I have noticed that some colleagues considered that a *prima facie* case was already established because of some remarks made by certain people. But after reading the record, I would say that on the question of whether a *prima facie* case can be established, there is still a long way to go to meet my standard.

I would like to share with Members some thoughts that I had when reading the verbatim record. The point is Mr GODFREY's views on the entire incident. He was the advocate for the Internet Learning Support Programme (ILSP). He came up with the idea of this programme and considered it to be very good. He was glad that the Government accepted his proposal and he had implemented it with great enthusiasm. In the selection exercise, five proponents took part in it and the two front runners were the Hong Kong Council of Social Service (HKCSS) and iProA.

According to Mr GODFREY, he considered iProA the best and gave it the highest score. Why did he consider iProA the best? Because he considered its business and operation model the best among all the bidders. Of course, each bidder or proponent being considered in the selection process has its strengths and weaknesses, but Mr GODFREY considered iProA the best.

The final result was that after making all the calculation, the HKCSS had the highest score. He certainly would not be very pleased about this but he did not want to give up iProA because he considered it the best. What did he do then? In his reply at the meeting of the Panel on Information Technology and Broadcasting on 16 June, he said that he had sought advice from the then Secretary for Commerce and Economic Development, Rita LAU. He pointed out that iProA was the best and he said this, "My personal view had been that iProA was the best". But the Evaluation Panel considered that the HKCSS had the highest score. In his reply he had set out three options, which can be found in page 30 of the verbatim record. One was to pick iProA, which was Mr GODFREY's choice; the second was to propose collaboration, and I would describe it as "entering into a marriage"; the third was to pick the highest-scoring proponent, namely, the HKCSS, in accordance with the result reached by the Evaluation Panel. According to what he said, Rita LAU's reply was that iProA must not be selected in any case. Why? Because it would cause a political storm.

In fact, this is what would happen indeed. If iProA was ranked only the second in the selection but if it was selected, I think the Legislative Council certainly would not let her get away with it. This is why after his meeting with Rita LAU, the agreed option of a "marriage" was proposed. But of course, a pre-arranged marriage has difficulties because the other party may not be willing, and the "marriage" was doomed. What happened as a result? We can take a



look at page 43 of the verbatim record. In reply to Dr PAN Pey-chyou Mr GODFREY talked about his line of thoughts. He said that the Financial Secretary mentioned other suitable providers in the process and there was nothing inappropriate about this, so why should it be a problem when iProA was mentioned? I do not know why it should be a problem, because only the name was mentioned and he was not instructed to pick no other provider but iProA. I have noticed that in the entire process, all the officials had told him to act in accordance with the rules and follow the procedures impartially and fairly. We have got this impression very deeply.

In his reply he said that he did not find any problem with it and that he did not regard it as a political assignment either. Although the names of other providers were mentioned, he did not find any problem. Mr GODFREY also mentioned that Mr PESCOD had told him to follow normal procedures. He said that he had followed normal procedures impartially and fairly and that he did not purposely make iProA win in the selection exercise but in the end, he still made iProA win. But at which stage did he change his mind? It was when a "forced marriage" was unlikely to succeed, that is, when collaboration was impossible to be achieved. The Government insisted on a geographically-split approach but he disagreed. He considered that a "marriage" should be pursued and even if it was out of the question, they should jointly implement the programme via a company under the Financial Secretary Incorporated (FSI). That was really his wishful thinking, and I absolutely trust that Mr GODFREY was well-intentioned, but perhaps he turned out to be doing a disservice out of good intentions in that he had wanted to force them to accept a collaborative approach but in vain.

In fact, when two persons cannot get along with each other, even if they are forced to go into a room, or even if they are forced to agree on something under a FSI company, they still cannot work together. But Mr GODFREY had insisted that the best option was collaboration between the two organizations. When it was finalized that the two organizations would implement the programme separately, he considered it unreasonable and felt that some political motives or political assignments must be involved. He made associations with a political storm, political assignment, the mentioning of iProA to him by somebody, and so on. Lumping all these things together, he, therefore, came to the view that there was political interference.

However, throughout the entire process, I think the whole programme had been subject to the wish of Mr GODFREY. The scores to be given in the selection process were subject to his own wish; the "marriage" option was proposed out of his own wish; everything was done according to his wish. The entire story was written and directed by himself. When the "marriage" option was unsuccessful, he came up with the idea of a "fake marriage", because he disliked the approach for the programme to be implemented in separate geographical regions. I do not understand the reasons why he disliked this proposal. He claimed that under this proposal, the best aspects of the two bidders (HKCSS and iProA) could not be combined to minimize the weaknesses.

I fully trust that Mr GODFREY was well-intentioned. After reading all the documents, I think a *prima facie* case cannot be established, and there is no proof that political interference was involved in the selection or handling of the ILSP or in the subsequent arrangement for delivering the service separately in different regions. In fact, I really do not see that there was such a case. Of course, the Panel on Information Technology and Broadcasting can continue to discuss this issue. The Government has provided a lot of documents, and many government officials, including the colleagues and superiors of Mr GODFREY, can also continue to assist Members in finding out more about this incident. But considering such background or information at this stage and comparing with other incidents in respect of which the Ordinance was invoked, I think the substantive information available so far on this incident has not yet met the required standard. Therefore, with regard to the proposal of setting up a select committee under the Ordinance, I have great reservations about it. Thank you, President.

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

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, as I said before the start of the debate, the Government does not see any need to appoint a select committee on the selection process of the implementing organization for the Internet Learning Support Programme (ILSP).

In Ms Emily LAU's motion, it is alleged that there are government officials or other persons who acted unduly, in the course of selecting the implementing organization for the ILSP, to interfere with the selection process to influence the selection results in order to achieve a political aim.

I deeply regret that the allegation is untrue and will cause a serious impact on the Government's reputation. I also consider it most unfair to the diligence of colleagues in the Civil Service.

In order to give a comprehensive account of the Government's position to facilitate understanding of all sectors of society of the sequence of events and set the record straight, we have proactively coped with the discussions of the incident by the Legislative Council Panel on Information Technology and Broadcasting (the Panel). The fact that Mr Jeremy GODFREY is allowed to disclose relevant information and his views on the incident has indicated that nothing is being covered up by the Government in this issue.

The Panel held two special meetings on 7 and 16 June respectively. Fifteen officials, including the Financial Secretary, Secretary for Commerce and Economic Development, Political Assistant to the Financial Secretary, the former and the incumbent Permanent Secretary for Commerce and Economic Development (Communications and Technology) (the Permanent Secretary), the Government Chief Information Officer (GCIO), the former and the incumbent Deputy GCIO, members of the Evaluation Panel and members of the review committee, regardless of their involvement in the incident, had personally attended the meetings or given an account of the incident in statements.

Although I have attended numerous Panel meetings, I have never come across any meeting which was attended by so many government officials. They have given a clear account of the sequence of events and their roles and answered Members' questions.

In response to Members' request, we have also submitted lots of internal documents which are related to the selection process. President, the 1 000-page-plus documents on my table are some of those which have been submitted to Members. These documents include papers and exchanges in relation to various stages of the ILSP, including the preparation and development stages. Even draft documents concerning the decision-making process such as

the project inception and Request for Proposal (RFP), review committee stage, discussions on collaboration and fallback options, and the dual-implementer approach have also been included.

Mr CHEUNG Kwok-che said that the Government had tried to adopt an evasive attitude and failed to make a strong rebuttal. These documents are precisely a strong rebuttal. The fact that several meetings were held is also a strong rebuttal. In 2011 alone, we have briefed the Panel on the implementation arrangements of the ILSP in January and March, not to mention similar arrangements in 2010. We briefed the Finance Committee at its meeting in April. I answered an oral question by Mr Fred LI at the Legislative Council meeting on 25 May. Several officials gave an account and answered Members' questions at a special meeting of the Panel on 7 June. I answered an oral question by Ms Emily LAU at the Legislative Council meeting on 8 June. The Panel held another special meeting on 16 June. The House Committee discussed the issue on 24 June. A total of nine discussions have been held up to date. Members have expressed lots of views during the period and many of their points raised today were in fact fully discussed and explained at those meetings.

Now I would like to give a concise reply to Mr Ronny TONG's two questions.

First, there is no political interference in the ILSP; second, there is no interference in the selection process. Mr Ronny TONG should not quote the Financial Secretary's words in a selective manner. I have looked up the Financial Secretary's speech on 16 June. He said, "I agree that iProA has business experience and expertise in the implementation of the ILSP." But he also mentioned that it is not the only suitable organization. I hope Mr Ronny TONG will take note of this point.

Ms Cyd HO said that we had revised the contents of these documents. We made it very clear in the documents submitted to the Legislative Council last week. In the document on 30 September ..... I am sorry, I should say that the draft and final versions of the Evaluation Panel's report has never been revised, particularly the following sentence: "A majority of Evaluation Panel henceforth recommended HKCSS as a selected implementer of the five-year Internet Learning Support Programme.". This sentence remains the same in both the draft and finalized versions of the Report.

She mentioned that paragraph 6 of the draft seemed to have been deleted. Why? We have pointed out very clearly in the documents and letters that the paragraph was quoted in another paper dated 12 August 2010 from our Senior Systems Manager (Digital Inclusion) to the former GCIO. It is explained clearly in RFP-10 under LOT I of document list that such a change has occurred simply because some sentences have been removed from one document to another and the content is the same. The relevant documents have all been disclosed to Members and no revision has been made.

I have also said that Permanent Secretary Elizabeth TSE has never made any revision to the Evaluation Panel report. Here, I think justice should be done to Permanent Secretary Elizabeth TSE.

The ILSP selection process, from the RFP stage, evaluation of proposals to the adoption of the dual-implementer approach, was conducted in a fair and unbiased manner and guided only by what was best for the project in overall terms. I have reiterated this point time and again. There is absolutely no underhand dealing. Civil servants have always insisted that the Government should be seen to be acting in a fair and impartial manner whenever competitive bidding or public funding is involved.

President, the truth has come to light from the bunch of documents submitted by the Government and the details provided to Members in the course of their meticulous discussions and inquiries. The incident is crystal clear to everybody. All government officials who were involved in the preparation of the ILSP have striven to ensure that this new and innovative initiative is practical, effective and sustainable. Their concern about the ILSP should not be confused with the so-called political interference.

Repeated discussions and studies of all relevant documents will enable us to come to a conclusion that the former GCIO and his superior have divergent views on the process and implementation of ILSP. However, we must emphasize that differences of opinion should not be misinterpreted as political interference. Political neutrality, impartiality, honesty and integrity are the core values of the Civil Service.

Regarding the ILSP, the objective of the government team as a whole was very clear. It aimed at identifying the best implementation proposals and

implementer to take forward the ILSP in the most effective way in accordance with fair rules of the game and procedures.

President, several Members, including Ms Emily LAU, have asked the same question at various meetings of the Legislative Council: Why was the Hong Kong Council of Social Service (HKCSS) not selected as the sole implementer although it had got the highest score in the selection process? Why did the Government finally decide to adopt a geographically split approach?

We have repeatedly explained and discussed the issue at various meetings, apart from the provision of 1 000-page-plus documents and relevant details. Members should know it very well if they have cared to read the relevant documents. Nevertheless, I would like to take this opportunity to elaborate the whole selection process and the Government's considerations.

The Office of the Government Chief Information Office (OGCIO) launched an open RFP between 18 May and 5 July 2010 with a view to identifying the best proposal and implementer to take forward the ILSP.

The proposals received under the exercise were assessed by an Evaluation Panel led by Mr GODFREY, the former GCIO. Let me respond to Mr Andrew LEUNG that the Panel was chaired by Mr GODFREY. The Evaluation Panel, after a fair, open and competitive selection process in accordance with the published procedures and criteria, decided that two of the five proposals received, which were submitted by the HKCSS and eInclusion respectively, were the best, although there were strengths and weaknesses. Nonetheless, the HKCSS's proposal gained a higher score.

Therefore the former GCIO considered that it would be in the best interest of low-income families if the programme could be executed in a manner that could incorporate the best elements of the two leading proposals. He also advised that the HKCSS and eInclusion be invited to co-found an implementer (or known as the "merger option") for the ILSP and consulted the Permanent Secretary.

Noting the substantial amount of public funding involved but there was an absence of checks and balances internally, and observing that the evaluation process was not prudent and rigorous enough, the Permanent Secretary sought the consent of the Secretary for Commerce and Economic Development to establish a

review committee to review the assessment process and outcome of the Evaluation Panel to ensure that the selection was in full compliance with proper procedures and the principle of fairness. This is exactly the point mentioned by Ms Cyd HO and that is, we cannot act wilfully and we must comply with a fair and impartial procedure.

The review committee met twice in September 2010. It was agreed that the selection process was by and large fair and had managed to produce two strong proposals with very high scores. Since collaboration between proponents was not envisaged within the framework of the RFP, the review committee advised that if collaboration was to be pursued, it should be treated as an exercise separate from the RFP.

Having regard to procedural concerns, the circumstances of the case, the former GCIO's advice that it would be in the best interest of the low-income families to seek a collaborative approach, and the fact that the Government was not bound to select any proposal submitted under the RFP, the review committee had no objection to the former GCIO concluding the RFP exercise by not selecting any proposal submitted and pursuing the collaborative approach.

President, just now Ms Cyd HO and Mr LEE Wing-tat mentioned an email in the document list dated 30 September from the Permanent Secretary Elizabeth TSE to Mr GODFREY. The email is in fact a conclusion of the work of the review committee. As such a collaborative approach or "merger option" was not envisaged and not within the scope of the RFP, so the review committee advised to conclude the RFP first.

The practical choices for contemplating collaboration between the contenders are limited. The first is for them to co-found an implementer. The second option is split implementation in two geographical zones. The third option is a company set up by the Government as implementer of the programme.

The Permanent Secretary knew from the outset that Mr GODFREY opposed the dual-implementer approach and was often self-opinionated. Therefore she particularly reminded Mr GODFREY to be open-minded in the email. She told Mr GODFREY not to prematurely rule out any options. So, this is not a suggestion. Rather, it is nothing more than a piece of advice to Mr GODFREY that he should not rule out any option prematurely and should be open-minded.

The Government engaged the HKCSS and eInclusion in intensive discussions between October and December 2010 to explore possible collaboration arrangements. Nonetheless, they were unable to reach a consensus on a collaboration model to co-found an implementation agent to take it forward. The Government therefore reviewed various fallback options carefully, including forming a Financial Secretary Incorporated company, the OGCIO acting as implementer, single tendering/retendering — as Ms Emily LAU said yesterday, retendering is also an option under consideration — and dual-implementer approach with the HKCSS and eInclusion as implementers in separate geographical zones.

We have considered various options. Having regard to procedural concerns, accountability, speed of securing stakeholders' agreement and finalizing implementation details and resource implications, the Government decided that engaging the HKCSS and eInclusion to implement the programme in two geographical zones would be the fallback in the event that co-founding one implementation agent could not materialize.

In early January 2011, when it became evident that attempts to invite the HKCSS and eInclusion to co-found a single implementer failed, the Commerce and Economic Development Bureau offered, and the HKCSS and eInclusion accepted, a dual-implementer approach. The decision to pursue the dual-implementer approach was a collective one made after thorough consideration of all factors. It was more pragmatic in overall terms and could meet the implementation schedule of the ILSP.

President, I would like to stress once again that the ILSP selection process, from the RFP stage, evaluation of proposals to the adoption of the dual-implementer approach, was conducted in a fair and unbiased manner and guided only by the interests of low-income families. There is absolutely no political interference. President, this is the background of the whole incident.

I am pleased to tell all Members that since the eInclusion and HKCSS were commissioned to launch the ILSP at the Eastern and Western parts of Hong Kong respectively in January, we have been engaged in preparatory work proactively with the two implementation agents with a view to launching the programme expeditiously for the benefit of eligible families and students.



Everything is now ready. The OGCIO has recently joined hands with the two implementation agents and the Education Bureau to introduce the ILSP to various sectors of the community, including school principals, teachers, social workers and parent-teacher associations of various districts. The programme was well received.

Since the launch of the upcoming ILSP was announced on 27 June, plenty of enquiries have been received by our hotlines, indicating that families in need are eagerly looking forward to the early implementation of the programme.

I am pleased to report that, as Ms Emily LAU also mentioned it last night, the ILSP will commence as scheduled today and the launching ceremony will be held at 11.30 am. We would have been able to concentrate on celebrating the launch of the programme if not because of this debate. However, we have no alternative but to go through it.

President, I sincerely hope that the incident will come to an end today and we can concentrate on the implementation of the ILSP in the future. The programme will help students from low-income families to make good use of the opportunities of online learning to broaden their horizons and enhance the quality of learning.

As for the motion today, Members have explored and discussed the issue for a number of times at various meetings in the Legislative Council and the Government has also responded to all requests by Members in a proactive and comprehensive manner. Mr LEE Wing-tat and Ms Emily LAU have raised some written questions in a letter to the Panel Chairman on Monday or three days ago. Members can see a bunch of documents on the table presented by us. Most of the questions have been discussed at the Panel meetings.

The proposal on setting up a select committee was negatived by the Panel at its special meeting on 16 June. The House Committee did not support it at its meeting on 24 June. We will answer the remaining questions raised by the two Members just now as soon as practicable. However, we do not see any details of the incident which remain unexplained and warrant the appointment of a select committee for follow-up.

With these remarks, President, I hope Members will vote against the motion. Thank you, President.

**MS EMILY LAU** (in Cantonese): President, the Secretary said that we should go to Tseung Kwan O to attend the opening ceremony. Despite the launch of the ILSP, the matter is not yet over. President, the ILSP has only just begun. We hope the authorities can report to us on the development of the ILSP and whether Mr GODFREY's proposal will materialize.

President, at the Panel meeting on 7 June, when Mr IP Kwok-him asked him a question about the "political assignment", Mr GODFREY said, "In terms of the political assignment, I really do need to make absolutely clear I have never said that the DAB were not involved. I have no reason to say that. I have said that Dr QUAT was not involved. I have no reason to say that the DAB was not involved. Quite the contrary: I was informed by somebody who was in a position to know that a promise had been made to some members of the DAB that, if the project would be awarded to iProA and that they would be able to use their position as the winner of this project to arrange for DAB sympathisers to knock on the doors of low-income families with the aim of gaining some sort of political or electoral advantage. I have no reason to doubt what I was told by that person and that person was certainly in a position to know. I am not willing to identify the person unless I'm compelled to do so by law." How can this Council, without the powers, request him to speak? It was unfair for Mr LAU Kong-wah to say that he had nothing to do with it, because his remark was like a fact cast in iron. He did not retract it, either. Of course .....

**MR LEUNG KWOK-HUNG** (in Cantonese): The DAB .....

**MS EMILY LAU** (in Cantonese): Don't interrupt my speech. You should have come in earlier.

**MR LEUNG KWOK-HUNG** (in Cantonese): The DAB is the most shameless.

**MS EMILY LAU** (in Cantonese): President, just now, some Members suggested that this might have something to do with personality clashes or personnel matters. After numerous meetings, and judging from what we have heard, these factors are not surprising at all. However, our proposed inquiry is aimed at finding out whether there is interference, not about disputes between people. In fact, the relevant civil servants had admitted in the numerous meetings held and submissions that, before the announcement of the budget, the Financial Secretary already indicated his preference for the iProA. This was why I asked: Is it appropriate? The Secretary has not answered my question.

Both the international community and the Mainland are impressed by Hong Kong's fair and impartial systems. So, is it appropriate for some principal officials to praise a certain organization, describing it as the best option, when imminent programmes are being discussed at internal meetings? Is this the usual practice of principal officials? Just now, Mr LAU Kong-wah commented that we had behaved in this manner when selecting the restaurant for the New Legislative Council Complex. President, this is not the case. Both you and I know it. When deciding to launch a tender exercise, you and I did not ask whether it was Cafe de Coral or Maxim's. A tender is a tender. All the information is presented here. We will re-examine if the conditions have to be revised should no contractor indicate a wish to operate the restaurant. Regarding the question as to whether "a king size bed" should be offered as a gift, the conditions would be considered to have changed should we do so. President, you should recall a proposal raised by a member that a new tender exercise be conducted should that happen. This was what happened. I must do ourselves justice.

The Secretary has always insisted that the whole system is fair and impartial. We find the sequence of events provided by the Secretary very useful. However, a very important day, that is, 24 January 2011, is missing.

Though I also recited this submission from the Independent Commission Against Corruption (ICAC) last evening, President, there is nothing I can do but read it out once again now, "From the corruption prevention angle, the splitting of the programme into two geographic zones not only materially changes the programme specifications, but also deviates from the selection mechanism specified in the Request for Proposal documents. This could give rise to complaint of unfairness from other interested parties as they are not given the

chance to compete with the two selected proponents on equal terms based on the revised programme specifications. Following that, there could be public criticism and allegations of favouritism. We also have concern on appointing the two proponents by direct negotiation without going through a due selection process. It appears to us that the Office of the Government Chief Information Officer may find it difficult to defend publicly this selection arrangement." This submission was issued on 24 January, whereas Mr GODFREY resigned on 5 January. He told us later he knew that he could not defend the incident publicly. What about the authorities? A reply was sent to the ICAC on 26 January. Although we all have these documents, no one, including the Secretary, has opted to mention this for discussion.

President, what did the Secretary say? He merely repeated the remarks he made just now one more time, telling us everything about the process and what is going on now. Can he respond to the ICAC's comment that the approach adopted by the authorities was wrong? Even if he decides not to respond to this Council, he should respond to the ICAC. Is the ICAC being treated as a "lame duck"?

President, you should recall that I cited this submission once last evening. Hence, the problem is not that we make accusations on hearsay. Just now, Dr PAN Pey-chyou asked me if I had read the ICAC's comment. Who is actually making up stories? Although the submission was presented by the ICAC in January, the authorities had continued to act indifferently. It can be said that all but the five people have no opinion. President, let us wait and see.

I do not mean to encourage anyone to step forward. Many businessmen have business in Hong Kong. They do not necessarily choose to challenge the Government in this way. However, if even the ICAC agrees that something is wrong, I believe many businessmen will also be sceptical about whether business operation is still open, fair and impartial in Hong Kong. This explains why the information technology sector considers that this incident has not only affected the SAR Government, but also affected the reputation of the whole sector. Despite the red card shown by the ICAC — perhaps a yellow card rather than a red one — it is deeply regretted that the authorities continue to take forward the relevant programme.

Despite the fact that no one denies the remarks made by the Financial Secretary, is it appropriate for his political assistant to call and enquire about the progress and the chance of the relevant organization?

President, what matters most is the future, as a lot of funding will be approved every day. Is it appropriate if such an approach is adopted again in the future? President, even if the ICAC made the same comment, the people concerned might not take it seriously, as they would refer to this programme, saying everything turned out to be fine in the end, despite the holding of nine meetings by the Legislative Council. Hence, when meetings are held in the future, the relevant government officials may make known their preference for a certain organization publicly. That does not matter. While the authorities continue to act in a fair and impartial manner, their assistants may be instructed the following day to make a phone call to enquire about the progress, asking the responsible subordinates whether they are aware of the Financial Secretary's intent. The officials concerned might even be requested to continue to act in a fair and impartial manner, as everything is fine. Do we want to send a message like this to society?

President, insofar as certain matters are concerned, the Secretary has chosen not to reply, and some of our colleagues have deliberately turned a blind eye. All this is laid on the table. Whom did the ICAC favour? Why did it say so? What did the ICAC eventually get in return? It has only got a piece of paper, saying what it has done, without any response from the Secretary. I wonder why the ICAC did not send him another letter. I have to make an enquiry about this.

This is the way things are done under the current system: If a certain programme is going to be launched, an internal meeting will be conveyed. The relevant official will say that he considers a certain company not bad and remind his subordinates to act in a fair and impartial manner. President, should this approach be adopted? It would be terrible if our system is really so corrupt, for we lack a democratic system.

People used to describe this as an advantage. Many businessmen come to Hong Kong for investment because they consider this an advantage, too. Our present concern is: Is this advantage being eroded? Very often, people praise our civil servants as the pillar of Hong Kong, for they can work independently and professionally. What has happened now? Actually, we are not very clear about this, but everything has been laid on the table. Why is it not taken as

*prima facie* evidence? After so many things have happened, why is an inquiry not conducted? President, should the situation remain unchanged, another incident might happen soon. Another Secretary of Department or Bureau Director might tell his subordinates his favourite organization or company and, most importantly, remind them to act in a fair and impartial manner. Should this approach be adopted? I find it extremely ridiculous.

I believe many colleagues who support it will say that this is actually the case. They might even be shareholders of the relevant companies. This is a terrible mess. Fortunately, we still have the ICAC. It has managed to pinpoint the crux of the whole matter with just a few lines. However, it turns out to be futile to do so. They will not listen or pay attention to it. Many Members of this Council do not think that there are any problems, either. Why is it necessary to quote the views of the ICAC? They simply turn a blind eye to everything. In short, they think that everything is fine, only that a certain group of people are making up stories and creating trouble out of nothing. President, the ILSP has now been implemented. We really have to wait and see whether what Mr GODFREY and other people fear will happen. There are 7 million people in Hong Kong. Their eyes and ears will train on what will happen. I will encourage them to make their voices heard, too.

Just now, Mr LAU Kong-wah said that the 10 delegates to the Chinese People's Political Consultative Conference (CPPCC) and a number of DAB members in the iProA mentioned by me earlier were not bad people. I have never said that they are bad people. President, you are a CPPCC delegate, too. There are also a number of CPPCC delegates and National People's Congress Deputies in this Chamber. I am not saying that they are bad people, but the problem is: Should there be affinity differentiation? President, this was what the Chief Executive said right after he was elected. He made this remark himself; we have no intention to wrong him. President, you might not approve of his frankness, too. That was exactly what he said. The allegation made by Mr GODFREY is that there is "a political assignment" to make a certain organization to be awarded the contract, and the key person in charge of this organization has a political background. I have mainly sought to read out the relevant parts without commenting whether it is good or bad. The problem is: Is there a need to examine the political background and ties of a company when it is necessary to invite tender for a project and determine the successful tenderer? Or should we act like the Mainland? President, our system will also be challenged should we act in this manner.

Why does the business sector say that Hong Kong is relatively clean, fair open and impartial? It is because, regardless of political background or other backgrounds, everyone can submit a tender. But, it is now found that this is not the case. Even though a certain organization had got the highest score internally, it was not awarded the contract. In the end, the contract was awarded to the organization originally preferred by the authorities.

President, do you understand why members of the public are worried? If the whole system is open, fair and impartial, whether it is the iProA or the eInclusion ..... everything is fine should the contract be awarded to the organization with the highest score. But, President, this is not actually the case. Not only was the organization scoring the highest marks unable to secure the contract, the authorities had even compelled the two organizations to work in collaboration. As they were unable to do so, they were allowed to work separately. In short, the preferred implementing must be given a role to play in implementing the programme.

Although we might lose in the vote today, I do not believe such an outcome will affect the reputation of the Legislative Council, as members of the public should know that some people have done their utmost in fighting. As for the question of whether the reputation of individual political parties and people will be affected, they had better assume their own responsibility. Very often, our speeches are aimed at "presenting facts and reasoning". After listening to our speeches today and reading the documents, people should understand what I mean. Nevertheless, as Mrs Sophie LEUNG said, the reality is that we are the majority outside this Council but the minority here. Hence, there is nothing unusual about this situation. However, many people have found this sort of distorted arrangement increasingly intolerable. So long as there is a chance to do so, and so long as we still have one breath left, we will continue to raise the questions we ought to ask.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Emily LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

(When the division bell was ringing, Mr LEUNG Kwok-hung shouted abuses)

**MR LEUNG KWOK-HUNG** (in Cantonese): The DAB is the most shameless.

**PRESIDENT** (in Cantonese): Mr LEUNG, the meeting is still in progress.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong and Dr Joseph LEE voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the motion.



Ms Miriam LAU, Mr Tommy CHEUNG and Mr Vincent FANG abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, three were in favour of the motion, 19 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Five motions with no legislative effect.

**PRESIDENT** (in Cantonese): First motion: Public Accounts Committee's Report on "Hong Kong 2009 East Asian Games".

The mover of this motion may speak for up to 15 minutes respectively on moving this motion and giving reply; and other Members each may also speak for up to 15 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Philip WONG to speak and move the motion.

### **PUBLIC ACCOUNTS COMMITTEE'S REPORT ON "HONG KONG 2009 EAST ASIAN GAMES"**

**DR PHILIP WONG** (in Cantonese): President, in my capacity as Chairman of the Public Accounts Committee (PAC), I move that the motion, as printed on the Agenda, be passed.

The PAC's Report No. 56 was tabled in the Legislative Council on 6 July 2011, and Chapter 1 of the Report is on Hong Kong 2009 East Asian Games (EAG). To enable Members of this Council to express their views on the issues we considered, our conclusions and recommendations, the PAC has decided that I should move a motion debate on this Chapter at this meeting today.

As I had highlighted the conclusions of the PAC on this Chapter when I tabled the Report last week, I will not repeat the points today. I will just explain clearly the views of the PAC in response to the special concerns or misunderstandings of the community concerning our conclusions.

First, concerning the expenditures. The PAC was not specifically concerned about whether there was over-spending. We all know very clearly that, in the funding paper submitted to the Finance Committee (FC) in January 2006, the Administration estimated that the gross expenditure for organizing and implementing the 2009 EAG would be \$240 million and the gross revenue would be \$117 million. The Government therefore applied to the FC for \$123 million to provide financial support for the EAG.

The audit review conducted after the completion of the EAG revealed that the actual operating expenditure was \$291.1 million and revenue had risen to \$180 million, the total amount eventually borne by the Government was only \$111.1 million. This amount had not exceeded the total provisions approved by the FC. Nevertheless, as stated in the PAC Report, this amount did not include

the additional direct expenditures of \$132.8 million incurred by various Policy Bureaux and departments to support the hosting of the EAG.

According to the PAC, the additional direct expenditures incurred by various Policy Bureaux and departments to support the hosting of the EAG should be included as the direct costs of the EAG. The Director of Audit confirmed in the Report that the additional direct expenditures included the deployment of 80 government staff of the Leisure and Cultural Services Department (LCSD) to provide support for the EAG, and the venue conversion works undertaken by the Buildings Department and the Home Affairs Bureau for the EAG, but did not include the expenditures incurred by the additional police and immigration staff for supporting the hosting of the EAG in Hong Kong. The PAC and the Director of Audit agreed that the expenditures of the Police Force and the Immigration Department were indirect expenditures that should not be included in the direct costs of the EAG.

The PAC is of the view that the Administration should take the initiative to inform the FC of the additional direct expenditures of various Policy Bureaux and departments, so that the FC could grasp sufficient information before making a decision in the course of funding approval.

Moreover, I would like to talk about the legacy project and use of public funds. The EAG Company implemented a legacy project of \$10 million in June 2010, which comprised two donations totalling \$9.8 million to support the long-term development of Hong Kong athletes, by utilizing the company's operating surplus. The Secretary for Home Affairs stated at the public hearings that the decision of utilizing the company's operating surplus to fund the legacy project was within the scope of policy decisions which he was entitled to make and it was unnecessary for the Administration to seek the Legislative Council's approval. However, the PAC was not convinced by the Secretary. The PAC was not saying that it was a wrong decision to implement the legacy project but our concern was that, before the Administration made the decision, it had not sought the FC's approval in accordance with the established regime for controlling the use of public funds, which was procedurally inappropriate.

I would like to stress that, according to the PAC, the implementation of a legacy project to support the long-term development of Hong Kong athletes was a meaningful initiative on its own, and was worth supporting. If the

Administration sought the Legislative Council's funding approval for the legacy project, it would probably get the approval. Nonetheless, the crux of the problem was that the Administration had not followed the appropriate procedures in utilizing the EAG Company's operating surplus.

The funding approved by the FC was used for the planning and hosting of the EAG, and the legacy project fell outside the ambit of the FC's approval. Moreover, under the Tripartite Agreement entered among the Government, the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) and the EAG Company, the EAG Company should return the operating surplus to the Government. Hence, the Secretary for Home Affairs had neither discretion nor room to allow the allocation of the operating surplus to fund the legacy project.

I hope that the Administration, including various Policy Bureaux and departments, would consider carefully the recommendations of the PAC, and take appropriate measures to enhance transparency and accountability in the use of public funds so that the Legislative Council can effectively monitor the use of public funds and ensure that public funds is well spent.

President, I so submit.

**Dr Philip WONG moved the following motion: (Translation)**

"That this Council notes Chapter 1 of the Public Accounts Committee Report No. 56 on "Hong Kong 2009 East Asian Games"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Philip WONG be passed.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I thank Dr Philip WONG for proposing this motion. The Public Accounts Committee (PAC) of the Legislative Council has put forth a number of observations and views on Hong Kong 2009 East Asian Games (EAG) and has proposed recommendations on the budgetary and reporting arrangements for major events to be hosted by Hong Kong in the future. I would like to express my gratitude to the PAC for the efforts made.

The EAG was the first large-scale international multi-sports event ever hosted by Hong Kong. During the event, competitions were held for several consecutive days at over 20 competition venues and we had met considerable challenges. However, with the concerted efforts of various sectors, we had overcome one difficulty after another. Eventually, Hong Kong had successfully hosted a quality but not extravagant EAG. The event has won praises from various sectors and furnished us with valuable experience. The success of the EAG should be credited to the all-out efforts made by Hong Kong athletes, as well as the devotion of members of the sports sector, staff of various government departments, medical staff, the press, the media and various organizations. Credit should also be given to the wholehearted commitment and enthusiasm of the large number of volunteers providing service at the EAG, as well as the encouragement and support of the people of Hong Kong. I would like to express my heartfelt thanks to members from various sectors contributing to the EAG. With sweat and hard work, with cheers and encouragement, Hong Kong has created a legend.

While the accounting arrangement of the EAG has raised concerns and discussions recently, I must emphasize that the controversies will not pale the contributions made by members from various sectors to the EAG. The efforts made are well-recognized.

As for the debate today, I believe the public would expect to learn what experience has been gained so as to foster consensus to create favourable condition for future success in hosting major events in Hong Kong.

Honestly, the 2009 EAG is the first large-scale sports event being held in Hong Kong with preparation work spanning over years, and there are positive and negative lessons to be learnt from the experience. We concur with a number of proposals put forth by the PAC. These include providing a comprehensive and reasonably accurate budget for the income and expenditure of the event to the Finance Committee in making a bid for the hosting of major events, ensuring the costs of all necessary temporary improvement works of government venues are included in the budget, making the best effort to provide an estimation of the indirect expenditures involved; and informing the Finance Committee of the revised estimates if the budget has to be revised upon successful bidding for the event and confirmation of the details of the event. The Government will cautiously examine the various proposals of the PAC, and will respond to them in

the Government Minute to be submitted later according to the established procedure.

President, I am more than willing to listen to the views of Members and will speak again later.

**MR KAM NAI-WAI** (in Cantonese): President, first of all, I would like to thank Honourable colleagues for completing Report No. 56 of the Public Accounts Committee (PAC). I am not sure if the public have read this Report. Just now, we have mainly mentioned the confusing accounting arrangements. We rarely find the PAC use expressions such as it "is surprised and finds it unacceptable" and "expresses grave dismay and finds it unacceptable" in connection with the Government's accounting arrangements.

Regarding the East Asian Games (EAG), we recognize the efforts made by the athletes and the sports sector for the EAG, and it can be ascertained that we all want to provide athletes with additional resources. Unfortunately, it is disappointing to find the confusing accounting arrangements of the Government in hosting large-scale sports event. I have summed up three points after going through PAC Report No. 56: First, underestimation of funds; second, wrong estimation of funds; and third, indiscriminate allocation of funds. There are numerous cases concerning the chaotic accounting arrangements.

Why do I say that the Government has underestimated the funds required? As Dr Philip WONG, Chairman of the PAC, has said just now, the Government had not included in the estimates the direct expenditures of many relevant bureaux and departments. As stated in the Report, apart from the expenditure financed by the government subsidy of \$123 million, additional direct expenditures amounting to \$132 million had been incurred by various Government Bureaux and departments to support the hosting of the 2009 EAG. In other words, the commitment far exceeded the estimated expenditures. Evidently, the Government has underestimated the funds required.

Second, why do I say that the Government has made wrong estimates? Let me give a few examples. As the PAC had stated in the Report, the estimated and actual expenditure on the opening and closing ceremonies were \$35 million and some \$63 million respectively (that is, an increase of over 80%).

Furthermore, the actual cost of temporary works was some \$48 million, against the estimated cost of \$6.2 million, representing a six fold increase. Thus, the Government's estimates were wrong; it should not have estimated the relevant expenditures that way.

In my view, the most serious problem is that the Government has allocated the funds indiscriminately, as Dr Philip WONG, Chairman of the PAC has just mentioned. In respect of the legacy project, we will not raise any queries if the funding is used to support the long-term development of athletes. However, regarding the allocation procedures, I really have doubts about the reasons why the Secretary has made such a decision.

I note that the Secretary had raised a point at a meeting of the PAC, which I would consider as indiscriminate allocation of funds. He mentioned that he had sought advice from the legal adviser in relation to the EAG, and according to the advice, he was allowed to use the surplus funding under the agreement and he believed that supporting the development of athletes would meet the public expectation. The Secretary had thus accepted the advice and made a policy decision to donate about \$10 million (that is, \$9.8 million) to support the development of athletes, without the approval of the Legislative Council.

I am not sure if Honourable colleagues have noticed that, as stated in Appendix C to Report No. 56 of the Director of Audit, the Leisure and Cultural Services Department (LCSD) sought the views of the Financial Services and the Treasury Bureau before allocating funds. We all know that the Bureau is actually the Government's "financial controller", and it monitors government expenditures for us.

When the LCSD sought the views of the Financial Services and the Treasury Bureau on whether the funds could be used for such purpose, the Bureau — the Government's "financial controller" — replied to the LCSD and stated that the proposed legacy project was a post-implementation initiative instead of part of the EAG implementation. It would be inappropriate to fund the legacy project using the unallocated balance in the EAG Company's account. That was the reply from the Financial Services and the Treasury Bureau — the Government's "financial controller" — to the LCSD. In other words, the Secretary was aware of the matter and it was clearly stated that it would be inappropriate to do so.

The Financial Services and the Treasury Bureau has clearly stated that it was not reasonable to regard the \$10 million as surplus, and the money should be returned to the Government. While the Bureau had already told the Secretary that there was a mechanism of checks and balances for internal control in the Government, the Secretary had, regrettably, taken his own course and allocated the funds. In light of this procedure, I think the Secretary had neglected his duty. The Secretary had acted beyond his proper authority; the Democratic Party considers that this is absolutely unacceptable.

The Audit Commission and the PAC of the Legislative Council had completed the reports concerned. I have just listened very carefully to the Secretary's response and I wonder if he has learnt a lesson. I would like to ask Members to refer to the Secretary's response on 6 July 2011 (after Dr Philip WONG, Chairman of the PAC, announced the PAC Report last week). What was the Secretary's response?

According to the Secretary, "In organizing the Games, the Administration had all along strictly followed the principle of managing public finances prudently and sought to keep expenditure within revenue limits. The EAG was held successfully on this basis, with expenditure not exceeding the approved allocation". Actually, as we have just said, we are not blaming the Government for overspending, we just said that it has underestimated and wrongly estimated the funds, as well as indiscriminately allocated the funds. The Secretary's answer was irrelevant.

Furthermore, we asked the Government to include all direct costs in the estimates. In other words, the expenditures of other departments in hosting the activities should be included. How did the Secretary respond? The spokesman responding on behalf of the Secretary said that, it was the Administration's current practice (which implies not making any changes) that the overall implications of the proposed funding items would be reflected in the Finance Committee (FC) papers. The Government has actually avoided discussing this issue without specifying the details. The Government has not included the expenditures of other departments under the current practice and these expenditures are not regarded as expenditures of the EAG. This practice is hardly acceptable.



The last paragraph of the press release is the most infuriating. It is stated that, the Secretary for Home Affairs and the Board of Directors of the EAG Company, with due consideration of various factors, agreed that donating the unallocated \$10 million under the above sponsorship to two athletes' funds as the EAG legacy projects was consistent with the Memorandum and Articles of Association of the EAG Company. It was also compatible with the objectives of the EAG in the promotion of sports and did not involve the use of the public coffers. The arrangement was lawful, reasonable and rational. I would like to tell the Secretary, I dare not say whether this arrangement is lawful but I am sure that it is not reasonable and rational.

I am very angry after reading this press release and I can only sum up that there are three "nots": not admitting mistake, not bearing responsibility and not committing to clarify confusion and bring things back to order. If the Secretary simply refuses to admit mistake and continues to adopt such an attitude in dealing with the financial arrangements of large-scale sports events, it would be difficult for the Government to get the support of this Council for hosting any large-scale sports events in the future.

After reading this press release, the Democratic Party wrote to the Chief Executive, Mr Donald TSANG, last week. It was stated in our letter that the Democratic Party was serious in exercising the authority of the Legislative Council in monitoring the executive authorities, and reprimanded all acts attempting to bypass the Legislative Council. Secretary TSANG, as an accountable director of bureau, has set an unacceptable precedent in undermining the division of labour between the Legislative Council and the executive authorities, and in weakening the powers that have always been exercised by the Legislative Council in monitoring and approving the use of public funds. This not only affects the \$400 million public funds for the 2009 EAG, but also involves the powers and responsibilities of directorate officials in the use of public funds, as well as the established systems and policies of the Legislative Council for monitoring the use of public funds. We attach great importance to how the Legislative Council monitors the use of public funds by the Government. If the Secretary simply refuses to admit mistakes and adheres to this attitude, we will be highly infuriated and disappointed.

To our great disappointment, as what the Secretary has just said, when the Chief Executive replied to the Democratic Party's letter on 12 July, it was stated

that the Government would later give an official response in accordance with the established procedures. I do not know when the Government will give an official response, I also do not know whether the press release issued by the Government on 6 July is an unofficial response. I am not sure whether the Secretary has presented this press release to the Chief Executive for perusal. Nevertheless, the Chief Executive has stated in the letter that the departments concerned have accepted and supported all the recommendations of the Audit Commission earlier. Only the departments concerned are mentioned; whether the Policy Bureau and director of bureau have accepted the recommendations are not known.

I ask the Chief Executive again to admonish Secretary TSANG Tak-sing to clarify confusion and bring things back to order. Why should Secretary TSANG Tak-sing be admonished? If the Secretary does not withdraw the remark made in the press release issued on 6 July and continues to allocate public funds without authorization, ignoring the established procedures and systems ..... the Democratic Party asks the Secretary to be accountable to the public, he should not take his own course and allocate funds indiscriminately.

I believe Members still vividly remember that when we discussed the bid to host the 2023 Asian Games, the PAC Report had still not been announced. Fortunately, the Legislative Council did not approve the funding. If Members still recall, we had also discussed the accounts problems. When the bid to host the Asian Games was initially discussed, the direct costs as set out in the consultation document ranged from \$13.7 billion to \$14.5 billion, and the construction costs for stadiums were \$30.1 billion. However, there were substantial changes during the course of discussion.

At that time, there were criticisms about the high costs, and the Government revised the direct costs from \$13.7 billion to \$6 billion, giving rise to a public uproar. People doubted how the Government could revise the estimates from \$13.7 billion to \$6 billion. Was that really a wild guess? How could the Government make such estimates? When the Government eventually submitted the relevant funding proposal to the FC, it reduced the direct costs to \$4.3 billion rather than \$6 billion in the paper submitted to the Legislative Council in December 2010. Yet, the construction costs increased from \$30.1 billion at the start of the consultation to \$45.8 billion. The estimates were a real mess.

Secretary, the Democratic Party has all along been very supportive of sports development in Hong Kong. For example, the Democratic Party has proposed earlier an injection of \$7 billion to the Elite Athletes Development Fund. We supported the inclusion of this proposal in this year's Budget and the allocation of provisions. Yet, whenever the Government hosts large-scale sports events, we are worried that these events only intend to build up the prestige and image of the Government, and not for the practical development of sports.

As a matter of fact, if the Government fails to properly control financial expenditures in hosting large-scale sports events, I believe that under the leadership of the Secretary, Hong Kong will hardly have the opportunity to bid to host any kinds of large-scale multi-sports events. I hope that the Secretary would tell us to how the problems of underestimation of funds, wrong estimation of funds, and indiscriminate allocation of funds can be tackled. He should right the wrongs; learn a lesson and bear responsibilities, so that the public would no longer be disappointed or infuriated. Thank you, President.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I thank members of the Public Accounts Committee (PAC) for completing PAC No. 56 Report after conducting hearings and collecting evidence. I thus have the opportunity to express my views.

We hold this motion debate today because the Home Affairs Bureau was negligent of its duties, and refused to admit its mistakes despite criticisms of the Audit Commission and the PAC. It has made a mistake in failing to take the initiative to conduct a review after the closing of the 2009 East Asian Games (EAG), identify the problems, and thereby learn a lesson. When the Audit Report revealed the confusing accounts, we found that the EAG, which supposedly was to create a legend, has only created confusing accounts.

The focus of our present discussion is no longer on the huge overspending or unclear accounts; our criticism is directed against the Government. The Government has disrupted the monitoring system of the Legislative Council, it has belittled the Legislative Council's powers of financial checks and balances, and has created artificial conflicts between the executive authorities and the legislature.

In the face of the Legislative Council's criticisms against the finances of the EAG, the Secretary has remained firm and refused to admit mistakes; he even defended the shortcomings of the EAG, and through a statement issued by the Home Affairs Bureau, he claimed that he felt good, the EAG was widely complimented, and he rebutted and denied in disguise the PAC Report.

Even though the Audit Commission and the PAC have conclusive evidences, the Secretary still denied that the PAC had confusing accounts and insisted that the Home Affairs Bureau had strived to make accurate estimates. It even diverted attention, pointing out that the EAG provided valuable experience and the overall results could not be denied.

Actually, the reports of the Audit Commission and the PAC have never denied the results of the EAG, they just focused on the confusing and unclear financial accounts. A total funding of \$243.9 million was approved by the Finance Committee (FC) of the Legislative Council for the EAG: the Audit Commission and the PAC were of the view that the Government had overspent as the actual expenditures were around \$424 million.

Nevertheless, the Home Affairs Bureau insisted that there was a surplus of almost \$12 million. There are differences in the understanding of "direct expenditures"; and the Audit Commission and the PAC opined that direct expenditures should include the amounts incurred by various bureaux and departments to support the staging of the EAG.

Yet, Secretary TSANG, in response to the PAC, insisted that it was not feasible and unfair to ask the Administration to separate these expenditures from the departmental funds and include them in the EAG accounts. In citing the support of the Hong Kong Police Force, the Customs and Excise Department and the Immigration Department, and so on in staging the EAG, he attempted to prove that it was unreasonable to include the expenditures on the routine daily responsibilities of these bureaux/departments in the direct expenditures of the EAG. If we read the Audit Report carefully, we will find that the Secretary was substituting concepts and resorting to sophistry.

The additional expenditures as confirmed by the Audit Commission did not include the expenditures of the Police Force and the Customs and Excise Department; the Audit Commission just included the expenditures incurred in

relation to the EAG. For example, \$20.6 million was incurred by the Leisure and Cultural Services Department (LCSD) for organizing recreation and sports activities, and producing publicity programmes; \$42 million for funding the EAG Company in carrying out temporary works in 14 venues. These additional expenditures were not the daily expenses of the relevant departments, they incurred specifically for the EAG; yet they were not included in the direct expenditures of the EAG.

The PAC expressed grave dismay and found this situation unacceptable. From our experience in reading the PAC reports in the past years, we note that the wordings used by the PAC on the EAG are blunt and serious. However, the Home Affairs Bureau was indifferent and obstinate, seeking to conceal through the accounting procedures the actual expenditures of the EAG, or refuses to admit the actual expenditures, so as to evade monitoring by the PAC of the Legislative Council.

We can say that the first mistake made was unintentional, and the second mistake was that misfortunes never came singly; but if the procedures were violated time and again, we would inevitably query whether the responsible officials had intentionally concealed matters from the Legislative Council. Besides understating the direct expenditures, the Secretary also admitted at a public hearing that the surplus funding was not returned to the Government according to the Tripartite Agreement. Instead, the Secretary had arbitrarily donated the surplus funding of almost \$10 million to a fund in support of sports development, without notifying or obtaining the approval of the FC of the Legislative Council. This has violated the rules of the Legislative Council concerning public finance. We may have numerous criticisms against the Government, but our status in this connection has always been very clear.

As revealed in the document, the Financial Services and the Treasury Bureau, responsible for monitoring the use of public funds, had reservations about the arrangement, and had repeatedly exchanged views with the LCSD on how the surplus funding should be interpreted and handled. Yet, the LCSD simply ignored the advice and conversely lobbied the Bureau to approve the relevant arrangement. I would like to point out specifically that, supposedly, the Financial Services and the Treasury Bureau had to play the role as a gatekeeper, but it failed to adhere to its principles; and of course it should be denounced for making such mistakes. How can the LCSD and the Home Affairs Bureau, in

particular Secretary TSANG, make the same mistake again? Even after the Audit Commission and the PAC had published their reports, he still said that the arrangement was lawful, reasonable and rational. During the debate just now, perhaps the Secretary has learnt that Members would strongly criticize him today. He should bear in mind, I am not criticizing the EAG, I am greatly concerned whether our financial system is operating well — today, he has changed his attitude of refusing to admit mistakes, and he agrees that reasonable and accurate estimates should be made in the future in respect of financial funding, and the indirect expenditures of other departments should be estimated, and all amendments should be endorsed by the FC. Although it is a bit late for him to say so, there have been changes after all and he has admitted that he was wrong. I hope that I have not got it wrong when he gave the short response just now.

In my view, if he admits and agrees to this crucial point made by the Legislative Council, that is, what he said in the past was wrong, he should apologize when he responds later. In the past, the EAG did not draw the most serious criticisms; there are both merits and demerits in the event. However, I still insist that the rules of the Legislative Council and the Government's financial system should not be slighted. He cannot slight the monitoring and criticisms of the Audit Commission and the Legislative Council, and he cannot despise the Government's well-tested financial management. On this point, the Government should be accountable in a strict sense, and it cannot follow the bad example or the precedent set by the Home Affairs Bureau, otherwise, there will be endless trouble. If this approach is adopted, the implication will be far reaching as all departments can allocate their expenditures without going through the FC. In that case, why do we have to endorse the budget? What are the purposes of drafting the funding papers? How can Members play their monitoring roles? How can the Legislative Council exercise checks and balances? These are major issues; they are not issues that can be ridiculed.

Looking back at the controversy over the EAG account, it was first exposed by the Audit Commission and then followed up by the PAC of the Legislative Council. The Audit Commission and the PAC are entrusted to ensure that public funds are well-spent and that the Government would not be a spendthrift, squandering the hard-earned money of the public. There are also healthy checks and balances that have even been passed down from the colonial era. Does the Secretary recall that the Government asked Members to support the bid to host the Asian Games at a meeting of the FC? The Secretary

reiterated the "success" of the EAG and asked Members to believe in him. Would Members believe in him after this controversy exposed by the Audit Commission and the PAC?

At this moment, I believe that people would rejoice for the FC had rejected the bid for hosting the Asian Games. The EAG has left us with a messy account, but not a great success — there was huge overspending due to the intention to do grandiose things to impress people or the bureaucratic style of refusing to admit mistakes. Thus, people do not believe in the Government; they do not believe that the Government has the ability to manage the finance for hosting large-scale sports events. I would like to offer a faithful advice: the Government's financial system is the fruit of many years of accumulated wisdom, which cannot be arbitrarily disrupted by a director of bureau at a particular time and in a particular place. Checks and balances are necessary to monitor government spending, as well as to monitor the appropriation of funds by the Legislative Council. Hence, if the Government applies for \$100 million funding, the Legislative Council cannot approve a funding of \$120 million. For the same reason, after the Legislative Council has approved a funding of \$100 million, the Government cannot allocate the remaining amount of the \$100 million without the Legislative Council's approval. Hence, after the Audit Commission and the PAC have jointly pointed out certain mistakes, it is inappropriate for the departments to refuse to admit mistakes and insist on having their own ways.

Today, the Secretary may take some remedial actions — if I have not heard it wrong — though he may be forced to do so, this is still desirable, as it is better than being irrational and unreasonable, making the same mistakes again and again. At least, he admits the dignity of the Legislative Council in monitoring the Government's financial system, and that he cannot act arbitrarily.

President, I so submit.

**MS MIRIAM LAU** (in Cantonese): President, in the Report of the Public Accounts Committee (PAC) on the East Asian Games (EAG), stern words such as "unacceptable", "dismay" and "surprised" are used repeatedly. There are criticisms about the Government's huge overspending in hosting of the EAG, the

outrageous variances of the income and expenditure estimates and the ambiguous accounts. Moreover, a more serious problem is that the responsible officials of the SAR Government refused to admit the mistakes that they knowingly had committed, and they also refused to accept advice. It is really worrying that the officials adopt such a mindset in governance.

First, when the Government applied to the Finance Committee (FC) of the Legislative Council for funding to host the EAG, it had not set out all the costs, including \$130 million additional direct expenditures borne by other government departments. The largest expenditure item was borne by the Leisure and Cultural Services Department (LCSD), amounting to some \$70 million; the second largest expenditure item was borne by the Architectural Services Department, amounting to some \$48 million. All these money are spent on the EAG, including the expenses on employing staffs for the EAG and temporary works at the venues, which are not the routine work of the departments concerned. With the inclusion of the additional direct expenditures borne by government departments, the actual expenditures and costs of the EAG should be adjusted from some \$290 million to some \$430 million.

I think the PAC just wants to insist that government departments should rightly and clearly list out all the costs involved in applying for funding. It hopes to prevent other departments from adopting the same practice in the future by taking the easy way out, that is, they would understate the costs of the events so as to have a higher chance of getting the funds; and after getting the funds, the costs would be absorbed by other departments as their daily operational expenses. Owing to these secretive acts, it would be difficult for the Legislative Council to fully monitor the use of public funds.

Furthermore, the Government had made serious mistakes when it worked out the income and expenditure estimates of the EAG. This is also a matter of concern. It is true that it takes a few years from the preparation to the hosting of large-scale sports events, and the process will be affected by many factors. It is not surprising to find variances in the income and expenditure estimates. However, variances between the estimated and actual expenditures of the EAG are not minor but substantial. Of the four major expenditure items that had exceeded the estimate, the least overspent item was related to volunteers, which had exceeded the original estimate by 54%. The expenditures on the opening and closing ceremonies had exceeded the original estimate by 80% while the



costs of transportation had exceeded the original estimate by 1.6 times. Regarding revenues, incomes from licensing and merchandising as well as ticket sales were 95% and 90% less than the original estimate. The actual amounts were \$800,000 and \$1.2 million respectively, which were pitifully low. It is well justified to say that the situation is "outrageous".

Furthermore, of the \$180 million income of the EAG, incomes from fund-raising and sponsorship accounted for 80%, while incomes from ticket sales and selling of television right only accounted for some 10%. Owing to the unbalanced distribution of income, we rely heavily on sponsorship and fund-raising concerts to top up the shortfall. These kinds of money raising methods are unstable and unhealthy. Let us look at other large-scale international sports events, the income derived from selling of television right of the Olympic Games amounts to millions of US dollars; licensing and merchandising also bring in large amounts of incomes. Even though the scale of the EAG cannot be compared to that of the Olympic Games or Asian Games, it is hardly acceptable that such low income is derived from ticket sales and souvenir sales. If the Government is still going to host large-scale events in the future, a review is a must.

President, I agree that the legacy project of the EAG to support Hong Kong athletes is meaningful and worth supporting; but we think that it is inappropriate for the Government to finance an athletes programme and an athletes' fund under the legacy project with the some \$10 million surplus of the EAG Company. According to the Tripartite Agreement entered among the Government, the Sports Federation and Olympic Committee of Hong Kong, China and the EAG Company, any surplus funding of the EAG Company should be returned to the Government.

The crux of the problem is that the term "surplus funding" is not clearly defined in the Tripartite Agreement, thus "surplus funding" can be interpreted as a general pool of surplus funding including the sponsored sum, or government funding not including the sponsored sum. The Government has exploited this grey area, claiming that since the amount was received after the conclusion of the EAG, it could clearly be classified as sponsored sum, which was not regarded as government funding or surplus funding, and hence the money could be used for other purposes.

I would like to point out that government officials should be prudent in using public funds, they should not make arbitrary interpretations because the Tripartite Agreement was drafted without due precision. The Government was specious in saying that there was no provision in the Tripartite Agreement that EAG Company's operating surplus could not be used for financing a legacy project.

It is understandable that the Secretary for Home Affairs would like to get things done, but he cannot, by hook or by crook, bypass the established procedures to achieve the objective. In particular, as a principal official of the SAR, the Secretary should have a higher level of integrity than ordinary people. Therefore, the Secretary should not jaywalk when no policeman is around; he must follow the established procedures and apply to the FC for funding the legacy project. The Government should also inform this Council, since the PAC has requested for the return of \$10 million to the Government, how the Government would handle the issue given that the amount has already been donated.

According to the PAC, the legacy project fell outside the ambit of the FC's funding approval for the EAG. Hence, the Secretary for Home Affairs had neither discretion nor room to allow the allocation of the operating surplus to fund the legacy project. For this reason, the Government should clarify to this Council whether the Secretary for Home Affairs' decision concerning the donations was based on his personal judgment or whether that was the Government's position. If the Secretary has made a decision that is not within the scope of his policy area, he should apologize to the public, and the Government should propose measures to prevent the recurrence of similar incidents in future.

Furthermore, from the reports of the PAC and the Audit Commission, we found that the Financial Services and the Treasury Bureau had, in reply to the enquiry of the LCS D, pointed out that it was inappropriate for the EAG Company to use the surplus to finance the legacy project. Yet, the Bureau had also pointed out to the LCS D that since the sponsored sums had not been used, it could be separated from the general pool of resources and hence it was justifiable for not returning the money to the Government. In our view, the Bureau's dubious attitude in this incident was in fact instigating in nature and for this, it should bear certain responsibilities.

President, apart from the above accounting problems, the Home Affairs Bureau and the LCSD have delayed in settling some problems after the conclusion of the EAG. For instance, according to the Tripartite Agreement, the EAG Company had to submit to the Government its final audited financial statements and return the surplus funding within six months after the conclusion of the EAG. However, the liquidation of the EAG Company had only approached the final stage about 10 months after the deadline, that is, in early April this year; by then, the final accounts were submitted to the Inland Revenue Department for audit, and the surplus of some \$10 million was returned to the Government. As regards the Hong Kong Squash Centre which was used as the temporary office of the EAG Company, the LCSD has not honored its promise to restore it to a sports facility. Instead, the Squash Centre is still used as an office, depriving the public of their rights to use the facility.

The Secretary for Home Affairs and the Director of Leisure and Cultural Services had not conducted a comprehensive and systematic post-implementation review on the 2009 EAG; neither had they conducted a comprehensive and systematic financial review. After the release of the PAC Report, the Secretary for Home Affairs had refuted point by point against the criticisms of the PAC. This showed that the Home Affairs Bureau was opinionated; it did not accept the comments of the PAC and the Audit Commission, and it refused to learn a lesson. Such approach and attitude are regrettable.

President, owing to the attitude of the Home Affairs Bureau to report what is good while concealing what is unpleasant and its failure to admit the shortcomings in organizing the EAG and hence make improvements, the Council had earlier made a right decision to decline supporting the Government's bid to host the Asian Games.

Earlier this year when the Government proposed spending \$6 billion on its bid to host the Asian Games, the Liberal Party criticized that the Government only focused on promoting the concepts of sports for all, improving people's health and enhancing the economic competitiveness of Hong Kong. There was a lack of detailed plans and supporting data, and there was no guarantee of not overspending. The Government even failed to specifically respond whether the construction projects would become white elephant projects.

All in all, if the Home Affairs Bureau only emphasizes the good results attained by Hong Kong athletes and the some \$10 million surplus of the EAG Company, which were superficial successes; but strongly denies or conceals certain shortcomings in the organization process, such as underestimating the amount required when applying to the FC for funds; overestimating the attendance of the sports events, making inappropriate ticket sales arrangements, overestimating the incomes receivable from television rights as well as licensing and merchandising, people would doubt if the Government has really learnt a lesson and they can hardly have confidence in the Government's ability to organize large-scale international sports events.

President, I so submit.

**MISS TANYA CHAN** (in Cantonese): President, first, I would like to thank the Audit Commission and the Public Accounts Committee (PAC) for conducting such a detailed study on the East Asian Games (EAG). I am particularly grateful to the PAC for the further information obtained in its meeting, which has enabled us to gain a fuller picture of the matter. Before that, we could only read some abstracts or summaries in the Report No. 56 of the Director of Audit on the Value for Money Audits, that is, this pastel blue book. It was not until the PAC convened its meeting that we could access to some documents and learn more about the situation, which included the highly controversial Tripartite Agreement and the liaison among departments and bureaux, for example the communication between the Leisure and Cultural Services Department (LCSD) and the Financial Services and the Treasury Bureau. Hence we could have a more concrete understanding of this matter.

Just now many Honourable colleagues mentioned the estimates of the EAG and the actual problems that had arisen. Personally, I have also learnt a lot from the mess of the EAG. Today I really hope the Secretary can have a different mindset. I know it is not easy to ask people who have reached a certain age to change his mindset, but I hope the Secretary can show special concern about the future of athletes, as well as give due concern or regards as how Hong Kong people should continue to support the athletic and sports development in Hong Kong. I very much hope that the Secretary will show us his commitment and

bring about a positive message so that we can have more confidence in the policies to be implemented by him later.

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

Frankly speaking, some problems with the EAG really have nothing to do with the Secretary. For example, the Tripartite Agreement was not signed by the Secretary. We know when the Secretary assumed office. He assumed office on 1 July 2007. When was the Tripartite Agreement signed? The agreement was signed in June 2006. By whom was it signed then? Secretary Mr Patrick HO signed the agreement. I know the PAC had once considered inviting Mr Patrick HO to attend the hearing, but the idea fizzled out in the end. For this reason, some of the responsibilities should not be borne by Secretary TSANG

However, let us look back at the Tripartite Agreement. What was its biggest problem? As mentioned by the PAC in its report, it seemed that the agreement was drafted without due precision. The Secretary also said openly that he had never read the Tripartite Agreement since he took up his post. That is indeed shocking. Actually which three parties are involved in the Tripartite Agreement? We have mentioned a number of times that the three parties involved were the Government, the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC), and the EAG Company. The three parties signed the agreement. Although the agreement was drafted without due precision, at least it had laid down each party's responsibilities and the items to be undertaken.

If we look at this Tripartite Agreement, we will find out, as mentioned earlier, that clause 16 has set out clearly (let me quote): "Within six months of the conclusion of the Games or any sooner termination of this Agreement, surplus funding from the Games, if any, up to the total amount of Government subsidy provided and hiring charges waived, shall be returned to the Government." The word used is "shall". Deputy President, as you know, "shall" just means "must". In the document submitted to the Finance Committee of the Legislation Council to seek a funding of \$123 million, it was also stated clearly that the surplus must be returned to the Government. However, I was deeply shocked in reading some documents subsequently obtained by the PAC. Deputy President, I have

listened carefully to every word you have just said. I also understand how shocking you were. Just now Mr KAM Nai-wai said that he was shocked, and Mr CHEUNG Man-kwong also said earlier that he was shocked. I totally understand how they felt.

However, Deputy President, after reading some documents, we were even more shocked. Why did we have this reaction? It turned out that there was a chronological sequence. Around February, they found that there was a surplus of about \$20 million. What did they do first of all? They sought legal advice through the company secretary. The relevant legal advice was actually rather simple, which was a reply in one or two pages in the form of an email, consisting of only five paragraphs which focused on how to deal with the surplus funding after the conclusion of the Games. Paragraph 2 has also explained explicitly what could be done if they wished to reallocate money which they considered as surplus funding before the winding up of the EAG Company. The lawyer had reminded them that they had to abide by the Tripartite Agreement and obtain the Government's consent. Please do not ever forget that there were Government representatives in the EAG Company. Its Chairman was the President of SF&OC, that is Mr Timothy FOK, while its Vice-chairman was the Director of Leisure and Cultural Services (DLCS), who also worked in the EAG Company. The legal advice had stated clearly that they had to obtain the Government's prior consent before they could reallocate such surplus funding for other purposes regardless of the Tripartite Agreement. Of course, they also had to follow the Memorandum and Articles of Association of the Company. These points have been clearly laid down.

Deputy President, what should be done next? The following is a document I think we must take a look. May I call on you to read the first memorandum issued to Secretary TSANG Tak-sing by the DLCS on 5 May 2010. In this document, the DLCS had analysed in detail how the surplus funding could be used and whether there were other purposes to be served. Deputy President, they had pointed out explicitly that at that time the amount remained was \$20 million, but now I have no idea whether the amount remained is \$10 million or \$20 million. They originally intended to spend \$1 million to make signboards for the legacy project, but the actual expenditure was \$200,000. Deputy President, this was four times the price. Another thing which they wanted to do was to donate \$19 million to two funds which supported athletes and to return some items on loan to the LCSD. For this reason, they made these proposals.

Our target or the ultimate focus of discussion is, of course, the surplus funding. The most interesting point is that after they conducted a detailed analysis of the surplus funding, they pointed out: first, they regarded that it was a good thing to have surplus. Of course we also understand that this was in itself a good thing. They also analysed, for example, why they thought the surplus could be donated to the two funds or used to make signboards for the legacy project. Yet an interesting point which the Director might also have noticed, and which I must quote, was their proposal set out in paragraph 12, that is, to return the surplus to the Government. To return the surplus to the Government was another option for consideration rather than something which had to be done. How did they put it? (Let me quote) "However, the meaning of 'surplus' is not clearly defined and is subject to interpretation. If the Government subsidy has been used up in accordance with the Company's object as set out in its MAA and expressed as expenditure items in the Company's account, then only the net surplus upon the winding up of the Company and after settlement of all its debts and liabilities should be returned to the Government." As we can see, the Director actually knew there was a problem with the interpretation of the word "surplus" in the Tripartite Agreement and that there was ambiguity, but she did not tell the Secretary in advance or draft any supplementary document so that the Secretary would support the Tripartite Agreement. Instead, she told the Secretary that he could take advantage of this and exploit the legal loophole. Hearing that, I was horrified. How could she do so? Actually the PAC's report has also mentioned this point, saying that it did not wish the relevant provisions to be purposely distorted.

Deputy President, what is her duty as a Director? How could she abet the Secretary to exploit the legal loophole? After hearing that, I was perplexed. In fact, she had considered other options, such as returning the funds to the sponsor. Yet what was ridiculous was that she said this was not feasible because after the money was returned to sponsor A, sponsor B would query why the money was not returned to him. Furthermore, after the money was returned to sponsor A, it would eventually be used for other charitable purposes. In that case, they might as well work out in private how to use this sum of money.

Deputy President, this is exactly what I am worried about. Frankly speaking, for the smooth staging of the EAG this time, \$123 million was really not sufficient. Dr Philip WONG, the PAC's Chairman, is that right? The EAG actually relied heavily on donations, and I truly believe that many different projects of the Hong Kong Government also highly rely on donations from

kind-hearted people. Yet surprisingly, the Government just reallocated their donations at will. Deputy President, if you have read certain letters, you will learn that the Financial Services and the Treasury Bureau had actually advised the Government to consult the donors and sponsors and obtain their consent, but the Government did not do so. I am really very worried, because we are going to bid to host another world sports event very soon. If the Government has enough funds, that will be great, of course. Otherwise, if there is the need to find sponsors, how will the Government be able to secure their confidence?

Deputy President, I would like to raise a point in connection with the speech you have just made. That is, sponsorship from the community and the business sector actually falls under the category of revenue and has all along been credited as revenue. It has never been handled separately. If the Government intends to handle sponsorship separately, it will have to make efforts in this regard. I also propose that when the Government looks for sponsors in the future, it had better not "press" the potential sponsors. The two parties should reach a consensus on the amount and purpose of the donation and set out clearly whether it can be used to carry out certain projects. I believe that when making the donations, the sponsors also thought that if there was any surplus, the money should be returned to the Government. To their surprise, the Director used the money without their consent. In fact, she had made such anticipation in the document.

Deputy President, the squash court which you have just mentioned is also a joke. It was mentioned in the same memo why they did not want to renovate that squash court. The first reason was that there were insufficient space, and the tree team wanted to occupy that place too. The second reason, which is most ridiculous, was that since renovation would cost \$5 million which would have to be deducted from the \$20 million, coupled with insufficient space and other reasons, they considered that it would be better to leave the place as it was. In fact, they also wanted to keep the \$20 million until the money was used up.

Deputy President, they already had an eye on the \$20 million, even though they had no idea how the money should be used. It would be best if they did not need to return any money, not even a cent, to the Government. However, now they do not have any other choice because after all the calculations, they still have to return \$10 million to the Government. As for the other \$10 million, they have to further rack their brains on how to use the money.



If we look at the PAC's documents and the report of the Audit Commission, we will find that they were contradicting themselves. During the audit conducted by the Audit Commission, they said it was sponsor A. Later, when they were questioned by the PAC, they said it was sponsor B. However, after the PAC published the report, they said that the final sum of money would be used to implement the legacy project. Yet the PAC and the Audit Commission have clearly stated that according to the evidence provided by them afterwards, it could not be proved that the money came from sponsor B. Hence, the actions which they subsequently took were merely for concealing the truth and covering up.

Frankly speaking, we still cannot get hold of many documents. I have reason to suspect or believe that when the LCSD sought advice from the Financial Services and the Treasury Bureau, it had provided some supplementary documents, yet we are uncertain whether all information had been provided so that the Bureau could have a full picture and offer its advice. We can only access to some brief information in exchange by the department/bureau.

Deputy President, at this moment, as expressed by the Secretary in his opening speech which lasted less than four minutes, we have both positive and negative experience. However, telling from my instinct or my past experience, very often the Secretary will just report the good news and withhold the bad news. If the Secretary is truly concerned about the future of Hong Kong, I hope this time he can really learn with modesty. We have also written to the Chief Secretary Henry TANG, requesting him to give an official reply within three months. I very much hope that he will set up an independent investigation committee to conduct a comprehensive review on the EAG's problems, such as uncompleted work and poor venues. The Audit Report has also mentioned that the review conducted by them afterwards was not sincere enough.

I so submit.

**MS CYD HO** (in Cantonese): Deputy President, first, I have to explain why the Public Accounts Committee of the Legislative Council (PAC) proposed this motion debate. Not long ago, a motion debate was conducted on Direct Subsidy Scheme schools, an issue examined by the PAC. Since another motion debate on the issue examined by the PAC is carried out again after a short interval, we are afraid that it may become an established practice and the public may find it

odd when no motion debate is put forth after the release of the PAC report. In view of this, we had made careful consideration before putting forth the motion. Eventually, we agreed to discuss the issue at a meeting of the Legislative Council. During the course of examination of the accounts of the Hong Kong 2009 East Asian Games (EAG), we did not aim at reprisal, instead we had included forward looking analyses. Last year, when the Government applied to the Finance Committee (FC) for funding to bid for the hosting of the Asian Games, the accounts submitted were unclear and had aroused many queries. Fortunately, the funding application was voted down by this Council; otherwise, I wonder what kind of a trap we would have been caught in.

In examining the accounts of the EAG, members of the PAC had adopted a forward looking attitude, for Members expected that in the future, the Government, either Secretary TSANG Tak-sing or another Director of Bureau, or the next Government would make a bid for hosting the Asian Games or other international events, such as the FINA World Swimming Championship, the world university games, and even the World Expo. By then, how should Members examine the accounts submitted by the Government to the FC? To what extent the information included in the accounts is authentic? What are the lessons learnt in the course of examining the accounts of the EAG? What questions should be raised in future in the light of the Government's mindset? We hope that more accurate information will be obtained, so that the legislature and society can make better decisions in future.

Deputy President, today, I will focus on the attitude adopted in handling the issue. As a member of the PAC, I had many opportunities to discuss issues related to the accounts, and we had also discussed many detailed arrangements. Earlier, the Deputy President and Miss Tanya CHAN mentioned certain specific conditions. Yet, I will focus on discussing the attitude adopted in handling the case, in particular, the attitude adopted in the review. Since this was the first time Hong Kong hosted such a major event, we might have overestimated the revenue and underestimated the expenditure owing to our inexperience, and eventually resulted in serious overspending. Though we lack the relevant experience, the public would understand and accept our inadequacy if we face the problems humbly. If, in the face of wrong estimates and the public's queries about the significant variances, the authorities did not act humbly but instead give lame arguments to evade their responsibilities, the community and Members would find such attitude unacceptable.

Deputy President, the media and other Members both consider that stern words were used in this chapter of the PAC report. This is not our intention to convey such an impression, only that we find certain words can aptly describe the case. The English word "indefensible" is used to describe the Chinese term "難辭其咎", meaning "one cannot shirk the blame". I have to state here that the word was chosen by me. Why did I choose this word? I chose it not because the term was condemnatory. Honestly, it is not the reason. In the entire course of collecting evidence and in view of the subsequent responses of the Government, we considered that the Government had been putting up all kinds of excuses, and even on issues where no defences were possible, the Government still made all kinds of excuses. When I came across the word "indefensible", I considered that this was the most suitable term. The term was translated to "難辭其咎" in Chinese, which was a very faithful translation. After we had chosen this term, we found that this term carried a rather strong condemnatory tone. However, we do not intend to embarrass the Government or denounce the Secretary. The only reason for choosing this word is that it aptly describes the situation.

So, what excuses the Government had given? During the evidence collection process, the Government pointed out that various departments including the Hong Kong Police Force, the Immigration Department and the Customs and Excise Department, had to increase manpower to maintain law and order during the EAG. For example, deploying 30 people to maintain law and order one night and arranging 20 members of the Civil Aid Service to take part in emergency work the other night. Since the tasks involved were regarded as the daily operation of the departments concerned, the expenditure incurred could not be separately handled and included as the expenditure of the EAG. The Director of Audit had not criticized these expenditure items in the Audit Report. As the Chairman of the PAC, Dr Philip WONG has said, the Director of Audit only queried three accounts. The first one was the cost of sports facilities at temporary venues. In fact, whenever major sports events or other major events are held, the Government will take the opportunity to enhance the sports facilities in the territory. The FC had approved a funding of over \$400 million for this purpose, and the amount was far greater than the tens of millions required for the improvement works. Why did we have to discuss the tens of million dollars spent on sports facilities at temporary venues? In fact, many sports facilities enhanced during the EAG would be retained after the EAG and be used by the community, but for certain temporary facilities, including the provision of

additional public seats and score boards, they would be removed upon the completion of the EAG, so the Director of Audit and the PAC fully agreed that the relevant expenses incurred should be counted as the expenditure of the EAG. However, when the Administration applied to the FC for a funding of \$123 million, it had not included the said expenditure.

Another query we had raised was related to the creation of 80 senior posts in the Leisure and Cultural Services Department (LCSD). The posts were created for a considerable period, say one to two years in general. Since certain LCSD staff had to work full time over an extended period for organizing the EAG, the LCSD had to create specific posts or arrange acting appointment for certain vacant posts. We consider that the tens of millions incurred in this respect should be included as the expenditure of the EAG. The reason is obvious.

We have accepted the explanation of the Secretary and handled the case leniently, without being too harsh. According to the Director of Leisure and Cultural Services (DLCS), the Financial Secretary had allocated a sum of money to set up 160 posts, so as to create employment opportunities in Hong Kong. While the Director of Audit considered that the sum involved should be included in the accounts of the EAG, the PAC decided not to pursue on this issue, and did not include the expenditure of the 160 posts in the accounts of the EAG. However, in the response from the Home Affairs Bureau on 6 July, it was stated that, "relevant government departments would render support to the EAG as part of their regular duties and services and use the opportunity to promote their departmental policies and objectives." The Home Affairs Bureau maintained that "while these services were undoubtedly related to the EAG and did contribute to its smooth operation, they were also part of the department's day-to-day work." There are lame arguments. It was this attitude of the Bureau that we criticized it for making constant excuses and being indefensible. This was the excuse given by the Bureau during the evidence collection process, and when the Bureau responded to the report of the PAC, it continued to use this excuse. Even in the Secretary's four-minute speech earlier, he still tried to muddle things up. The Secretary said that Hong Kong had created a legacy in the EAG, I agree. He then said that the sweat of athletes and volunteers should not be denied, again I totally agreed. I fully agree that the iron cyclist, who continued with the race despite the injury caused by the fall during the race, was the champion in the eyes of Hong Kong people though she only came second in that race. Nonetheless,

the accounts of the Government are still in a mess. The accounts of the Government would not be more accurate because of this iron-cyclist. These two issues are unrelated.

Secretary, never ever tell the public that the criticisms from the Director of Audit and the PAC are directed against the athletes. No, they are not. All of us should not be confused by this.

Deputy President, we are gravely concerned about this audit investigation. Apart from the attitude issue, it also involves the question of how the executive authorities can sincerely co-operate with the Legislative Council, in particular with the FC. The Legislative Council has to exercise its constitutional responsibility to approve funding applications. Of the four constitutional functions of the Legislative Council, this function is of considerable importance, for the role of this Council is to monitor the Government in spending public money. If the authorities only try to exploit loopholes, conceal the facts in various aspects and make use of the funds set aside in the "small reserves" of various bureaux and departments to host the EAG, so as to circumvent the monitoring of the Legislative Council and the community, people will no longer believe in the accounts submitted by the authorities to the FC for approval in the future. Such attitude of the Government has crushed its credibility. It is definitely ruining its own achievement.

Actually, in hosting the Asian Games, the EAG or the conference of the World Trade Organization, we notice that in most cases, there would be a deficit after calculating the direct expenditure and revenue. As the hosting city, we have gained the benefits of promoting our culture and the hospitality services, and enhancing Hong Kong's reputation as an international city. These benefits cannot be quantified immediately. Hence, when there is a deficit budget upon calculating the direct expenditure and revenue, the Government should convince society as a whole that there are lots of unquantifiable benefits in staging the event. It should allow the public to compare the deficit with the long-term benefits and decide whether they are willing to accept this situation.

The most important principle is that the accounts of the Government should provide clear and accurate estimates by all means, so that society can make an informed decision. It should not attempt to conceal certain information and make up excuses to shirk its responsibilities and circumvent the monitoring. In

fact, the public will only be deceived once but not twice. This practice of the Government may indeed create more hurdles for Policy Bureaux that have to organize major events in the future, for the public no longer trust the Government. In view of the confusing accounts provided by the Government this time, how can we accept the Director of Audit accounts provided by the Government in future? The reliability of these accounts will definitely be undermined significantly.

Deputy President, anyone engages in politics should by all means avoid acting emotionally and focus on personal success and failure. At a meeting of the Panel on Home Affairs held in January this year, the Secretary reported on the EAG. At that time, he made a very emotional remark. He said that some people were green with envy about the success of the EAG. Since the executive authorities is monitored by the Legislative Council, even when Members of the Legislative Council have made remarks with no factual foundation or emotional criticisms, or have gone overboard, officials need not adopt the same attitude in their response. Otherwise, it will only give the public the impression that the executive authorities and the legislature are both acting emotionally. Here, I would like to give my most sincere advice to the Secretary: Never ever focus on personal glory and disgrace in politics. It is unnecessary. If we put our emotion before the interest of the public in handling public affairs, it will only hamper the trust of society on the executive authorities and the legislature.

Finally, in conclusion, I would like to ask, what is the forward looking analysis? The ruling team has to spend several years to a decade to prepare for the hosting of major events. We may look at the experience of the United Kingdom, where audits are carried out at different stages. Since the Olympic Games will soon be held in London, the United Kingdom, the authorities have conducted audits in phrases rather than a "post-mortem" examination after the conclusion of the event, for no rectification can then be made. Actually, Hong Kong should also adopt this approach. Take the projects of the Express Rail Link and the West Kowloon Development as examples. In view of the present hikes in the project costs, what amendments should be made? We should draw reference from overseas experience by conducting audits in phrases. I hope the Secretary would candidly face the inadequacies in the past and change his mindset, so that the arrangements made in all aspects, including the financial arrangement, will be in the interest of the public in Hong Kong.

**MS STARRY LEE** (in Cantonese): Deputy President, since the release of the Audit Report on the 2009 East Asian Games (EAG) by the Audit Commission, and the announcement of the relevant report by the Public Accounts Committee (PAC) in early July, comments in society have all along been concentrating on the financial arrangement of the EAG. There are remarks like "serious overspending of the EAG", "confusing accounts", "misappropriate of donation for the EAG by the Leisure and Cultural Services Department (LCSD)" and "the LCSD has dried up the EAG", and so on. Seemingly, the media only focused on the discussion about the financial arrangement, and the public then denied the achievements of the EAG. Hence, before discussing the expenditure of the EAG, I must explicitly acknowledge the achievements of the EAG.

The EAG was the first large-scale international multi-sports event ever held in Hong Kong, and athletes of Hong Kong had made outstanding achievements. The active participation of various sectors is obvious to all, about 6 000 volunteers were involved. With the successful staging of the EAG, Hong Kong has presented to the East Asia region and the neighbouring countries its success of being the "Events Capital". The event has enhanced the image of Hong Kong, fostered the solidarity of society, created employment opportunities, promoted the development of the tourism industries and developed the culture of participating in sports.

In the discussion of the EAG, it is unfair only to mention the expenditure incurred but not the achievements made. By the same token, it is undesirable only to talk about achievements made but not the expenditure incurred. Hence, before I discuss the expenditure incurred in the EAG, I must first recognize the achievements of the EAG.

The first allegation concerns whether the EAG has overspent? As mentioned earlier by Dr Philip WONG, Chairman of the PAC, the PAC did not think the EAG had overspent. According to the Home Affairs Bureau, the Government and the East Asian Games (Hong Kong) Limited (EAG Company) had made every effort to solicit sponsorship to ensure that the government commitment of \$123 million would not be exceeded. The Secretary has pointed out repeatedly that the authorities have achieved this goal in the end. The EAG Company was not only able to balance its books, it even recorded a surplus to be returned to the Government.

From this perspective, I cannot say that the Secretary is wrong. However, we have reiterated once and again that the PAC was concerned about the inaccuracy of the income and expenditure estimates submitted by the Home Affairs Bureau in seeking the approval of the Legislative Council for hosting the event. As we pointed out in the report, there were significant variances between the actual amount of certain expenditure items under the EAG and the amount stated in the documents submitted by the Home Affairs Bureau to the Finance Committee (FC) in January 2006.

For instance, the estimated expenditure for the opening and closing ceremonies was \$35 million, but the actual expenditure was \$63.4 million, an increase of 81%. Moreover, the actual expenditure for temporary works at competition venues was \$48.2 million, an increase of over six times in comparison with the estimated expenditure of \$6.2 million. People queried whether the authorities have overstated the income and understated the expenditure in the budget submitted at that time to solicit the support of the Legislative Council and the public for hosting the EAG. However, I must emphasize that despite the great variance between the actual and estimated expenditure, all expenditure had been approved by the FC at different stages.

In retrospect, we have to note that the EAG was the first international event held in Hong Kong involving different terms of governments, Chief Executives and Directors of Bureaux. It took seven years from preparation to completion. Hence, it is understandable that there are variances between the actual situation and the estimates made at the time on various arrangements, including financial, venue and manpower deployment. Honestly, in the construction of large-scale buildings or the staging of international events around the world, variances between the estimated and actual expenditure are very common. Certainly, I have no intention to rationalize the Government's approach in handling the EAG accounts by citing this fact. However, we must admit that cost control is a great challenge to the Bureau in staging international sports events. Actually, the Audit Commission, as well as the PAC, is most concerned about one point, that is, when the Government was aware of the significant variances between the estimated and actual expenditure for the EAG, why had it not notified the Legislative Council promptly and sought its views. Many colleagues have mentioned this point earlier.



The Audit Commission found that apart from the \$123 million from government subsidies, the costs undertaken by other government departments amount to \$132.8 million. These expenditures were obviously related to the EAG, but the authorities had not mentioned such expenditure in the estimates submitted, nor had it mentioned such expenditure in any one of the reports on the EAG made to the Legislative Council.

Regarding the handling of the estimates, I think that apart from the Home Affairs Bureau, the Finance Services and the Treasury Bureau, which is our financial controller, should also shoulder the responsibility. It should learn a lesson this time and review how the estimated cost in hosting a major event can be accurately revealed to the Legislative Council and the public.

I propose that two sums of expenditure should be reported. The first sum of expenditure to be reported to the Legislative Council is the additional expenditure incurred and involved by the Government in hosting the event. The second sum to be reported is the direct expenditure involved by other departments in hosting the event, the part that the Audit Commission requested, in the Audit Report, the Government to report to the Legislative Council.

I think the Finance Services and the Treasury Bureau must step up its liaison with other departments in this respect. In fact, regarding the documents submitted to the FC, apart from the input from the bureau responsible for the event, the Finance Services and the Treasury Bureau is also obliged to ensure that all direct costs are included in the documents. Hence, I urge the Finance Services and the Treasury Bureau and various government departments to review the procedures in preparing budgets for major events to bolster the trust of the public in the future budgets submitted by the Government to the Legislative Council to seek funding support.

Actually, the EAG incident has revealed a deep-seated problem, that is, the relationship between the executive authorities and the legislature is extremely tense, where mutual trust has not yet been developed. I have mentioned this point at the City Forum, which has initiated discussion on the Internet. More often than not, the executive authorities will submit the budgets of plans, projects or works to the Legislative Council to seek the approval of the FC. However, once the funding is approved, they do not want to submit information on the latest

financial status or other issues to the Legislative Council. Concerning major projects spanning a long period of time from the preparation of budget, planning to implementation, the Legislative Council and the public are much worried. I hope the Government will change this mindset. We all understand that for a project spanning such a long period of time, the changes in estimates are understandable. If the Bureau is willing to explain the case to the relevant Panels and let the public know about this, the situation will be easier to handle.

In sum, regarding the EAG, I think the Bureau needs to enhance its work in three aspects. First, as I mentioned earlier, it should calculate the cost accurately and draw up a more precise budget. Second, it should carry out audit during the implementation of the project. Third, the administrative departments should step up the effort in reporting the financial status of the projects to the Legislative Council.

I would like to talk about the second aspect of work regarding the conduct of audit work during the implementation of the project. A delegation of the PAC paid a duty visit to London this March. One of the places visited was the National Audit Office of the United Kingdom. The delegation met with officials from the Treasury and the Efficiency Reform Group of the Cabinet Office. We all know, one of the practices they adopted is worthy of reference to Hong Kong. The United Kingdom is preparing for the Olympic Games to be held in London next year. However, instead of conducting the audit work after the conclusion of the Olympic Games, the National Audit Office of the United Kingdom starts conducting the audit work during the preparation stage of the Games. Once the budget for the Olympic Games has been drawn up, it puts forth queries about the construction costs and even issues warnings. I would like to point out that the practice of allowing the Audit Commission to participate in the audit work at the planning stage and the mid-term development stage of the project is absolutely worthy of consideration and adoption. I hope the audit authorities will consider this practice and discuss with the executive authorities, for this practice definitely will have a proactive effect in monitoring the use of public money.

Another proposal is that when government departments report to the Legislative Council on the progress of the projects for which funds have been allocated, they should also provide the latest information on the financial arrangement. In this way, Members and the public get a clearer understanding

of the latest financial arrangement. They will not have to wait from the Audit Commission after the implementation of the event that there are huge variances between the estimated and actual expenditure.

Finally, I would like to talk about the handling of the sponsored sum and the arrangement for legacy projects. Donation is not regarded as public money. I hope that in the preparation of similar major events in the future, the Government should announce the arrangement for sponsorship and the implementation of various projects when it submits documents to the Finance Committee or signs administrative agreements with the hosting organizations. I must emphasize here that we fully support the legacy project. And I believe that had the Secretary submitted the legacy project to the Legislative Council, Members would have rendered their support. However, in the present case, the problem at issue is the improper procedure adopted. Since it is not stated in the Tripartite Agreement nor the sponsorship agreement of how the remaining sum should be used, the Secretary's decision to exercise his discretion to donate the remaining sum to the legacy project without seeking funding approval from the Legislative Council is improper in terms of procedures. As Members of the Legislative Council, it is more than natural and rational for us to expect the Government to seek our support prior to the use of the approved funds.

However, I observe that many Members have made rather severe criticism against the Secretary in connection with his handling of the legacy project. Sometimes, when I put myself in his shoe, as mentioned by me and several Members earlier and during discussion of the PAC, I wonder why the Secretary had chosen not to submit the legacy project to the Legislative Council, which would probably get the support of Members. Had it been a controversial project, I would understand why the Secretary has not come to the Legislative Council. But since the project would have gained the support of Members, why did the Secretary choose not to come to the Legislative Council? Does he have his own consideration? One of these considerations is that when the money is returned to the public coffer, the Bureau may fail to compete with other bureau for the resources. At the meetings of the PAC and various panels, we often hear that a lot of departments will seek funding approval from the "Financial Controller" of the Government. The requests of each and every department are reasonable and justified. For instance, the Fire Services Department requests for additional funds to procure fire engines, and the Secretary may request for

additional funds to support athletes. I have been pondering about this. Why would the Secretary be unwilling to come to the Legislative Council on certain projects which would be expected to get support? Did he worry that the project might fail to compete for resources even within the Bureau and he would rather exercise his discretion to support this sports project?

In view of the considerations I mentioned earlier, I think the approach adopted by the Secretary this time around is forgivable. First, the incident involved no personal interests of the Secretary. Second, I believe the project involving the sponsored sum will win the support of Members if it is submitted to the Legislative Council again. However, I must request or remind the Secretary that the legislature has to fulfil its function of monitoring how the executive authorities spend the money, and the Secretary should not refrain from taking the issue to the Legislative Council out of fear.

At last, I would talk about the review, which I consider is really unacceptable. The review of the EAG was conducted hastily, which has been one of the concerns of the PAC. Since the EAG was the first major international event hosted by Hong Kong, which involved the participation of 40 decision-making departments and Policy Bureaux, it was unacceptable that only an internal meeting was held to conduct a simple review, which had not covered the financial issues. We hope that Hong Kong would have the opportunities to bid to host or organize various types of events in the future with the consensus of society. If we do not learn a lesson seriously in the course of hosting the EAG, both in terms of planning and financial arrangements, I believe it would not be easy to seek funding approval from the Legislative Council in the future. I recalled that during the hearings, the Secretary agreed that there was room for improvement in terms of review and he would consider whether a comprehensive review was necessary. I hope the authorities will conduct an inter-departmental comprehensive review, including in particular, the review of the financial arrangement, and the experience gained from the review will provide important reference and lesson to the authorities in hosting international events again in the future.

Deputy President, I have to point out that the 2009 EAG has undoubtedly brought benefits to Hong Kong. Externally, it has enhanced the image of Hong Kong, winning praises from participants of other places. Internally, it has solicited the active participation of the public and fostered the solidarity of the

community; and for athletes representing Hong Kong, they have gained the experience of taking part in major competitions and get themselves prepared for the Asian Games and the Olympic Games. However, regarding the criticisms in the Audit Report and that of the PAC, I hope the Secretary or the Government as a whole would listen humbly and draw lesson from the incident to get well-prepared for the hosting of various major events in Hong Kong in the future.

Deputy President, I so submit.

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

**DR LAM TAI-FAI** (in Cantonese): Deputy President, before I speak, I need to make a declaration of interest. I am one of the sponsors of the Hong Kong 2009 East Asian Games (EAG). Owing to my status as one of the sponsors, my views, feelings and understanding on the overall financial arrangement of the event, including its income and expenditure, as well as the handling of surplus funding may be different from other Honourable colleagues. Through my alternative analysis, I hope that Members can understand the views of a sponsor.

As many colleagues have said, the EAG was the first major international sports event held in Hong Kong since its founding. Athletes from nine participating places had taken part in over 20 sports events. The hosting of the EAG symbolizes that sports in Hong Kong has entered the international scene and we can provide a platform for international sports exchanges. In addition, the EAG has also offered an opportunity for Hong Kong athletes to showcase their talents to the world and gain valuable experience. On the other hand, the EAG symbolizes a spirit that hosting a sports event can indeed unite the people and bind the community. Through organizing a good sports event, the national spirit of the people will be lifted up and pulled together. I think the opportunity to host such a major sports event was hard to come by even during the British Hong Kong Administration era.

After the reunification, the Government has been willing to organize various major sports events. I very much admire its intention and hope that the

Government will consider hosting more major international sports events in the future. Of course, the Government must cut its coat according to its cloth. A case in point is the Asian Games and seemingly, the Government has acted too hurriedly. However, there are many different types of international sports events beside the Asian Games and the EAG which we can consider. The Government should not be deterred or frightened by the present EAG controversy — I mean the controversy on the accounts of the EAG — because it will not be the best way forward in terms of benefiting the sports community in Hong Kong, uniting the nation and fostering social solidarity.

As a member of the sports community, I totally support the development of sports in Hong Kong. Given my great support for the EAG, I was willing to do my humble part and made a reasonable contribution to the event. As far as the overall outcome of the EAG is concerned, from its income and expenditure to the achievements of our athletes, I think it is reasonable, acceptable and up to standard, if the matter is not judged from a fault-finding point of view. After all, this was the first time that Hong Kong hosted such a major sports event. During its implementation, the Government would often need to "feel the rock as it crossed the river" because it could only rely on estimates and forecasts for the entire project as there was no previous experience or past practices to follow. Under these circumstances, it was just natural to have shortcomings. Unless there are scandalous problems or shady deals, Members should, with a tolerant and forgiving attitude, accept the outcome as far as possible, so that the Government would not be deterred from hosting major sports event in the future for fear of attracting criticisms. This is the point I must speak about.

Deputy President, just when we were overjoyed with the conclusion of the EAG and the society was contemplating the prospect of local sports development, the EAG accounting controversy suddenly emerged. I dare not say this is a reprisal, but it is definitely a controversy.

As a matter of fact, the Report mainly highlights two issues. The first one is about the Bureau's overspending or being a "big spender"; the second one is about the improper handling of the surplus funding. I think these are the two main issues dealt with in the Report. I will give my analysis on these two points respectively. First, the issue on overspending. With due respect, the Secretary and I are both greenhorns in politics. I am a first-time Member and he is a first-time Director of Bureau. I dare say he has not been involved in handling

this sum of expenditure. Yet, I am aware of the situation because I have been involved in the sports sector for years. It was in 2003 amidst the SARS pandemic that we prepared to bid for hosting the EAG, and we seek the Legislative Council's funding approval in 2006; at that time, the Secretary was not yet a government official. Therefore, he had not been involved in the work and knew nothing about the funding. He only took over the assignment when he assumed office. If nicely put, I would say he is a tactful person. When he found that the allocation was insufficient — the preparation work was done in 2003 amidst the SARS pandemic, and the price index could be different when the EAG was held in 2009, six years later — there might be discrepancies with the original estimates. Even if the factors of economic boost and rising commodity prices in 2009 had been considered in preparing the estimates, discrepancies still existed. Hence, I believe he might think, since I have taken up the work — I am not trying to defend the Administration; it is just my understanding — since he had taken over the assignment, he would make his best effort to organize the EAG with the allocated resources. There was no point for him to come out and say that the original estimate was wrong, that the previous term of Government or the former Secretary had done a bad job. Such an action would be pointless because everything was set to go and there was no turning back. The Secretary's fault is that he had not reported the matter in a timely manner. After he found that there were variance between the actual expenditure and the estimates, he should have timely reported or disclosed the matter to the public, or even to the Government and Members. Had he disclosed the matter then, the Public Accounts Committee need not conduct this review and find out about the problem of overspending.

Deputy President, the question of overspending would depend on whether we are considering the matter from a macro or micro perspective. From a macro perspective, there is no overspending. If there is overspending, there would not be any surplus funding, right? For example, while some departments of a company may incur losses, the company does not have a deficit. Therefore, the question of overspending is just a matter of looking from different perspectives. Throughout the entire course of the EAG, I do not think there is overspending; if there is overspending, how come there is surplus funding?

Of course, what is meant by overspending now is that the income and the sponsored sum had not been accounted for in the calculation of the expenditure, provision and estimates back then. In fact, the amount of income had increased,

which was close to \$180 million; and the amount of sponsorship was also higher than expectation. Let me divert slightly. The higher-than-expected amount of sponsorship is in fact a sign that many people are keen to support sports development in Hong Kong and they want to work together with the Government to participate in and support sports activities. That is why the amount of sponsorship was greater than expected. Do you think so, Secretary?

Just now, I have expressed my views as a sponsor of the EAG. Earlier, Miss Tanya CHAN said that the Government should not "press" for sponsorship in future. As a sponsor, I consider this expression offending because the word "press" has a derogatory meaning, such as somebody "pressed" me to do something and I could not refuse. But as a sponsor of the EAG, I never felt being "pressed" because I did it out of my own initiative.

Apart from myself, I know some other sponsors of the EAG, who are good friends of mine in the sports sector. During our discussion on the matter, I did not feel that they had been "pressed" at all. As the amount of resources allocated was inadequate, we just wanted to pool our resources together, and did our humble part to help the community, the Government and the sports sector. Therefore, we had not been "pressed" for sponsorship, as just mentioned by Miss CHAN. Had we been "pressed" for sponsorship, it would make us look very stupid and aggrieved; but the fact is that we were very happy to sponsor the EAG and we did not feel being "pressed".

Regarding the surplus funding, under the Tripartite Agreement, any surplus funding would have to be returned to the Government. Secretary, I must reprove the Government in this regard. Had this agreement been clearly explained to me when you came to me for sponsorship — I knew nothing at that time — I would have raised my opposition. Why? As members of the community or civic organizations, we of course hope that our donations would be used on sports development in Hong Kong. It has never crossed our minds that we would be so capable that we can make donations to the Government for other purposes. Given that the Government is sitting on a fiscal reserve of \$500-odd billion, does it need my donations? It is just a joke really. Nonetheless, when they approached me for sponsorship, nothing was mentioned about the Tripartite Agreement. Subsequently, I talked to another friend who was also a sponsor, and he said the matter of surplus funding had never crossed the mind of the Government as its worst fear was inadequate funding.



Therefore, the agreement was merely a formality. Learning from this experience, I think the Government should not underestimate its ability in soliciting sponsorship and it must also respect the wish of sponsors.

If considered from a sponsor's point of view, is it reasonable to donate the funds to a legacy project? I of course consider it reasonable because I always maintain that the sponsored sums should be used on the sports sector and the athletes. It is just that the Secretary's approach is now being criticized for not adhering to the established procedure and not consulting the Legislative Council. As a "novice" like myself, I think it is understandable that the Secretary was slightly confused about the relevant procedures and had over-looked the need to consult the Legislative Council because after all, the Secretary had not spent the surplus funding on other projects such as greening, building infrastructure or cleaning up Hong Kong. The money was still used for the sports sector, without contravening the wish of sponsors like me. Therefore, while the Secretary's handling of the matter might be incorrect and should be reviewed, it was understandable because he had acted according to our wish of supporting the sports sector.

Secretary, as I just said, I hope that more major sports events would be held in Hong Kong in future. Although the budget of the present EAG was not formulated by the Secretary, I hope that when the opportunity comes for the Secretary to prepare the budget of major sports events, he will learn his lessons from mistakes made by his predecessors in this incident so as to avoid any recurrence and that a proper budget proposal will be formulated.

Secondly, learning from the lessons of this incident and considering the high transparency in the community now, government officials should keep the public informed in a timely manner. Regardless of whether there is any overspending, regular reports should be made to the public so that the whole process can be kept highly transparent and under control.

Thirdly, if something has been done wrongly against the established rules during the process, the responsible official can just come out, admit mistake and offer an apology so that the whole matter can be resolved without further argument. In this way, all sides will be able to continue co-operation for sports development in Hong Kong.

Lastly, I hope that in future, I will again have the opportunity as well as ability, either in person or with money, to participate in and support the Government's efforts in promoting sports development. I also hope the Government can explain to sponsors like me as patiently and clearly as possible the so-called Tripartite Agreement and sponsorship provisions. We will not give the Government a hard time because we know that it is our common goal to promote sports development in Hong Kong. Nonetheless, our feelings will be affected directly if we are given a full picture or otherwise. Hence, I hope the Secretary can learn his lessons in these aspects. By learning from this incident, we can all work together and continue our contribution to sports development in Hong Kong. Deputy President, I so submit.

**MR RONNY TONG** (in Cantonese): Deputy President, as a member of the Public Accounts Committee (PAC), I have of course taken part in drafting this Report.

Deputy President, I think any person who has some knowledge about the work of the Council or common sense would know that reports of the Legislative Council are normally drafted after a mutually acceptable consensus has been reached through deliberation and negotiation among representatives of different political parties.

I am going to speak about my feelings for this matter and my conclusions. Before I talk about this Report, I must respond to Mr Paul TSE's query about my relatively low attendance at meetings of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products (the Lehman Subcommittee). He raised this point when he spoke on the motion just now about the Jeremy GODFREY incident. Deputy President, surely, the work of many Honourable colleagues is easy — you are not one of them, Deputy President, but the work of many Honourable colleagues is indeed easy as the degree of their involvement is relatively low. It is quite natural because there is no requirement under our parliamentary system that Legislative Council membership must be taken up on a full-time basis. However, it is indeed quite funny to hear a Member with a relatively low degree of involvement criticizing another Member with a high degree of involvement about the latter's poor attendance at certain meetings.

Deputy President, I think my workload is absolutely heavier than most of my Honourable colleagues, including Mr Paul TSE, in respect of the scrutiny of bills, involvement in the work of Panels and the drafting of various reports of the Legislative Council. The work I have done is plain for everybody to see, and I spend more than 10 hours each day on the work of the Legislative Council. As a responsible Member, one must know how to prioritize his work. Deputy President, regarding the work of the Lehman Subcommittee, I have decided that I would not get involved in complaints lodged by victims of the Lehman Brothers incident, but I have not resigned from the Subcommittee. Why is that so? That is because I insist that I should get involved in drafting the report and making suggestions that can help improve the system. I see the need for my involvement in those stages of work. In fact, I can choose the easy way, or perhaps even an irresponsible way out by resigning from the Subcommittee. I can just quit and not get involved at all, but I have not done so.

Deputy President, the work of the Council is not an individual's work but collective work. For every item to be discussed or every report to be drafted, it is not about the views of any individual but collective views — all except the views we state in our speeches. In this connection, quoting the remarks made by Chief Secretary Henry TANG yesterday — I hope they would not sound too offending — I hope Honourable colleagues could engage in less mud-slinging but do more in upholding principles and monitoring the Government.

Deputy President, this report of the PAC on the East Asian Games (EAG) is exactly the conclusions we draw from monitoring the Government. Simply put, having reviewed individual aspects from preparing the estimates, entering into the Tripartite Agreement, implementing the arrangements for the EAG, making ticketing arrangements, handling of sponsorships to finally conducting the post-implementation review, I can only say that the entire process was handled so carelessly that it was tantamount to negligence.

Deputy President, why do I say so? It is because the subject under discussion is about how public money, that is, hard-earned savings of the Hong Kong people, was spent. We cannot deal with the matter in a nonchalant or indifferent manner. During the hearings, the one thing I found most upsetting and unacceptable was that when I asked the Secretary about the Tripartite Agreement, he dared reply quite truthfully that he was only responsible for

steering policy matters and major directions, and he had neither read the relevant documents nor the Tripartite Agreement when he assumed office.

Deputy President, I found this appalling. As a Director of Bureau and given the significance of the event, how could he say that he was only mindful of the big picture and not the details? More importantly, it was not just any detail but the most important part in the entire arrangement and in the legal framework. It was about how to determine the use, return and final disposal of funds. It is important to ensure the proper use of public funds even though it is not your money or my money — some of the money is mine and some yours, I am sorry, I was wrong, but most of the money is from other people of Hong Kong.

What is wrong with the Tripartite Agreement? The crux is about the handling of surplus funding, if any. But if no definition was provided in the agreement on what constituted "costs" and "income", how could "surplus finding" be determined? How it could be calculated? If he did not know what constituted "surplus funding", how could he dispose of the remaining funds? Deputy President, there was no way to handle the matter. For a sports event costing more than hundreds of millions of dollars, I think the Secretary should have found a good lawyer to read the agreement for him. I think that would not cost much, Deputy President. He did not even need a barrister, a solicitor would suffice — I will not use the term "lower-rank lawyer", but a solicitor would suffice. Please, just read the agreement.

Should there be a definition for "costs" and "income"; and did "costs" include ticket sales or sponsorships? If sponsorships were included, then should the Government make it clear to sponsors including Dr LAM that their sponsorships would be included as part of the income; and if total income exceeded expenditures, the surplus would be returned to the Government? What finally happened? Finally, the event was concluded with surplus funding which nobody knew how to handle. Nobody knew how to dispose of that sum of money. The Secretary assumed responsibility in this respect after all as he did ask government officials of the treasury how that sum of money should be disposed of. After discussion, he considered that he had the right to decide, as a matter of policy, to donate that sum of money to non-government organizations for the purpose of promoting sports. I am not saying that he was wrong to do so. However, as a matter of procedure, it is hardly acceptable that when there was still uncertainty about whether that sum was public money or not, and whether it

should be returned to the Government or the sponsors, he made the decision without any briefing to or open discussion in the Legislative Council.

Of course, apart from the Tripartite Agreement which was drafted without due precision, there were shortcomings in other aspects of the EAG's implementation. Deputy President, our discussion today is not about how successful the EAG was, or how much glory and pride it brought to the people of Hong Kong. Those aspects have been mentioned in press reports and on other occasions.

Our work in the Legislative Council is not merely to praise the Government — Deputy President, although I would still praise the Government if some praiseworthy acts have been done, but our major function is to monitor the Government. Members of the public, and government officials in particular, should not think that whenever they come to the Legislative Council, they would be admonished. Have they ever thought about the reasons? Our function is to monitor the work of government officials. If we consider that they have done something wrong and we fail to admonish them, it would be dereliction of duty on our part; if their work is not good enough, it would be dereliction of duty on their part. They cannot come here and ask why we do not praise them even though they have organized the EAG successfully. Sorry, the function of Members is not to lavish praises even though some Members would do so. But it is not something Members sitting on this side of the Chamber would do.

Deputy President, the last point I would like to mention is that many people have asked the question: Who should be held responsible for major mistakes made in the present incident, such as questions of whether there is overspending *vis-à-vis* the cost estimates in the budget, how the surplus funding should be handled and whether any review has been conducted? Deputy President, when discussing the matter, the PAC took the view that we should concentrate on problems with the system, rather than blaming individual officials specifically. I do not agree with this point.

As I just said, different political parties and groupings would have different views on these reports, and we would invariably adopt a more moderate stance. But when I stand to speak in this Council, I can articulate my own views. Deputy President, I consider that even though the matter involved two Secretaries for Home Affairs straddling two terms of the Government, but at the end of the

day, Secretary TSANG Tak-sing is the responsible accountability official now sitting in this Chamber. Therefore, it is appropriate that the Report has described his role as "indefensible". I do not think it is an overly harsh comment. In this connection, I hope the Secretary will reflect on his role in this incident properly.

I must also point out that the Secretary has always given me the impression that he is not a person of sophistry. Even though he may hold grudges after he heard our criticisms, we still hope that he will review the whole incident properly. If Hong Kong has another chance to host a major event, regardless of whether it is a sports events or not, I would very much hope that the Secretary can learn his lessons from this incident and do better by exercising more stringent control on the use of public funds so that the public will not be disappointed. Thank you, Deputy President.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, the profligacy of the East Asian Games (EAG) was exposed by the Audit Report. Not only was there serious overspending, the Government had also evaded giving an account to the Legislative Council when the budget was revised. The extra expenditure involved was just held in secret. It was not until the matter was exposed by the Audit Report that it was made known to the public. Such an arbitrary attitude was unacceptable. Cunningly, the Government argued that the EAG was held successfully and the athletes had made outstanding achievements in the Games, so their efforts should not be blotted out. This was obviously an act to divert the people's attention with a complete lack of justifications.

Such a situation is like a student with remarkable academic performance but bad conduct, who not only calls his teachers names but also bullies his classmates in school. Yet this does not mean this student can use his good performance as his shield. I think the Government should be more humble. It should not act like an unruly student who is complacent and arrogant just because of his outstanding performance.

Speaking of this report, the part which has provoked the biggest criticism is surely the fact that the budget for which the Government applied to the Finance Committee (FC) of the Legislative Council had increased from \$240 million to \$290 million in the end, but when the budget was amended, nothing was reported

to the Legislative Council, including the FC and the Panel on Home Affairs, not to mention that such amendments involved certain questions of principle, one of which was to amend the estimated expenditure for the opening and closing ceremonies by increasing it from \$35 million to \$63.4 million. The main reason for such a big discrepancy between the two estimates was that the Administration wished to hold grandeur opening and closing ceremonies, rather than like what it had advised the Legislative Council at the beginning, that it would mainly aim at simplicity. This time the Government had bypassed the Legislative Council. Obviously, it knew very well that it was in the wrong, so it acted first and reported afterwards.

However, such an act did not comply with the procedure. It duped not only the Legislative Council but also the general public. If such a crooked practice of the Government is not deterred, I am worried that the Government will go from bad to worse and similar situations will arise in the future, leaving the use of our public coffers without any proper regulation.

As such a major event of public concern was handled by the Government in such a way, I cannot but worry that what has been exposed in the EAG is only the tip of an iceberg, because in the event where only a small amount such as several million or tens of millions of dollars is involved in the use of public funds, the Government will continue to adopt such a practice as a matter of course and withhold the truth from the Legislative Council when significant changes are made in the estimates of income and expenditure.

Besides, the Administration did not inform the FC of all the direct costs of the event, including the additional direct expenditure of \$132 million borne by the various Policy Bureaux and departments. In theory, when other departments also assisted in organizing the EAG, which means some of the civil servants had to leave their original posts and were unable to perform their duties. Thus there was no reason not to include these costs in the calculation. Judging from this, in order to make the accounts look good to persuade the Legislative Council to support the Government to bid to host the EAG, the Government had, at that time, sort of played every trick, and the result was upsetting.

After the conclusion of the EAG, the Government stuck to its old attitude and arbitrarily used \$10 million of the operating surplus to subsidize the athletes' legacy project. I believe that like me, many Honourable colleagues also support

this idea of the Government, yet procedure wise, this was obviously disrespect for the Legislative Council because it was provided in the agreement that any surplus should be returned to the Treasury, but the Government had apparently violated the agreement by mobilizing the public funds arbitrarily.

We must note that such an act would give rise to a crisis. That is, so long as the Government considers that it is doing the right thing, it will do whatever it likes and use the public coffers at will, even to the extent of violating the agreement. Besides, there is no urgency in funding the athletes' legacy project, and informing the Legislative Council would not cause any significant impact on the athletes. Yet the Bureau has set such a precedent which would greatly undermine the relationship between the legislature and the executive authorities.

Furthermore, I consider that provision of funds to develop sports projects is right and proper. It should not be bestowed on the athletes like a favour only when there is a surplus. This is absolutely a long-term sustainable task. In particular, it is necessary to provide athletes with more prospects upon retirement. Only then can we attract more athletes with potential to pursue development in the sports sector. Hence, it is obvious that the Government did not have any thorough plan to assist in the training and retirement arrangements for athletes. It was only when there was a surplus that it would think about how the funds should be used. It absolutely did not look at the athletes' legacy issue from the athletes' perspective.

Using the surplus funding on this occasion as a legacy fund is a very good suggestion. Yet I do not understand why the Home Affairs Bureau did not brief us and follow through the procedure to make the application, since I believe the Legislative Council would not stand in the way. I hope the Administration will take this lesson and stop handling problems by way of rule of man.

There is no virtue greater than realizing one's mistake and rectifying it. Looking at the Audit Report, I find the Secretary all the more annoying. He kept stressing that Hong Kong had organized a successful EAG praised by all sides. I would like to ask the Secretary; does that mean so long as the event was successfully held and received praises, he could spend the money recklessly without the need to explain to the Legislative Council and the public the whereabouts of the public funds?



Furthermore, how should we define "successfully held"? I think whether a city has held an event successfully should not merely be judged by the athletes' achievement because that is attributable to the athletes' efforts. Would the Secretary please stop stealing the glory from the athletes in such a way.

Moreover, the sales of the EAG's tickets were actually not good. Less than 70% of the 210 000 tickets open for sale were sold. The occupancy rate of VIP seats was even worse. It was only 20% on the average. I hope the Secretary can also explain, can a sports event which lacked audience be regarded as being held successfully?

I believe that in the future, the Government will still have a lot of chances to stage major events. Hence, the Administration should take a good lesson this time and review the procedural errors which have occurred so as to avoid committing any further mistake, thereby undermining public confidence in the Government's use of public funds. However, if the Government holds on to its own view, remains headstrong and refuses to conduct any review, I believe the Government will only find itself ending up in a difficult position. When it seeks support from the Legislative Council for staging major events, it will be much harder.

Deputy President, I so submit.

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

**MR ALBERT HO** (in Cantonese): Deputy President, my speech today will focus on two issues with highlight on the significant implications of this matter on the relationship between the executive authorities and the legislature in Hong Kong.

According to the report of the Audit Commission, the East Asian Games (EAG) ended more than a year ago, but it was revealed that the 2009 East Asian Games (Hong Kong) Limited (the EAG Company) had grossly overspent. Apart from the government subsidy of \$123 million, a number of Policy Bureaux and departments had each injected their own resources to support the EAG, and the relevant expenditure was not included in the initial funding. Eventually, the various departments had to bear the additional direct expenditure of \$132 million,

which was more than the amount of funds allocated. The Leisure and Cultural Services Department (LCSD) alone had spent \$73.3 million to support the EAG. What is more unacceptable is that, as pointed out in the report of the Audit Commission, so far we are still unable to ascertain the total amount of costs and expenses for hosting the EAG in Hong Kong.

In the public hearings of the Public Accounts Committee (PAC), Secretary TSANG Tak-sing argued that the expenditures of the other departments concerning the EAG were not direct costs. They merely fell under other expenditures of these departments. He considered (let me quote): "It would be impractical and unfair to require the Administration to differentiate those expenditures from the departments' votes and attribute them to the EAG" (end of quote). He also pointed out that very often, it was difficult to forecast the actual expenditure of each department. He criticized that such an approach would add to the pressure in organizing major events in the future. However, the PAC did not accept the Administration's viewpoint and expressed grave dismay at the situation and the Secretary's attitude.

With inadequate funding for the EAG, government officials would rather seek support from departments than solicit additional funding from the Finance Committee (FC) of the Legislative Council, so as to dispel criticisms and avoid being queried and questioned by Members. However, inter-departmental co-ordination should be carried out according to the established mechanism rather than the senior officials' subjective judgment, particularly when such co-ordination involves the public coffers. If resources are simply reallocated among the heads of departments in private, I believe our financial discipline will just be ignored and forgotten. It will be meaningless to formulate budgets, and the Legislative Council will also be unable to discharge its duty to exercise effective supervision. Besides, the ambiguity of the accounts will arouse queries about the deviation from the financial discipline and the exploitation of public funds as private resources will be manipulated by heads of departments in private. As public funds are allocated in the dark, corrupt officials may have the chance to embezzle money in the future and there may be hotbeds of corruption and crime. We are really worried that such things will happen. Of course, today we are not making this kind of accusation.

After this event, mutual support among departments should be co-ordinated according to the established mechanism rather than the subjective judgment of

senior officials in the departments. Such an approach will not only clarify the functions and division of labour of the departments but also eradicate another problem which we are worried about — the concern over bureaucrats shielding one another.

Another point is, apart from the controversy arisen in connection with the method of calculation of the expenditure, the Government's arbitrary donation for the legacy project has shaken the established procedure for handling public funds. According to the agreement of the Government, the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) and the EAG Company, the EAG Company must use all the revenue solely for the organization, implementation and operations of the Games, and any surplus funding should be returned to the Government. In reality, the relevant agreement was like a mere scrap of paper. Although there was a surplus of some \$21 million after the conclusion of the EAG, the money was still not returned to the Government after a long while. Under the Secretary's instruction, about \$10 million of it was even arbitrarily donated to two funds for athletes — an athlete career and education programme and an athletes' fund, each being granted a donation of \$4.9 million.

Faced with such criticisms, the Government (including the Secretary, of course) kept trying to find excuses to defend themselves. First, the LCSD explained that as that sum of \$10 million was sponsorship secured by the EAG Company after great efforts, it was reasonable not to return it to the Government. Then Mr Johnny WOO, former Chief Executive Officer of the EAG Company, claimed that the surplus was the result of the endeavour of the EAG Company to enhance income and cut down costs. He opined that it was more meaningful to use the surplus for the development of elite athletes. The EAG Company was disappointed that in the end the Government only agreed to allocate \$10 million to implement the EAG's legacy project and it considered that none of the surplus should be returned to the Government. However, from the reply made by the Financial Services and the Treasury Bureau to the LCSD, we could see there were internal conflicts within the Government. The Financial Services and the Treasury Bureau did not agree with the act of donation and considered that the surplus funding should be returned to the Treasury. It was not appropriate to use it to subsidize the legacy project.

The government officials' explanations at the public hearings were also full of flaws. First, Betty FUNG, Director of Leisure and Cultural Services, said that the \$10 million donated to the legacy project came from a "sponsor B". She

added that the sponsor's wish was to spend the donation on athletes. Yet she was unable to provide any record or information about "sponsor B". As the public opinion heated up, Secretary TSANG Tak-sing finally admitted at the second hearing that he made the policy decision. It was he who decided to donate about \$10 million without considering the need to obtain prior approval from the Legislative Council. He explained that legal advice had been sought on the act which met the public expectation. He stressed that the donation of \$10 million of the surplus to the two sports funds was in line with the Memorandum and Articles of Association as well as the objective of the EAG Company and did not involve the public coffers. It was a legal, reasonable and rational arrangement.

Without the consent of the FC and the donors, the Secretary for Home Affairs arbitrarily donated the remaining donations to two sports funds. I regard it as naked executive hegemony. It also concerns whether the Administration's funding procedure and limit of authority are appropriate, which is a significant constitutional issue. Such a problem and controversy about the funding procedure at least indicates that the Government has a different interpretation of the procedure. The Secretary was supposed to hand over the surplus to the FC for discussion, endorsement and then decision on its use and ultimate distribution. We need to point out that the Secretary does not have the authority to decide in private the use of the money. The reallocation of money is not within the scope of authority of the Secretary. Thus such an approach is extremely inappropriate. It has also weakened the role of the Legislative Council in monitoring the public coffers. Apart from the focus on its legality, the handling of the EAG's surplus also concerns the legitimacy of the procedure. Procedural impartiality is highly important because public funds are involved. If officials, based on their personal subjective judgment, act freely and generously at the expense of taxpayers, our rules and monitoring procedures will all be gone.

There are indeed serious problems with the expenditures on the EAG and the use of the surplus. The Government should admit that this matter has been handled rather improperly. It should also, by taking reference from this matter, conduct a comprehensive reflection and review, draw up the criteria and guidelines for collaboration and division of labour among departments and facilitate these working relations. In the future, inter-departmental co-ordination will have to be carried out with transparency and public knowledge to eliminate the possibility of bureaucrats shielding one another, allowing officials to

distribute and reallocate public funds freely according to their own wish without any regard to the statutory procedure.

The way the Secretary handled the EAG has indeed aroused considerable concern other than that of the Legislative Council. Recently, I had an in-depth discussion with a group of teachers on the subject of civic education and Liberal Studies. On the mention of this matter, a few teachers showed their disapproval. They thought it was like — as they were teachers, naturally they would talk about students. They said, as Mr CHEUNG Kwok-che has just mentioned, some students might have gained their teachers' deep affection and trust because of their good academic performance, but sometimes when they had made a mistake, they refused to admit it. They even wished to keep it secret and hide the truth from their teachers and classmates. After they were exposed, they still refused to admit their mistake. They said that sometimes it would give them a serious headache if they have such students. They considered that attitude was very important. Everyone would make mistakes. After making a mistake, he should admit it so that he can reflect on his deed. Then he should promise not to commit the same mistake again. By doing so, not only can he make up for his wrongdoing but also become more mature through such experience, thus paving a steadier way for himself in the coming days and giving people confidence that he will be able to follow the proper criteria and rules.

Yet regrettably, this time the Secretary's performance has made many teachers think that he is a stubborn person who refuses to admit his own mistake. Even on some established rules which few people would argue about, the Secretary still holds on to his view. Deputy President, the biggest problem is that at present, regarding the overall monitoring of our public finance, there are three important established frameworks which have been running effectively. As far as Hong Kong people are concerned, right now we do not have a democratic system, but fortunately, there are still some fundamental frameworks which can ensure that our system is relatively clean. The first one is the Audit Commission. Respected by the public, it prepares the audit reports with no fear or dread. This time the Commission has pointed out where the problem lies. Then there is the PAC of the Legislative Council, which has held the public hearings. As we know, the PAC comprises Members from different political parties and groupings. We hope that when the Legislative Council performs such an important duty in monitoring the financial system, it will act with fairness and impartiality, irrespective of the interests of political parties and groupings.

Besides the PAC and the Audit Commission, the Office of the Ombudsman and the Independent Commission Against Corruption (ICAC) have also offered their advice on this matter. Many of their views are consistent. How come the Government has remained obstinate and refused to take their advice? Such an act has indeed undermined a long-established control mechanism for public finance which has gained the public confidence. This, after all, is the most profound impact. I very much hope that the Secretary will come up with a wise and reasonable judgment in the end. Actually, as I have just said, if a wrong decision has been made, of course we need to criticize it. Yet the most important thing is to admit the mistake and promise that from now on, rules respected by the Legislative Council will be followed, and that based on the recommendations of the Audit Commission and the ICAC's concern, proper reflection and improvement will be made. This is of the utmost importance. Do not ever make us feel that the Government practises executive hegemony and will do whatever it likes. Since it has done such a thing today, it will do the same thing later. That will make us feel not only dismayed but also enraged.

**MR PAUL CHAN** (in Cantonese): Deputy President, as a member of the Public Accounts Committee (PAC), I have taken part in considering the Audit report of the East Asian Games (EAG) and in following up the matter.

After we have released the PAC report, there are different views in society. Just now, I have listened to many Members expressing their views. I think I am duty-bound to draw a summary here and suggest possible improvement for the authorities.

I wish to bring out six points, but before I start, I wish to reiterate that the PAC only considered the issue from the perspective of value-for-money. Thus, we did not comment whether the EAG was successfully organized. Despite the fact that the PAC has indicated in its report that various problems or irregularities were identified in the Audit Commission's value-for-money audit on the hosting of the EAG, it does not mean that the PAC is reluctant to or does not support spending resources on sports development and on athletes, nor does it mean that we disagree with the policy direction of holding major sports events in Hong Kong. We have only sought to conclude experience on the hosting of the EAG.

Deputy President, regarding the six points I wish to say, the first point is that the Government should be more prudent in preparing the budget for any large-scale event in future. Moreover, as we have pointed out in the PAC report, apart from considering the direct costs to be incurred by the hosting departments, the direct costs to be incurred by other supporting departments or bureaux should also be considered. Only by so doing can society have a clearer picture on the total cost of hosting such a major event which society has to bear and the total resources to be used.

I just said that the budget should be prepared with greater prudence. Take the 2009 EAG as an example, in April 2003 (Secretary TSANG Tak-sing was not yet in office then) when the Administration sought the approval of the Finance Committee (FC) of the Legislative Council for making a bid for hosting the EAG, the FC was informed that the government commitment was no more than \$84 million. After securing the approval and winning the bid for hosting the EAG, however, the Administration informed the Legislative Council when seeking our funding approval in January 2006 that the government commitment was revised to no more than \$123 million. What was the actual expenditure?

The Administration's proposed expenditure in 2003 was \$171 million, but it was increased to \$240 million when the Administration sought funding approval from the Legislative Council in 2006. To a certain extent, it is understandable because after getting the right to host the EAG, the Administration would know the details of the sports events, and the scale of the EAG, hence a bigger budget was required. However, I think, to the people of Hong Kong, it is more important for them to know . . . . . The Administration must make a reasonably accurate budget when bidding an event.

The next point is, talking about the actual expenditure just mentioned, the 2009 East Asian Games (Hong Kong) Limited (EAG Company) in the end incurred a total expenditure of \$291 million, which is a few ten-million dollars more than the original budget of \$240 million. The EAG Company did make a vigorous effort to raise funds, which was very successful, and thus the Government did not need to spend any extra money in the end. Yet, the \$290-odd million is \$50 million more than the \$240 million originally budgeted. Taking the expenditures incurred by other supporting departments into account, the expenditure would reach \$423.8 million.

Deputy President, the second point is, despite the severe criticisms and harsh comments, not all people think that the money was improperly spent. The opening and closing ceremonies is a good example (this point is also mentioned in the Report of the Director of Audit). The Government said in response to questions on two ceremonies that having considered the EAG hosted by Macao and other past sports games hosted by our country, it considered that the opening and closing ceremonies of the 2009 EAG could not adopt the minimalistic approach as originally proposed in the bidding plan. Hence, it intended to hold the two ceremonies in a more presentable manner if it had sufficient means. Thus, fund-raising activities were held and sufficient funds were sourced to this end. A point I wish to stress is that, when the EAG Company ..... If the Home Affairs Bureau had timely voiced their intention to the relevant panel, I believe the proposal would stand a high chance of getting the approval by panel members. Perhaps, I could even say that there would not have been so many criticisms against them now.

What I mean to say is, at present, the Government submits progress reports on projects spanning more than a year to relevant panels, but the progress reports do not include revisions on the budgets for the income and expenditure of the projects. The second point I wish to bring home is that in organizing future activities or similar large-scale events, government departments should include in their progress reports to the relevant panels revisions and updates on the budget for the income and expenditure. The same logic applies to the legacy project just mentioned. As the project seeks to support sports development and elite athletes, if the Administration has included this project in its proposal submitted to the relevant panel or even the FC, I believe the project stood a high chance of approval by members.

Deputy President, the third point is, after thoroughly reviewed the Tripartite Agreement, we hold that the agreement has much room for improvement and can be drafted with greater precision.

Moreover, a related pointed is, if the Government is granted funding to organize such events in future, it should provide a specific condition in the tripartite agreement requiring the hosting party which needs to seek external funding to open a separate and independent account to handle the donations. Simply put, the Government's funding should be put in Account A, while public



donations or sponsorship should be put in Account B. Anything related to the external donations and any planned spending of such donations should be handled through Account B, such that the Government's funding can be separated from the donations from sponsors and the public and should be returned to the Government. On the other hand, the sponsorship or public donations can also be singled out and it is possible to know how much of the donations has specific uses and how much of it can be used with a certain degree of flexibility. I believe it is necessary to differentiate between the two and this is not a new requirement. Deputy President, as far as I know, organizations or programmes receiving government funding are also required to open a separate account to handle such funding, so as not to mix up with other money of the organizations or programmes.

The fourth point is, Deputy President, we should consider adopting the following practice for future events. I have mentioned this point on other occasions. That is, periodic audits should be carried out for this type of events which span for years, or may even extend into another term of government. For instance, several audits have already been conducted in connection with the London Olympics held in the United Kingdom, which is a major event. One audit is related to venues, and the other is related to the inter-departmental co-operative mechanisms. Another audit has recently been conducted to explore what legacy the London Olympics can leave behind for the next generation.

In this connection, I hold that the Government should review its auditing mentality. While we very much respect the professionalism and independence of the Director of Audit, we wish to tender a suggestion to him that timely auditing should be conducted on these projects, such that revisions can be made once any variances with the original planning have been identified; and areas which have been overlooked in the original planning or which lack adequate planning can be timely identified and rectified.

Deputy President, the fifth point I wish to say is about post-implementation review. I note that in the reply to the Director of Audit, the Home Affairs Bureau indicated that the Efficient Unit issued a best practice guide in February 2009. That is to say, the best practice guide was issued long after the EAG project had secured funding approval from the Legislative Council and when the EAG was almost over. Nevertheless, even though the best practice guide was

issued at a late stage, making it impossible for the parties concerned to perform certain practices which should have been performed, it is still very important to conduct a comprehensive and prudent post-implementation review. Given that over 40 government departments and bureaux had participated in the EAG, involving an array of specialties, there would inevitably be areas which could have done better or there would be room for improvement. I thus find it very important to conduct a comprehensive and prudent post-implementation review.

Deputy President, the sixth point I wish to bring out is the attitude and approach which the authorities or departments should adopt in handling projects which may have grey areas. Take the legacy project as an example, I have been listening to members of the PAC or Members of the Council expressing their views and they support the objective of the legacy project; they only query the approach in handling the issue and the appropriateness of the procedures. I also note that the Secretary for Home Affairs holds a different view from ours on the policy decisions made and the enormous expenditure incurred in relation to this project. We are not convinced. We still hold that the Secretary did not have such discretion and that procedurally, it should be more appropriate to submit a proposal to the relevant panel or the FC, indicating his intention of using the fund on that project. He could only use the fund after approval has been granted. I still hold this view.

(THE PRESIDENT resumed the Chair)

However, I wish to use this incident to remind the relevant authorities that not only this event but also similar events in future ..... If we refer to the correspondence among various departments, we learn that at least they agreed that the incident had grey areas. In handling events with grey areas, it is better to put everything under the sun, rather than making the decision on your own; in other words, it is better to make the process more open and transparent. All that is required is to take an extra step and seek approval from the relevant panel or the Finance Committee on the proposal, and the entire procedure will be perfect. This approach is far better than leaving the responsible officer to make the policy or administrative decision on issues which have grey areas, and subjecting the

officer to criticism for mismanagement. I do not think that is the way to handle the issue.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, regarding this issue under discussion today, I think both sides should make a review. While the Public Accounts Committee and the Audit Commission have pointed out the major problems of the executive departments of the Government, I think the Finance Committee (FC) of the Legislative Council must also review on its mechanism and procedures in approving government expenditures.

When the Government proposed its plan to bid for hosting the East Asian Games (EAG) in 2003, a number of Members had already clearly indicated that the Government had proposed the plan too hastily. In the end, however, among the Members present, 28 Members voted for the proposal, five Members abstained and two Members voted against it. I was one of the Members who voted against the proposal. President, I have made it clear on different occasions in the past few years that the planning and management (particularly the administrative framework) of sports programmes are plagued with serious problems.

One of the problems is that the sector is led by people outside the sector. As far as the entire sports framework is concerned, we can clearly see from Mr Timothy FOK, the representative of the sports constituency, that the sports sector in Hong Kong is controlled and led by people from the commercial and industrial sectors. The person in charge of sports clubs are often Justice of Peace, relatives and followers of the rich and powerful or people close to them. They lack the experience and expertise in managing sports activities. Very often, they organize sports activities not for the long-term development of sports or the future of athletes, but for their personal glory and achievement.

I just talked to the Secretary at the Ante-Chamber about the selection of ping-pong athletes at tertiary institutions recently. There were two rounds of selection. Athletes not eliminated in the first-round selection would enter the second-round selection. Surprisingly, the first runner-up in the second-round

selection had not been enlisted. It is evident that the entire selection framework was plagued with secret dealings and nepotism. Instead of being impartial, just and reasonable, the selection framework was controlled by interpersonal connections.

These problems are more than decade-long, yet they are still in existence. This truly reflects the corrupted and unprofessionalism of the management framework of the sports sector as well as the coterie mentality. The political scene is almost the same. The Chief Executive and Members of many functional constituencies are returned by a coterie election. The appointment of many Secretaries of Departments and Directors of Bureaux involves nepotism, common interests, mutual flattery and cradling, as well as transfer of interests. The entire political framework is affected due to a lack of open and transparent accountability, as well as well-defined and objective standards.

The way the surplus funding of the EAG was appropriated also reflected a lack of accountability, transparency and awareness to be accountable to the public. The whole issue was imbued with the same spirit. The corrupted framework has putrefied the mentality of the decision makers, giving rise to many problems. However, the Legislative Council itself could not shirk its responsibility either. Members, please recall why the proposal, though loaded with problems, was endorsed with 28 supporting votes. The proposal was endorsed in 2003 and again in 2006.

Many Members who supported the proposal then also found that there were problems, but given the Government's commitments, they believed that the Government would strive to execute the proposal properly. The lofty, exaggerated and empty commitments did silence Members queries, but they turned out to be the origin of a disaster. As I just said, the entire framework and mechanism are simply unprofessional. Just like a building constructed not by engineers and professionals, but by someone with no professional knowledge on buildings, do you dare to live in it after completion? The sports framework is the same. How could the EAG be handled by people without any professional knowledge on sports?

Moreover, the entire sports framework is controlled by technocrats. However, the technocrats, though being in control, do not directly hold

themselves accountable; instead they exercise remote control through a complicated liaison among government officers and certain sports organizations. The technocrats often focus on preventing chaos and care little about whether the matter has been handled properly or whether results have been attained. They do not care how public money has been spent and what objectives are to be reached, in particular, the objective of providing Hong Kong athletes with a proper foundation and opportunity to bring their potentials into full play.

President, if government officials and Legislative Council Members do not change this mentality and heighten their awareness, similar problems like the EAG will arise again. Many Members only ask the Government to make improvement and completely ignore their own responsibilities. I think this focus is completely wrong. I noted just now that some Members severely criticized the Government. I then checked the name list and found that these Members, who just severely criticized the Government, are the ones who endorsed the funding in 2003. Instead of severely criticizing the Government, why do they not criticize themselves for being so stupid back then to believe in the Government's commitment and endorse the funding rather than setting up a better mechanism?

President, I sincerely hope that the Secretary would truly understand, public money does not belong to a private club. Although the funds raised for the EAG did not directly come from the public coffer, given that the Legislative Council had already allocated almost \$200 million for the EAG, the Game had become a public or government programme and thus attracted other people to make donations to it. Hence, the donations were in essence public money. In seeking funding approval from the Legislative Council, the Government also mentioned that there would be donations. The Government cannot say that the donations are not public money allocated by the Legislative Council and thus can be used arbitrarily.

Last but not least, I wish to point out that the guideline and mechanism which the Legislative Council adopts for vetting public expenditure are flawed. As far as public works projects are concerned, if the expenditures of such projects exceed the funding approved by a certain percentage, the Government will have to apply for additional funding from the FC of the Legislative Council. As for non-public works projects, it seems that this mechanism is not applicable. As

far as the EAG is concerned, how should the extra money be disposed of? I hold that in vetting and approving future funding proposals, the Legislative Council should lay down more stringent requirements, for example, requiring that the Legislative Council shall be informed if the proposal has generated any additional revenue and that the proposal shall be resubmitted to the Legislative Council for scrutiny if necessary.

To prevent the problem from recurring again, the FC of the Legislative Council should also strengthen its functions in monitoring the operation and expenditure of the Government. We cannot disregard our own responsibility after criticizing the Government. The Government is certainly responsible for the problems occurred, but the FC is also derelict in monitoring the Government's expenditure. Hence, the Legislative Council should also be criticized. Later when the Secretary speaks, he can also criticize the Legislative Council for not laying down these requirements when it approved the funding proposal. It is the dereliction of duty on the part of the Legislative Council that has encouraged the Government to do as it wishes.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, the Secretary's view is seriously flawed. He claimed that he had not benefited from the money and had only donated the money to the organizations which had supported the Government in hosting the East Asian Games (EAG), and these organizations also claimed that they had used the money on sports promotion. He holds that allocating the money to these organizations was legitimate as the money also came from donations. His view is untenable. Why?

To begin with, if the money does not belong to him but belongs to someone else, will he be considered as stealing that person's money or incurring losses to that person if he dumps the money into the sea? The answer is obviously in the affirmative. If the money belongs to the Government and he gives it to an old woman on the street, saying to her, "You are so poor. Stop collecting unwanted carton. I give you \$50,000. Go home and rest for a year", is this a legitimate act? Actually, this is not legitimate. Hence, the Secretary has clearly done something wrong, except that he does not think so. How should the matter be resolved then?

The Government is resolute in denying that it has done something wrong. As the Legislative Council can do nothing about it, the matter can only be settled at court, that is, by seeking a judicial review. Since the money belongs to the public, the Secretary is liable for theft. This would be the worst scenario because, by dumping the money into the sea or giving it to others, he has embezzled the money. This is a matter of serious consequence. I truly do not understand why the Government could have overlooked the fact that the matter could be pursued in court; it thought that as long as the matter could be held up for a week or two, it would be resolved with the adjournment of the Legislative Council.

I hope the Secretary would give serious thought to the matter in question. I surely would not doubt his integrity, but obviously his acts were unjustified. This is the first point. Yet, why did he resort to such act? He is the Secretary for Home Affairs and his duty is, among others, to liaise with organizations at different echelons of society.

The EAG is in itself a kind of political reward. Using the surplus funding from the EAG for political reward is a common practice in the Government. I do not know if the civil servants working under him had reminded him that he could not do so. If they had not, they had set a trap for him. Let us analyse why this has happened. Is the EAG indispensable to Hong Kong? Actually, it is not. This Government insisted on hosting this major international event, but our sports facilities and the overall sports development could not support this event. Where did the Government find the support if it wanted to press on with the EAG? It naturally turned to the sports sector. The support of the sports sector was very important, but who would support the sports sectors? Certainly, it was Mr FOK. As an important government official, the Secretary would also do so if he wanted to accomplish this mission.

Second, the Policy Bureau which the Secretary takes charge of was previously known as the Secretariat for Chinese Affairs (the name should be more or less like this), through which the British ruled the Chinese. How did the British rule the Chinese? It was also by means of political reward and favouritism. In a bid to counterbalance the Communist Party, the Hong Kong-British Government liaised with the rightist social organizations and set up kaifong welfare associations to provide services for the people. By allocating funding for these kaifong welfare associations or rightist social organizations, it naturally achieved the goal of ruling the Chinese. Political reward stabilized the

ruling of the Hong Kong-British Government. I believe he is well aware of this practice. However, the time is different. Hong Kong has returned to China. What is the duty of the Secretary now? It is also about political reward. His priority duty, either by using public money or formulating policy, is to give more funding to different types of pro-government organizations, such as (I have said countless times) the Democratic Alliance for the Betterment and Progress of Hong Kong, the Hong Kong Federation of Trade Unions and their Members. In other words, he has to give opportunities for these pro-government social organizations or political parties to use public money (Hong Kong people's money) to serve a certain group of Hong Kong people, that is, the yes-men and the pro-establishment parties.

This mentality of thinking is actually not much different from that of the Hong Kong-British Government. I will not explore any further as this is nothing but a ruling skill. The problem is, our Council now is like no others. In the past ..... Mr Jasper TSANG was not the President, the meeting then was chaired by the Governor. Every Wednesday, Members would casually express their views at the meeting and then went to the nearby field to play lawn bowls. This is exactly where the problem is. Political reward existed right from the beginning. As for the 2009 EAG, the Government was ready to go for it, but what made the Government so certain? With votes bought and handouts given, the Government could certainly be sure about it. I do not know if Members of this Council have been given any handouts. Sports organizations certainly had to sing the same tune and said that they had everything ready, though nothing was ready. The Government firmly adheres to the practice of political reward, not just in the political arena, but also in this specific incident. This is the problem.

If the Government can secure sufficient supporting votes, no one can stand in its way ..... On that day, there were 28 votes for and five votes against the government proposal. I believe the Government could not help but think, "What do you have to work against me? How can you go against the SAR Government?" Consequently, there came the mess of the EAG. For the time being, I would not pursue on whether the Government has fulfilled its commitment made on that day to leave some sports facilities for the community after the conclusion of the EAG. I would not sort out this matter with you today, and I do not bother to do so. But I cannot help but ask, what are you going to do with the surplus funding? Have you thought of giving them the money to cheer them up? If you ask me again, I would definitely say that they have thought about that. With this mindset, you consider that you have not stolen the public



money, anyway, the Government is always ready to give political reward. Second, no one has really stolen any money; you have only given the money to another group of people or dumped it into the sea by a splash. Hence, incidents like the EAG would happen again as long as political reward, coterie election and political nepotism are allowed to develop. In fact, the EAG is not the first of its kind. Another example is the \$100-million Hong Kong Harbour Fest. What had you done at that time? Nepotism again. Whenever the Government intended to launch some unpopular and unnecessary activities to glorify the governance or extol the prosperity, such a tactic would be adopted to secure sufficient supporting votes. Let us not talk about other incidents and consider the EAG alone, the latter has already given us the hardest lesson.

Moreover, this Council cannot shirk its responsibility either. The Government wishes to extol prosperity and this Council just adopts a *laissez-faire* policy! The Government wishes to extol prosperity and this Council gives it a hand. This is the saddest dilemma of having meetings in the Council every day. I remember at a Finance Committee meeting, even Ms Emily LAU appeared very impatient. Many Members were thinking in their hearts, "Buddy, it is already 3 pm. What are you still raising questions? Since the egg tart is ready, why do we not just eat it? The issue has been discussed at panel meetings, why do we have to discuss it again?" This is the attitude of Members when they come to meetings. Actually, many people have criticized me for hurling things. I believe that if I hurl a thousand times, I will at least be able to hit the target once. Similarly, sooner or later I will be able to nail him down. It is impossible for us, common Members to understand their attitude. I think this attitude has gone overboard. What is the problem of asking a few more questions? Most of the Members in this Council just want to be off-duty quickly. Hence, they just attend meetings for mere formality and behave very impatiently. Secretary, if on that day someone had asked you how you would use the money and you had answered the question, you need not come to this Council now to give explanation. Right? Moreover, if you agree that Members of this Council asked you questions to monitor you or the Government and you had given a brief answer in return, explaining that you had picked up a pile of money and did not know whether you should throw the money into the sea or give it to the people who had supported the Government, you would have secured sufficient supporting votes for you to whitewash your "black money". However, you have not done so. Your insistence has turned the matter into the mess now.

President, this political nepotism can be seen in hundreds of consultative committees, as well as numerous statutory authorities which are established by public money, such as the Airport Authority Hong Kong and the Hong Kong Tourism Board, and so on. The establishment and operation of these organizations all uphold the Government's tradition of political reward. When the people at the top are like this, the people under him are even worse. When the Government openly advocates political reward and political nepotism in its governance, the Secretary has no choice but resort to political reward as well. I thus advise you to ask Donald TSANG, or do a good soul-searching, and if you find that you have made any blunders, just say sorry and admit it, so that the matter can be settled. If you remain adamant, I will see you in court to charge you for stealing the money. If you still refuse to admit your blunder, I will personally file a case against you for theft and see how the Judge handles the case.

The authority of the Government is built not on its adamant attitude but on its willingness to tie in with public opinion. The authority of the Government is built not on its adamant attitude after making an inadvertent mistake, or being betrayed by others but on its willingness to admit and mend its blunder and apologize, admitting that its system is imperfect and it will not make the same blunder again. The Government can pull through if it can do so. Just like "Eunuch LAM", if he was willing to say sorry and admit that he had made a mistake in considering that consultation was unnecessary, he would be able to pull through. All he had to do was to make a genuine apology and he would be able to pull through. However, he refused to do so, rationalizing his blunder that a consultation had been conducted for nine months and another consultation was unnecessary. He even swore, "We will have it endorsed. If it is not endorsed by this July when the Council ends, Hong Kong will collapse." Yet, Secretary Stephan LAM has now gainsaid what he advocated in the past. By conducting the consultation which he previously refused to conduct, he has drained the cup of humiliation. Nevertheless, he needs not step down.

Secretary, my dear Secretary TSANG Tak-sing, as compared with him, you are very outstanding, but his audacity is really beyond words. As Secretary Stephen LAM outshines you in this regard, you can certainly appear composed. He works against the people but he has the audacity to say, "I understand. I will chair the consultation." What kind of a government is this? Secretary, I advise you to think twice. You are a learned man. If you have made a mistake, you

should admit it. Right? You can pull through as long as you are willing to admit your blunder. However, if you insist on your innocence, the matter will only be brought to the Court. Is it worthwhile? Let me tell you that I would highly likely sue you for theft. I hope you would think twice. Thank you, President.

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

(No Member indicated a wish to speak)

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I have to thank the Members for expressing their views on the report of the Public Accounts Committee (PAC) on the 2009 East Asian Games (EAG).

The EAG was the first large-scale international multi-sports event ever held in Hong Kong. During the planning and staging of the EAG, all participating staff worked together with one heart, making all-out effort in all aspects to strive for improvement and perfection. At last, the EAG was a success. Hong Kong athletes had the best ever results, writing a page of glory for the sports development in the territory. A number of Members have also given their recognition to their achievements.

We share the same stance as that of the PAC, we strongly believe that in bidding to host large-scale international events, the income and expenditure estimates should be as accurate as practicable. Certainly, as Members have said, since large-scale international events span over a long period of time from submitting bids for hosting to staging, a number of variables are involved. I understand that the public and Members are concerned about the accuracy of the estimates submitted when we bid to host the event, and it is reasonable to have such concerns. A few Members quoted the Olympic Games to be held in London next year as an example. It is reported that the current estimated expenditure for staging the 2012 Olympic Games in London is already four times of the proposed estimate in 2003 in the bid to host the event, increasing from £2.3 billion to £9.3 billion.

The London 2012 Olympic Games does not strive for extravagance, yet the budgeted expenditure has already exceeded \$100 billion in Hong Kong Dollars. Due to financial and economic reasons, the British Government has adopted a full-scale cost reduction and imposed layoffs recently, but the supplementary budget for preparing the Olympic Games remained unchanged. Definitely, the scale of the EAG cannot be compared with that of the Olympic Games. In January 2006, the Government submitted funding application to the Finance Committee (FC) according to established procedures and principles. According to the information available at hand at the time, it was estimated that the overall operating expenditure of the 2009 EAG would be \$240 million, with commitment from public money no more than \$123 million. Upon the completion of the event four years later, the final statement showed a balanced account and a surplus was returned to the Government. As mentioned by the Chairman of the PAC, Dr Philip WONG, at the beginning, only about \$110 million was paid by the public coffer. It is no easy task to host the EAG living up to Hong Kong's reputation as the cosmopolitan city in Asia with that amount of resources. The event has brought a wealth of experience to Hong Kong. Our discussions about the accounts of the EAG should not be isolated from this factual background.

How can we bolster the confidence of the public and let them know that the bids to host large-scale events will not become an abyss in financial terms? I think we have to honour the undertaking we made when we applied for funds, that is, we should exercise prudence in financial management and made all-out concerted efforts to engage the forces of various sectors to participate in the event. The operating expenditure for the EAG was some \$290 million in the end, which is 21% higher than the estimate four years ago. As for the commitment of public money, it had all along been strictly confined within the amount approved by the FC, and no supplementary budget was required. Actually, the FC of the Legislative Council had requested the authorities to reduce spending and open up new resources as far as possible to avoid seeking additional funding. The additional commitment incurred in staging the EAG had all been covered by efforts made by the working team and other channels like donation and sponsorship. The allegation of spending public money thoughtlessly is unfair.

The PAC considered that the \$130 million spent by various government departments to support the EAG should be included as the direct costs of the

EAG. I would like to explain again that in staging any large-scale international event, not sports events alone, the government of the hosting city is obliged to provide support and back-up services. Various departments of the SAR Government had stepped up services of day-to-day operation within their purview and deployed resources within the departments according to the actual situation to support the staging of the event, and they took the opportunities to promote the policies and work of the departments. Take the Leisure and Cultural Services Department (LCSD) as an example. The LCSD will stage events of different themes each year to promote sports culture. In 2009, the LCSD staged recreational, cultural and community participation events on the theme of EAG for local residents and tourists, which was appropriate. As in the case of the Hong Kong Tourism Board, it had capitalized on the EAG to further promote Hong Kong. These services were clearly related to the EAG, but they were within the scope of the normal duties of the departments concerned. Heads of various departments are empowered and obliged to deploy resources flexibly when it is viable to achieve the best result or cope with unforeseeable work. It has been the established practice of the Government for not including this type of expenditure as the direct expenditure or cost of project events.

The PAC proposed that departmental expenditure of similar nature of the said \$130 million should be included as the expenditure of future large-scale events, which should be included in the budget submitted to the FC in advance for approval. How will this arrangement affect the proactiveness of various departments in making concerted effort to strive for the successful hosting of major events? Will this undermine the ability of departments to cater for contingency? Is it feasible to set aside budget for some unforeseeable events? Is it practicable? The Government must consider and examine this proposal from various aspects.

I must point out that in hosting the EAG, we had no intention to conceal any expenditure. The \$130 million, which the PAC mentioned in its comment, was arrived at from the accounts provided by the Government. We had reported the case to the Legislative Council through various channels, including the submission of documents to the FC, the taking of questions at special meetings of the FC, the reports of controlling officers and draft budgets, and so on. We had stated clearly at the meetings of the PAC that we agreed in principle that all direct costs of the funding project should be set out in the application for funding

submitted to the FC of the Legislative Council. In fact, the Government has all along adopted this practice.

Members may notice that a considerable amount of resources for hosting the EAG came from society. The public was enthusiastic in participating in this major event, and they put in money and efforts. Our basic principle was to encourage public participation. We adopted very prudent policy consideration to handle donations made by members of society in support of the EAG properly. Donation from society is not public money, and we have to respect the intention of donors.

Among the surplus recorded by the 2009 East Asian Games (Hong Kong) Limited (EAG Company), it was clear that \$10 million came from donors. We considered that the sum could be used for the legacy project of the EAG, and before the arrangement was finalized, the authorities had carried out proper procedures and considered it comprehensively. The legacy project is a common practice for international sports events. The arrangement not only benefits athletes and sports development in Hong Kong, but also tallies with the objective of hosting the EAG, as well as the expectation of the public and the original intention of donors.

The PAC considered that the sum of \$10 million had become part of the overall resource of the EAG, which should be returned to the Government as a surplus. Despite the different opinions held by the PAC and us regarding the source of funding and handling procedures of the legacy project, we noted that the PAC also acknowledged the objective of the legacy project in supporting the long-term development of Hong Kong athletes. As for the Government, it aimed solely at promoting the sports development in Hong Kong, and it did not have any intention to circumvent the monitoring of the public and the Legislative Council. As Members have proposed, we agreed that in hosting similar large-scale events in future, arrangements for handling sponsored sum and implementing the legacy project should be included in documents submitted to the FC and the administrative agreement signed by the hosting organization, so as to avoid different interpretations of various parties.

From the planning to the hosting of the EAG, the EAG Company and the various government departments concerned had all along maintained close liaison via a number of working groups, where reviews of different situations were

carried out and contingency plans and improvement measures were formulated. Upon the completion of the EAG, the EAG Company and the government departments concerned immediately conducted a review, focusing on the lessons to be learnt in terms of operation and a report had been finalized. The Home Affairs Bureau had reported to the Panel on Home Affairs in January 2010 on the EAG. In early 2010, the EAG Company had compiled a summary of views on the operation of the EAG collected from adjudicators, athletes, volunteers and contractors of various services, such as catering and security services. At the PAC hearing held in May, I had stated the summary.

The Home Affairs Bureau will, based on the previous work and the information available, consolidate and summarize the valuable experience and good practices learnt from the EAG for future reference. The report will include the examination on the financial arrangement of the EAG.

For large-scale international multi-sports events, including the EAG, the ownership belongs to the international sports organizations concerned and the Olympic Committee of the hosting place. In Hong Kong, the EAG Company was established to undertake the operation of the EAG, whereas the FC of the Legislative Council examined the commitment of public money in this respect. The EAG Company is a registered company. It is required to submit professional audited accounts per annum, which are open to public inspection. It has all along kept clear accounts. Comments about the messy accounts of the EAG Company are untrue and should be rectified.

In April this year, the liquidator of the EAG Company submitted the financial statements for the last three months, from April to June 2010, of the company to the Inland Revenue Department for assessment. By the end of June, the liquidator returned a large part of the \$11 million surplus, some \$8.3 million, to the public coffer. We will continue to monitor closely the remaining work on liquidation.

The EAG has a positive effect on sports promotion in Hong Kong, prompting us to endeavour in promoting local sports development. We have drawn up new plans and events to further enhance the public's interest in sports. We will provide more support in identifying and training elite athletes. We will continue to develop sports facilities to cater for the needs of the general public, local national sports associations and athletes.

We have gained precious experience from the EAG. When large-scale sports events of similar nature are held in future, the Government will share the experience with the hosting organizations. The Government gives due respect to the monitoring role of the PAC. It will examine thoroughly the proposals of the PAC and implement them according to the actual situation. Also, we hope that Members will continue to support the long-term sports development of Hong Kong.

President, I so submit.

**PRESIDENT** (in Cantonese): Dr Philip WONG, you may now reply.

**DR PHILIP WONG** (in Cantonese): President, first, I have to thank Members who have spoken just now and the Secretary. Members have put forth many valuable opinions on various aspects, including the planning and hosting of the Hong Kong 2009 East Asian Games (EAG), as well as the use of public money. The Secretary for Home Affairs and other Policy Bureaux and departments should listen attentively and reflect deeply about these opinions. Particularly, if the Administration intends to make a bid for hosting and to stage large-scale events which required years of preparation, straddling two terms of SAR Government and two terms of the Legislative Council, it should draw on the experience of the EAG to make improvements in drafting the budget, reporting the changes in income and expenditure to the Legislative Council, calculating all the direct cost of the project and implementing legacy projects.

I understand that the Secretary for Home Affairs did not initially fully agree with the views of the Public Accounts Committee (PAC). In fact, our views are not put forth to the Secretary for Home Affairs alone, but also to the Secretary for Financial Services and the Treasury — he is not here regrettably, as well as to all Policy Bureaux and departments. I hope the Chief Secretary for Administration will give positive and proactive responses to the proposals of the PAC in the Government Minute to be submitted three months later. Thank you, President.



**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Philip WONG be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Second motion: Issues in relation to procedural rules on pecuniary interests.

I have accepted the recommendations of the House Committee: that is, the movers of this motion and the remaining three motions each may speak, including reply, for up to 15 minutes. If there is/are amendment(s) to a motion, the mover of the motion may have another five minutes to speak on the amendment(s), while the movers of amendments each may speak for up to 10 minutes and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mrs Sophie LEUNG to speak and move the motion.

## **ISSUES IN RELATION TO PROCEDURAL RULES ON PECUNIARY INTERESTS**

**MRS SOPHIE LEUNG** (in Cantonese): President, in the capacity of the Chairman of the Committee on Members' Interest (CMI), I move that a debate be held on the issues in relation to the procedural rules on pecuniary interests that are set out in the Report of the CMI, submitted to the Legislative Council, on its consideration of a complaint against three Members. The report had been tabled at the meeting of the Legislative Council on 22 June 2011.

The CMI has never proposed a debate to be held at the meeting of the Legislative Council in respect of the reports it submitted to the Legislative Council. However, members of the CMI consider it necessary to do so this time, for the procedural rules on pecuniary interest are related to all Members and even the CMI has to spend very long time to come to the opinions stated in the report.

The aforementioned complaint has brought forth one issue, that is, whether a Member's position as an non-executive director (NED) of a company may give rise to a situation under which the Member is considered to have a pecuniary interest by virtue of that position under Rule 83A of the Rules of Procedure (RoP). Under Rule 83A of the RoP, it is stated that "In the Council or in any committee or subcommittee, a Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he discloses the nature of that interest."

The CMI notices that the main purpose of such disclosure is to ensure that other Members and the public are made aware, when a Member is participating in the proceedings of the Legislative Council or other committees, of any pecuniary interest which might reasonably be thought to be relevant to those proceedings. On the issue of whether a direct or indirect pecuniary interest exists, the Member concerned should first be allowed to consider the facts he known and whether the interest will make a reasonable person to consider that such interest may influence the Member's decision or speech, and then make the decision. If the Member considers such is the case, he must disclose the pecuniary interest he has before speaking or moving any motion or amendment.

The CMI notes that there is no provision in the RoP which provides the circumstances which constitute "direct pecuniary interest" and "indirect pecuniary interest" in the context of Rule 83A of the RoP. However, the CMI agrees that "direct pecuniary interest" should be immediate and not of a general character, whereas "indirect pecuniary interest" is an interest not immediate and personal to a Member, but does have a certain relationship with the Member which would make a reasonable person to consider that such interest might have certain influence on the action or speech of the Member.

The CMI notes that executive and non-executive directors have the same fiduciary duty to their company in law. In view of this, the CMI considers that a Member who is an independent non-executive director (INED) of a company should be knowledgeable about the nature of business of the company. Under the circumstance, if the company of which a Member is an INED has a direct pecuniary interest in a matter before a committee, the CMI considers that the Member should have an indirect pecuniary interest in the matter. Therefore, for the purpose of making the required disclosures under Rule 83A of the RoP, the Member should take reasonable steps to find out whether the company of which he is an INED has a pecuniary interest in the matter under consideration by a committee of the Council.

According to this principle, when a company has bid for a contract or has been awarded a contract under a project, that company should be regarded as having a direct pecuniary interest in the project. It then follows that when a Member is an INED of that company, the Members should be regarded as having an indirect pecuniary interest in the project. In this connection, the Member must disclose the nature of the pecuniary interest he has in the matter according to Rule 83A of the RoP.

The CMI has deliberated whether a Member who is an INED of a company should be regarded as having a pecuniary interest in a matter discussed or decided by a committee, which may affect the interest of the subsidiary companies under the company. The CMI considers that generally speaking, if a subsidiary of a company (parent company) has bid for a contract or has been awarded a contract under a project, the parent company is then regarded as having an indirect pecuniary interest in the project and on this basis, a Member who is a director of that parent company is regarded as having an indirect pecuniary interest in the project. By the same token, the Member must disclose the nature of the pecuniary interest he has in the matter according to Rule 83A of the RoP.

The CMI recognizes that a Member might not have access to the information on the day-to-day operation of a company of which he is an INED, but a Member should be vigilant of the potential pecuniary interest which he might have if the nature of the business of the company falls within the scope of subject matter under consideration by a committee. To strive for the proper balance between public accountability and privacy of the Member, the Member is only required to disclose the nature of the pecuniary interest. In the light of the above, the CMI is of the view that it would not be unreasonable to expect the Member to find out the nature of business of the subsidiaries of the company of which he is an INED, and to decide whether and in what manner he is to find out if he has to disclose any pecuniary interest which derives from the pecuniary interest of the subsidiaries.

However, Mr Paul CHAN and Mr WONG Yung-kan are of the view that to expect a Member to find out the nature of business of each and every subsidiary of the company of which he is an INED is hardly practicable. They consider that a Member should only be expected to find out the primary nature of business of the major subsidiaries of the company of which he is an INED.

To assist Members in complying with Rule 83A of the RoP, the CMI recommends that the following five principles applicable to Rule 83A of the RoP should be set out in the form of guidelines to remind Members of their obligations as directors:

- (a) a company is regarded as having a direct pecuniary interest in a project if the company has bid for a contract or has been awarded a contract under the project;
- (b) if a company is regarded as having a direct pecuniary interest in a project by virtue of the above condition, a Member who is a director of the company is regarded as having an indirect pecuniary interest in the project;
- (c) there is no distinction between executive directors, NED and INED as far as disclosure of pecuniary interest under Rule 83A of the Rules of Procedure is concerned;

- (d) a Member is expected to take reasonable steps to find out, for the purpose of making the required disclosures under Rule 83A of RoP, whether the company of which he is a director has a pecuniary interest in the matter under consideration by a committee; and
- (e) generally speaking, if a subsidiary of a company (parent company) has bid for a contract or has been awarded a contract under a project, then, the parent company is regarded as having an indirect pecuniary interest in the project and on this basis, a Member who is a director of that parent company is regarded as having an indirect pecuniary interest in the project.

Since the above principles applicable to Rule 83A of the RoP are decisions made by the CMI recently and involve all Members, the CMI hope that the debate today will provide Members the opportunity to express their views on this subject.

President, I so submit.

**Mrs Sophie LEUNG moved the following motion: (Translation)**

"That this Council takes note of the issues in relation to the procedural rules on pecuniary interests that are set out in the Report of the Committee on Members' Interests on its consideration of a complaint against Ir Dr Hon Raymond HO, Hon Jeffrey LAM and Hon Abraham SHEK."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Sophie LEUNG be passed.

**MR ABRAHAM SHEK** (in Cantonese): President, before Members start discussing the incident, may I ask whether the Committee on Members' Interest (CMI) has examined if the present proposals are consistent with the laws on listed companies, the Company Ordinance and the legislation against discrimination? If the CMI has not done so, will it conduct a study? If the motion is passed, it may affect a number of ordinances. Will there be an element of discrimination? While directors or independent non-executive directors of listed companies must

follow those requirements, why are solicitors exempted? This is a kind of discrimination .....

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, you are not making a point of order. We are now handling a motion with no legal effect, and the content of the motion is that this Council takes note of the report submitted by the CMI. Members may express their personal views on the content of the report. If Members query that the content of the report is inconsistent with any laws, codes of profession conduct or other issues, they may state so when they speak; and I hope that the Member moving the motion will respond to those views in the reply. The issue you raised earlier is not a point of order. If you would like to express your views about the content of the report, please put forth those views when you speak.

Does any Member wish to speak?

**DR MARGARET NG** (in Cantonese): President, I am a member of the Committee on Members' Interest (CMI), so I have also given my views regarding the content of the report. Originally, I intend to listen to the views of other Members first, but since other Members do not speak, I would express my views now.

President, in an earlier debate about GODFREY, Mr Ronny TONG said that the popularity rating of Members of this Council was as low as 10 percentage points. He asked how far the rating could drop. At that time, I thought the popularity rating could be as low as zero. What factors decide the level of our popularity rating? It depends on our performance in monitoring the Government and our self-discipline. If our performance is unsatisfactory, a further drop in popularity rating is expected.

President, this motion is not about monitoring the Government; it is about self-discipline. In fact, self-discipline does not only concern meeting public expectation, the crux of the problem relates to the kind of expectation that we have of ourselves. If we have very low requirement for our conduct, it is only natural that we will not have a high popularity rating.

President, during the debate on the first motion concerning Mr Abraham SHEK, I said that I would wait till this session, that is, I would express more views when we discuss the issue on principle. At that time, I planned to put forth a set of views and opinions, but since various aspects have been covered at the previous debate session, there is no point for me to state again the views I intend to voice. Hence, President, I will only put forth two very practical points.

Rule 83A and Rule 84 of the Rules of Procedure (RoP) only involve one point, that is, pecuniary interest. President, it is not conflicts of other interest but only pecuniary interest. The only requirement imposed on Members under these provisions is that Members should disclose any direct pecuniary interest as required. If a Member has a direct pecuniary interest in the matter under discussion, he shall not vote and must withdraw from the debate. This is the minimum requirement. If the requirement has to be relaxed further, and if Members set such a low requirement for themselves, I have nothing to say.

President, what is direct or indirect pecuniary interest? Actually, the Legal Adviser of the Legislative Council had provided written opinions to us. President, Members often ask whether they have to declare interest at meetings. The Legal Adviser will remind us every time that the interest mentioned in the RoP refers to pecuniary interest, and if no pecuniary interest is involved, there are no justifications for declaration. Though Members are not required to declare interest, it does not imply that they are prohibited from declaring certain issues that may possibly alleviate the worries of the public. President, this is what the RoP requires Members to do.

What is direct or indirect pecuniary interest? First, everyone understands what direct pecuniary interest is. As for indirect pecuniary interest, it refers to an interest that is not directly related to a Member, but the Member has a direct relationship with a "person" who has a direct pecuniary interest in a matter, and the word "person" here naturally includes organizations.

President, these issues have been explained repeatedly; however, it seems that Members still fail to understand. This somehow explains why the CMI has to spend one year to discuss the issue though the fact involved is indisputable. It is obvious that Members still do not understand what pecuniary interest is. Perhaps under the prevailing culture of the legislature, Members will not understand no matter what explication has been made. I only want to remind

Members that today, we should only discuss pecuniary interest and not other interests.

President, the second point is the registration of interests mentioned under Rule 83 of the RoP. Members all know what is meant by registration of interests. At the beginning of each legislative session, Members will make register their interests, and we are provided with certain forms to facilitate the registration. Just now during the debate, many Members queried whether it would cause inconvenience if a series of declaration of interests had to be made at meetings. It depends on whether the declaration of direct or indirect pecuniary interest will take up a lot of meeting time. Hence, I consider it necessary to improve the declaration procedure and the practice of registration of interests. Certain declaration should be more specific and in greater details, and improvement should be made in case there are discrepancies between the rules and the form. We should examine this issue in future.

President, I propose that if the interests involved have been registered on the registration form, Members need not give detailed explanation during discussions at meetings, and the Member concerned only needs to declare his or her interest in the matter. This practice is also adopted by legislatures in other places. When we adopt such a practice, we have fulfilled our responsibility and the public would find that we are candid. On the other hand, the declaration process will not obstruct the proceeding of meetings. I would like to put forth this simple proposal.

Regarding the debate today, I can only say that I am utterly disappointed. I hope that as time passes, Members will re-consider this issue. Thank you, President.

**MR JAMES TO** (in Cantonese): President, the issue that we are now discussing or we are concerned about is, whether a Member is required to declare interest if he is a non-executive director (NED), director or whatsoever of a certain corporation that has many subsidiaries, branch offices, overseas companies or other companies. And if a Member is required to declare interest, to what extent should the declaration covers? At the same time, Members are also concerned how the declaration system can be enhanced, so that society at large will get hold



of the proper information to monitor whether Members have any conflicts of interest.

President, I think if a Member says ..... Suppose the Member is a NED (not the Chairman, executive director or managing director who is in a high-ranking position) of a large company, and he is required to give a detailed declaration of interest, stating whether he has conflict of interest with a subsidiary company or with a subsidiary company of a subsidiary company, and if he claims that it is inappropriate, infeasible or impracticable to make a thorough and detailed declaration, I think this argument is unsubstantiated.

President, honestly, if a Member, being a NED of an enormous enterprise, is aware that in examining a matter, he must make conscious effort to understand whether he will have conflict of interest in connection with the business of the subsidiary companies of the enterprise, and subsequently makes a detailed declaration of interest, his efforts will definitely be highly appreciated. We would also appreciate the efforts of the Member's assistant in fulfilling his duty to remind the Member. Very often, assistants play an important role in this respect. Since assistants well understand the involvement of Members, they will remind Members to declare interest in the course of preparing papers and information. A responsible assistant, particularly an experienced one, will understand the interest a Member may be involved and they know whether the Member should make a declaration.

However, if a Member is a NED of a large enterprise, he may not know which person in the consortia will have a full picture of the interests involved. Will the secretary of the head office have a clear understanding? Will the staff responsible for compliance, that is, members of the compliance department have a better understanding? Since Members are involved in numerous agenda items and matters, it seems impracticable for them to examine on a case-by-case basis whether a conflict of interest is involved and make detailed declaration.

Though it is not possible to go into such details, Members can still avoid breaching the rules. They only have to state clearly the possible conflicts of interest that their companies or subsidiaries may involve. I know that some Members are NEDs of a number of large enterprises, and they only need to list the major areas of businesses of the enterprises, for example, the enterprise is involved in five major areas of business. This can at least serve as a reminder to members of the public, reporters or stakeholders. When they monitor the action

and speech of Members, they will at least be reminded by the declarations of Members.

Certainly, some people will put forth a different argument. If most of the 60 or 70 Members are NEDs of large consortia or conglomerates and they have to declare interest at meetings of committees, for those committees with a large membership, such as the Finance Committee with a membership of 59 Members, if 30 Members have to declare interest, what purpose does it serve when such declarations just involve general interest, and how can the public monitor Members? However, in my view, if such a requirement has already been put in place, Members have to observe it and declare their interest. This is comparable to a minimum charge, and they should at the very least comply with the requirement. Naturally, in handling a certain matter, when more information is involved and when more in-depth discussion is held, the Member concerned may have to provide more specific explanation, stating whether there is a conflict of interest.

Surely, one may say that organizations or reporters monitoring Members may have to spend a lot of time in examining such declarations of general interest, and consequently shift their focus of the monitoring work. I think we are really in a quandary. On the one hand, we have to ensure that Members have carefully examined the specific conflicts of interest they may be involved and declare such interest; and on the other hand, we worry that the monitoring bodies may fail to grasp all the information if too many Members declare their general interest. I think we have to examine this dilemma thoroughly.

For instance, concerning the registration of general interest, a Member who is a NED of a conglomerate may list, in a simple tabular form, the areas of business of the conglomerate. He may even link the form to the schedule of the subsidiaries as contained in the annual report of the listed conglomerate. People may access the link for detailed information.

Hence, under the existing rules, Members who are NEDs of conglomerates or large enterprises must make general declaration on the possible interests they may be involved in the subsidiary companies. My final conclusion is that I cannot accept if any Member considers such declaration inappropriate. Even if the case is carried to the extreme that each declaration may take 10 seconds, I still consider it worthy to do so.

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

**MR TOMMY CHEUNG** (in Cantonese): President, I would like to declare interest first. I am now a non-executive director (NED) and a director of certain companies and I may be a NED of a listed company in future. However, my speech on the motion today is definitely not related to my personal interest. I will discuss, from the perspective of the operation principles of a commercial society, the practicability and necessity of the arrangement.

President, the declaration system stipulated in Rule 83A of the Rules of Procedure (RoP) is a time-honoured and effective mechanism of this Council. The objective of the system is simple. It aims at safeguarding the transparency and credibility of the legislature, so that the public will know all the pecuniary interest a Member may be involved when he moves a motion or speaks in the Legislative Council.

However, in handling a complaint against the three Members suspecting of failure to disclose their interest, the Committee on Members' Interest (CMI) has identified another problem, that is, whether a Member will be regarded as having a pecuniary interest by virtue of being a NED of a company and is thus required to make declaration when the Member moves a motion or speaks?

Upon examination, the CMI has consolidated the conclusion into five principles, which will be used to update the arrangement for disclosure of interest by Members in the form of guidelines. Moreover, based on the aforesaid principles, the CMI has ruled that Mr Abraham SHEK and Mr Jeffrey LAM have breached Rule 83A of the RoP for not disclosing their pecuniary interests in the bid for the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL Project) contract by the subsidiary company of a company of which they are the NEDs when they spoke at the meeting of the Subcommittee on Matters Relating to Railways of the Panel on Transport between September and November 2009. However, since there is no explicit provision for such disclosure, the CMI ruled that no punishment would be imposed this time.

President, we fully understand that the public have high expectation on the behaviour and conduct of Members. We do not oppose further enhancing the regulation of the declaration system according to practical and feasible principles.

However, we are worried that the five principles now set out by the CMI cannot be executed effectively given their extensive coverage and broad definition. The CMI states clearly in point (e) that, "generally speaking, if a subsidiary of a company (parent company) has bid for a contract or has been awarded a contract under a project, then, the parent company is regarded as having an indirect pecuniary interest in the project and on this basis, a Member who is a director of that parent company is regarded as having an indirect pecuniary interest in the project." In other words, Members are required to make declarations about this.

Let us consider the situation in Hong Kong. Hong Kong is a top-ranking international commercial city where the setting up of business is quick and easy. We have tens of thousands of enterprises, and a company may have many different subsidiaries and the subsidiaries may have their own subsidiaries. According to the latest interpretation of the CMI, Members are required under an "across-the-board" requirement to examine whether all the subsidiaries of the parent company of which the Member is a director has bid for or been awarded a contract, so as to confirm whether there is a need to declare an indirect interest before they speak or move a motion. This requirement will be extremely difficult to comply. Though independent non-executive directors are members of the Board, they do not participate in the day-to-day operation of the company. They only play the role of an independent third party responsible for monitoring the management and ensuring that the interests of minor shareholders will not be undermined. If a matter has not been discussed by the relevant Board of Directors, and Members are asked to understand whether each of the subsidiaries has bid for or been awarded a contract, it is comparable to setting an "offside trap" or asking Members to accomplish an impossible task.

Since it is impossible for a Member to know all the business involvement of the subsidiaries, he may very likely make lots of declaration each time he speaks, so as to avoid being criticized for breaching the rules. If a Member is involved in 10 companies and he has to declare all the interests, he will use up all his speaking time. President, may I ask whether such an arrangement will defeat the original purpose and practical effect for declaration of interest, making it impossible for members of the public to learn whether a certain Member is involved in any interest when he speaks or moves a motion?

Actually, according to the relevant report, apart from the strong opposition raised by Mr SHEK and Mr LAM who had been ruled that they have breached

the RoP, two members of the CMI, Mrs Sophie LEUNG and Mr WONG Yung-kan had indicated their reservation about point (e) of the five principles mentioned. They have reservation for the reason that "the principle has never been applied to disclosure of pecuniary interest derived from the subsidiary of a company of which a Member is an independent non-executive director and has never been fully discussed among Members." They also consider that "it not practicable at all for a Member to find out the business involvements of the subsidiaries of the company of which he is an independent non-executive director for the purpose of complying with Rule 83A of the Rules of Procedure."

As there are divergent views among Members, I think we should act cautiously, and it is undesirable for the CMI to take haste action before a consensus is reached by the legislature. Hence, the Liberal Party has reservation about the principles on observing Rule 83A of the RoP, as proposed by the CMI.

President, I so submit.

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

**MS EMILY LAU** (in Cantonese): President, I am a member of the Committee on Members' Interest (CMI). The Committee has discussed the case repeatedly over the past year. The CMI understands that some Members may not necessarily agree with the views, it thus decides to put forth the proposal for Members' discussion. I believe it is a civilized decision. As I pointed out yesterday, during the discussion, the Secretariat has provided extremely independent and professional assistance to the CMI.

Regarding the five principles mentioned earlier, some people said that the previous practices were not the same. Actually, no discussion in this respect had been carried out in the past, for no complaint of this type had ever been lodged, such that the CMI has to hold meetings over a year or so to discuss the issue. However, President, the five principles are comparable to the statement that "my mother is a woman."

President, the first principle is that a company is regarded as having a direct pecuniary interest in a project if the company has bid for a contract or been

awarded a contract under the project. I believe no one will disagree with this principle.

The second principle is that a Member who is a director of the aforesaid company is regarded as having an indirect pecuniary interest in the project. I believe this principle will not arouse much controversy. Yesterday, someone pointed out that shareholders but not directors should be regarded as having pecuniary interest. However, we have all along followed this principle in making judgment.

The third principle is that there is no distinction between executive directors, non-executive directors and independent non-executive directors as far as disclosure of pecuniary interest is concerned. As we mentioned yesterday, these directors owe the same fiduciary duty to their company. It is inappropriate to say that certain directors bear greater responsibilities than other directors. In the legal context and in the business sector, all directors owe the same fiduciary duty to their company.

The fourth principle is that a Member is expected to take reasonable steps to find out, for the purpose of making the required disclosures under Rule 83A of the Rules of Procedure (RoP), whether the company of which he is a director has a pecuniary interest in the matter under consideration by the relevant committee of the Legislative Council. The Member should understand the nature of business of the company of which he is the director. If the company concerned is a large company, the Members should also understand the nature of business of the parent company and its subsidiaries to confirm whether there will be a conflict of interest in the matter under discussion. President, it is not unreasonable to request the Member who is a director of the company to get hold of such information.

The fifth principle is relatively controversial. In the case of a company, which is the parent company, if its subsidiary has bid for a contract or has been awarded a contract under a project, the parent company is then regarded as having an indirect pecuniary interest in the project; a Member who is a director of that parent company is regarded as having an indirect pecuniary interest in the project. This is a new principle. We have discussed this point for a long time.

We consider that certain Members have breached Rule 83A of the RoP, but since we have had a long discussion about the issue, we do not recommended any

sanction; instead, we put forth the question to the Legislative Council to allow free discussion by all Members. However, if Members intend to repudiate these principles, I believe they have to explain to the public. Yesterday, certain Members even requested that the RoP be amended. President, should the RoP be amended to the effect that declaration of certain interests might be waived? If that is the case, probably there will no conflict of interest in future.

We should be accountable to the public on all issues. As I said yesterday, it was of grave concern to the public whether there was a conflict of interest. Some Members have also mentioned this point today. If we start amending the RoP to make the declaration system more vague and inferior, I believe our popularity rating will drop to zero or -200. Hence, we must handle this issue cautiously.

These rules have existed for many years. In fact, the understanding about these rules has not changed, and we are not doing back tracking as some people claimed. These incidents occurred a year or two ago. I believe any committee or secretariat will arrive at the same conclusion after reasonable discussion. Some Members are the directors of numerous companies. The Legislative Council has no rule prohibiting Members from being directors. Members can be directors of companies, but they have to let the public know whether their various capacities will have conflicts of interest with the "lucrative deal" under discussion, so that the public may decide whether those capacities will affect the stance of Members.

President, declaration of interest is a very important issue; that is why we have an extended debate yesterday and today on issues relating to the declaration of interest. President, as Members said at the earlier debate on the GODFREY incident, we have to maintain an honest, just, fair and reasonable system. When the Legislative Council is examining the funding application of \$50 billion, Members must declare their interest, and Members with direct pecuniary interest are not allowed to vote.

Earlier, a Member mentioned that Members' assistants should provide proper assistance to Members. Members' assistants definitely have to do their best to provide assistance, but as pointed out by the CMI repeatedly, the problem should not be shifted to Members' assistants, it should be handled by Members themselves. Members cannot blame their assistants openly for failing to

disclose the relevant information, for it is the Member but not the Member's assistant who debates in the Chamber in the capacity of a Member. A Member should know what his responsibilities are. We lay down those rules hoping that Members will observe them. If Members do not like the rules and would like to amend them, they should do so according to the procedures. In the course of amending the rules, we have to be vigilant about the message conveyed to the public. Do we want to maintain a system that can prevent conflict of interest? Or do we want to overthrow such a system and allow the legislature to have conflicts of interest? It is a matter of choice of Members.

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

**PROF PATRICK LAU** (in Cantonese): President, the Independent Commission Against Corruption (ICAC) in Hong Kong is the expert with regard to the disclosure of pecuniary interest. I had been the Chairman of the Tender Committee of the Hong Kong Housing Authority, and I know clearly how to declare personal interest. I had also been the Vice-Chairman of the Town Planning Board, and all members on the Board have a good understanding about conflict of interest, and if there is a conflict of interest, the member has to withdraw from the meeting.

In my view, a simple description can hardly define the coverage of interest. Hence, I hope that the Committee on Members' Interest (CMI) will seek the advice of the ICAC and invite the ICAC to provide an explanation on conflict of interest from a professional perspective. We may then draw up a code of practice in this respect. A code of practice is needed so that Members would understand under what circumstance they will be regarded as having an interest in a matter. I think it should be stated clearly what acts will constitute a breach of rules, rather than simply disallowing Members who have pecuniary interest from speaking.

This is a trap. At the previous debate, Members asked whether the issue was settled after declaration of interest. President, this is not the case. The basic concept is that certain acts of a Member may affect the whole incident and the Member may benefit from the outcome. I believe the ICAC can offer us advice in this respect.



Since we have to deal with a wide range of issues, is it possible that these issues will be affected? I am not sure if there is a real impact. Though we have expressed our views, the Government may not necessarily accept them. In the absence of a code of practice, the issue can hardly be dealt with.

I hope that the Committee of Rules of Procedure will examine the issue. Many Members have expressed their views today, and we have to thank Mrs Sophie LEUNG for proposing the five principles. However, upon reading the five principles, I find that there are still a lot of grey areas. On the issue of whether a parent company will have an interest when its subsidiary makes a bid, cautious examination is required to identify how far the interest is involved, that is "at arm's length". In many places, the coverage of interest has been defined. There should be a yardstick for deciding whether an interest is involved.

I hope the President will instruct the Committee on Rules of Procedure to work harder on this question, and submit the proposals to the Legislative Council for discussion. A good set of rules will prevent people from making mistakes. Thank you, President.

**MR VINCENT FANG** (in Cantonese): President, first, I have to declare interest. I am an independent non-executive director (INED) of various listed companies and I receive director's remuneration. However, I have neither share warrants nor shares of those listed companies. I have also been appointed to the Board of the Hong Kong Airport Authority (AA), a non-listed public organization, in the capacity of the Member of the Legislative Council. I have to speak out my personal experience and feelings in this respect.

The two controversial motions today are both related to the Express Rail Link (XRL) project. Actually, during the discussion of the XRL project, I have been a target of criticism by people opposing the XRL project. They criticized that I was the INED of a listed estate company and that I owned an industrial building along alignment of the XRL. They considered that there would be personal interest for me to support the XRL project, for the listed company concerned and I myself might benefit. At that time, I pointed out that since the Cosmopolitan Estate in Tai Kok Tsui and my industrial building were both located along the XRL alignment, they would be affected by the operation of the XRL and their redevelopment values would be limited. Why is it that owners in

Tai Kok Tsui are regarded as victims while I am regarded as having a conflict of interest by virtue of being a Member of the Legislative Council? I am a victim too.

The incident reflects two phenomena. First, when a large number of people distort the fact in unison, the twisted logic will become the truth. Second, certain people want to make use of public pressure to prevent Members of the Legislative Council from expressing their views sincerely or stating their stances on certain controversial questions. Small owners in Tai Kok Tsui and I are in the same predicament, but we are treated differently. This example well illustrates how twisted logic has turned into truth.

There are many examples of using public pressure to stifle the sincere expression of views by Members of the Legislative Council. One of the examples was the allegation that I might have an interest in supporting the XRL project. These people wanted to embarrass me, so that I would not voice my views. As a businessman who has factories and investments in both Hong Kong and the Mainland, I perceive the changes brought to city clusters by the development of an express rail link. Hence, from a macroscopic perspective and on the premise of the development of the economy of Hong Kong and society, I support the construction of the XRL. How can I be wrong in doing so?

Another example is the construction of the third runway at the Hong Kong Airport. I have been appointed as a member of the Board of the AA in the past six years. I have put forth my opinions on the development of the third runway, and I support the construction of the third runway. I left the AA in May. However, the discussion about the development of the third runway has now heated up. If I forget to declare interest since I have already left the AA, and express my support to the construction of the third runway, will I breach the Rules of Procedure?

I will give one more example. Some time ago, at meetings of the Housing Authority and the Panel on Housing, I openly stated my support for resuming the construction of Home Ownership Scheme (HOS) flats in an appropriate manner. At that time, I had not declared my capacity of an INED of a listed estate company. If the Government resumes the construction of HOS in future, and the listed company concerned so happens to be involved in the project, will I be subject to reprisals? Are these people asking Members who are INEDs of estate companies or construction companies not to state their support to the resumption

of the construction of HOS flats and not to say a word to request the Government to increase land supply?

Members all know that INEDs do not involve in the actual business operations of the company, let alone the business of the subsidiary company. In my view, the existing legislation is adequate in prohibiting listed companies from getting benefits from insider dealings. Moreover, the performance of the ICAC in Hong Kong is outstanding. The media also plays a monitoring role. One can hardly exploit the legal loopholes. Hence, I hope Members will not go over board in rectifying the case. The few Members being complained against have not been involved in any pecuniary interest.

Regarding the rules relating to the procedures for declaring pecuniary interest, as all Members are required to declare interests to the Legislative Council, even if a Member fails to declare such interest at individual meetings, he should not be regarded as concealing the fact provided that he has already recorded his interests to the Legislative Council. If it is still considered inadequate, Members may declare their interests annually when they join the Panels of the Legislative Council or when they join any Bills Committees. In that case, Members may speak freely during the discussions at meetings and contribute their strengths and experience to society. I so submit. Thank you, President.

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

**MR IP KWOK-HIM** (in Cantonese): President, Members of the Legislative Council are important figures of the legislature and in the community. It is more than reasonable for the public to impose stringent requirements on the credibility, conduct and declaration of interest of all Members.

However, the interests that Members are required to declare cover a wide range of areas and categories. The first item in the registration form of Members' interest is about the remunerated directorship held by Members in public or private companies. At present, 27 Members have made declaration under this item, a proportion as high as 45%. Actually, I should also declare interest, for I am a non-executive director of a holding company.

Regarding the circumstances under which a Member who is an independent non-executive director (INED) would be required to make disclosure of pecuniary interests under Rule 83A of the Rules of Procedure (RoP) by virtue of being an INED, the Committee on Members' Interest (CMI) has spent one whole year to follow up and examine the issue. We have to express deep gratitude for the efforts made by the CMI.

Mrs Sophie LEUNG puts forth the motion today on behalf of the CMI to remind Members of their responsibilities as directors. She has also put forth proposals on rationalizing the future arrangement for the disclosure of pecuniary interest at meetings of committees and on formulating specific provisions.

In principle, there is no cause for criticism to enhance the transparency and extend the scope of declaration of interests by Members. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it necessary to impose requirements for more detailed and specific declaration of interests, and we do not oppose this proposal.

However, the requirement under item (d) of the five applicable principles newly proposed is disputable. It is stated under item (d) that, "a Member is expected to take reasonable steps to find out, for the purpose of making the required disclosures under Rule 83A of the RoP, whether the company of which he is a director has a pecuniary interest in the matter under consideration by a committee". The crux of the issue is the definition of "reasonable steps".

President, before we examine this principle, I would like to discuss one point. Generally speaking, if a subsidiary of a company (parent company) has bid for a contract or has been awarded a contract under a project, the parent company is regarded as having an indirect pecuniary interest in the project. As stated in the report of the CMI, this principle has not been applied to Members in the past and has not been discussed extensively by Members.

Moreover, according to the existing listing arrangements of companies, the parent company is completely independent from its subsidiary company. Hence, Mr WONG Yung-kan of the DAB and Mrs Sophie LEUNG both hold similar views. I noticed this from paragraph 4.34 of the report.

In my view, requiring a Member to observe Rule 83A of the RoP to understand all the business involvement of the subsidiaries of the company of

which he is an INED is quite difficult to implement, if not impracticable. Though certain listed companies do not have many subsidiaries, some companies do have numerous subsidiaries. In some cases, both the subsidiary and the parent company are listed companies. Under such circumstances, is it really that easy and practicable for a non-executive director of a parent company to obtain the relevant information of the subsidiaries?

Certainly, we notice that some members of the CMI proposed at the meeting the addition of the term "primary". However, will the inclusion of the term "primary" alleviate our concerns? I think it is subject to discussion.

President, since it is not easy for INEDs to obtain the relevant information, the DAB considers that the requirement for taking "reasonable steps" is beyond the authority of Members. I am afraid such a practice is somehow imposing Members to accomplish a difficult task. Hence, the DAB considers that the definition for "reasonable steps" should be laid down clearly.

We hope that the CMI will examine the definition for "reasonable steps" next year and provide a clear definition. I believe that only when a consensus has been reached can we render our support.

Thank you, President.

**MR WONG SING-CHI** (in Cantonese): President, at meetings of the Committee on Members' Interest (CMI), we have spent a long time discussing the five principles, and the concerns raised by Members have been considered and discussed. Certainly, regarding the principle in the fourth point, Mrs Sophie LEUNG, Chairman of the CMI, and Mr WONG Yung-kan have different views. We have examined the issue in detail at meetings.

I think that as a non-executive director (NED) of a company ..... I recalled that at a meeting of the CMI, I asked Mr Abraham SHEK about the duties of NEDs. He said that NEDs are required to maintain the good management of the company. I then asked him whether the duties of NEDs include making profits for the company. In my view, good management should include making profits for the company, for if a company has good management but fails to make profits, it will wind up eventually, and this is unacceptable.

Hence, people expect that NEDs will make profits for the company or ensure that the company will have good development to maintain its operation. It is evident and obvious that an interest is involved.

Certainly, it is not direct interest. We agree that this is kind of indirect interest. Even if a Member takes up the position as a NED for fame and glory, he must undertake his due responsibilities to the company. Even if he takes up the post to show off, he has to shoulder the responsibility.

In our view, Members should undertake the relevant responsibilities when they become NEDs, they do not take up the position just to show off or prettify the company concerned. I think a Member should shoulder the responsibilities when he or she becomes a NED.

Prof Patrick LAU asked earlier whether we should seek advice from the Independent Commission Against Corruption (ICAC). He is right. However, he is referring to the area involving corruption and bribery. The issue under discussion does not involve the ICAC, for it is about the authority of Members, and that authority has public mandate. Hence, in handling funding applications, monitoring the Government and dealing with issues involving the overall interests of Hong Kong, a Member must inform the public of the interest he may be involved.

Members have the authority and obligation to approve or reject a matter under discussion. If the approval may benefit certain people, or the rejection may benefit certain people or prevent certain people from being benefited, a Member must be accountable to the public if his personal interest is involved. Such accountability is necessary even if it does not involve an element of corruption or bribery. The Member should inform the public of the rationale for making the speech or the decision, and whether or not he has been affected by his personal interest in the course of making the decision.

I think Members must be honest to the public and convey this message to them. If we only lay down the rules when someone is imprisoned for corruption, the incident would be very serious indeed. I hope Members will not have such a mindset.

President, Mr Vincent FANG queried just now why owners affected by the alignment of the Guangzhou-Shenzhen-Hong Kong Express Rail Link were

regarded as victims, while he, being the owner of a factory building in Tai Kok Tsui, was regarded as having an interest in the matter by virtue of his capacity as a Member of the Legislative Council.

Mr Vincent FANG, there is a difference. You are the Honourable Vincent FANG; in the legislature, you have the power and can exercise actual influence in certain matters, and you may force the Government to make certain decisions. Hence, you are different from ordinary owners. It is unfair to compare owners or the general public who have neither power nor influence to Members of the Legislative Council. We must shoulder the responsibility. We must clearly inform the public whether our speeches or decisions on a certain matter are affected by our personal interest.

Surely, I believe we all agree that Members, being directors or shareholders of companies, must declare interest on matters that they have a direct interest. The dispute among Members is about the declaration of interest of NEDs. I have listened to the views expressed by Members earlier. I notice that Members do not think that they need not declare interest, even when direct or indirect interest is involved. On the contrary, Members all agree that both direct and indirect interest should be declared. Members agree with this point.

The present dispute lies in the practicability of the requirement for declaring every interest a Member may involve by virtue of being a NED or director. As in the case where the company concerned is large in scale and has a lot of subsidiaries, Members consider it impossible to observe the requirement.

Honourable Members, the complaint handled by the CMI recently was not lodged by Members, but a citizen who collected the information inadvertently from certain places. They know which Members have not declared their interest, which companies of Members may have an interest, and which Members have similar issues.

If the general public can easily point out the interests involved by Members, why certain Members will say that the information can hardly be found? Why would the Member himself do not know clearly the possible interests involved? Or why would those Members consider that they have no obligation to understand that his company may have certain interests in connection with certain matters? How can such remarks be justified?

Honourable Members, even if you think that is a difficult task, you are obliged to address the issue. I believe you are familiar with the condition of your company. So long as you are willing to spend time to collect information, I believe you can definitely find out whether your company has an interest in the matter under discussion. Why would I say so? When people who are not familiar with your company can collect the relevant information through other means, the claim that such information cannot be found obviously indicates that you are unwilling to collect such information.

President, I hope Members can be more responsible, so that the public would have a better understanding of Members and trust that in the course of deciding the fiscal policies of the Government or specific measures involving the overall interests of Hong Kong, Members of the Legislative Council will not be influenced by the direct and indirect interests that they have.

I think declaration of interests is not difficult. Members only need to make declaration before speaking on a question, stating that his company may have an interest involved, or that the subsidiary of that company may have participated in the project concerned. When they do so, the problem will be solved. If Members are unwilling to take this step, I think they are a bit irresponsible. However, the public may consider Members extremely irresponsible.

Thank you, President.

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

**MR JEFFREY LAM** (in Cantonese): President, we are now in a very solemn discussion, I do not understand why someone will make a mockery of this issue.

President, first, I have to declare that I am an independent non-executive director (INED) of a number of listed companies.

Earlier, a few Members mentioned that the Committee on Members' Interest (CMI) had reviewed all the company laws and legislation on listed



companies in Hong Kong. I wonder if they have missed certain parts and have thus misled colleagues of the Legislative Council and even the public.

In fact, most of the company laws and legislation on listed companies are very clear. I think the CMI might not have reviewed all the relevant legislation but thought that it had done so, hence they have made an arbitrary judgment, without getting to understand the operation of companies in international financial centres, as well as the practices of the trading and monetary sectors.

First, the CMI has, in its report, listed five principles with regard to the directorships of Members for the purpose of declaration of pecuniary interest. To put it simply, it does not matter whether a Member is the executive director, non-executive director or INED of a company, so long as the nature of business of that company or its subsidiaries falls within the area of a matter being examined by the committee, the Member may have a pecuniary interest and should thus declare interest.

President, I think the impact of this arrangement will be far-reaching, which is somehow infeasible to enforce. The Legislative Council is now scrutinizing the Companies Bill (the Bill). Clause 456(1) of the Bill states that, "A director of a company must exercise reasonable care, skill and diligence." The duty specified in the clause is, "..... is owed by a director of a company to the company", but not the duty of director owed to the subsidiaries of the company. This is the law of Hong Kong.

Moreover, it is stated in clause 527, which is on "Director must declare material interests", that, "This section does not require a director to declare an Interest ..... if the director is not aware of the interest or the transaction, arrangement or contract in question." It is crystal clear.

Many companies have branches in Hong Kong and all over the world, and some companies may have subsidiaries, sister companies, "brother companies" and "descendent companies", and so on. These companies may have similar or different scope of business, and they may have a close or distant relationship. How would it be possible for an INED to know the details of business of these companies in such an intricate relationship? INEDs of parent company will not know all the information about the subsidiaries. Since the subsidiary has its own

Board of Directors, directors of parent company should not query every details of the subsidiary; they should instead observe the principles for directors.

Moreover, it is evident that an INED does not manage the day-to-day operation of a company. There are different categories of directors in a company, so one should not ask all other directors to agree with his views. It is practically impossible for an INED to know what raw materials have been procured by the company today, what contracts will be signed tomorrow or what projects to be bid on the day after tomorrow. Generally speaking, INEDs will learn about the important decisions made by the company from the regular reports submitted by the company.

On the other hand, the agenda of the Legislative Council is ever changing with new items added in all the time. It is not reasonable to ask Members who are non-executive directors to understand the latest operation of their company each day and relate the situation to the agenda of the meetings of the Legislative Council, and then make relevant declaration of interests. Moreover, when Members speak, they speak on the premise of safeguarding the overall interest of society and pursuing the best option for the public, their personal interests or the interests of their company are completely out of the question.

It is extremely difficult, or almost impracticable, for Members to adopt the relevant proposals. In future, if a Member has to declare interest for he has a conflict of interest or pecuniary interest as the nature of business of his company falls within the scope of a matter being examined by a committee, then accountants, doctors, solicitors and barristers, and so on, are also required to make declaration. Since many solicitors are consultants of various large companies, there may be a conflict of pecuniary interest.

In the case of accountants, their accounting offices are the registered addresses of many companies. In such cases, should these accountants be regarded as part of those companies, and should declaration be made? Has the CMI ever considered such scenarios?

Though I do not know whether the CMI has discussed those scenarios, they should be taken into account, and Members should make declaration about this. However, will this violate the code of practice on professional confidentiality? Not only solicitors have the obligation of secrecy to their clients, the business

sector also has secrecy agreements with their customers. Everyone has to respect the secrecy agreements. Our daily life covers a wide range of areas, from clothing, food, housing to transportation, to daily necessities such as staples and condiments, pecuniary interests may be involved.

I surely understand that the public have growing expectation for Members, and Members have to enhance their transparency to live up to the expectation, to the extent that "nothing needs to be hidden". However, the declaration requirement must be logical and within the reasonable knowledge of Members. If the Member concerned is not aware of the situation, how can he make the declaration or how does he know what he should declare?

I would like to emphasize that the declaration requirement must be fair and reasonable. The coverage of the declaration system should not be extended infinitely, putting Members under an unnecessary yoke that they know not how to follow.

President, I so submit.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): President, there is only one principle under the declaration system, that is to inform others whether we have any indirect or direct interest in the matter under discussion. I think this is more than fair. If a person is involved in a lot of interests, he will definitely be subject to various restrictions in performing his public offices.

I have a proposal. Since we will soon be moving to the new Legislative Council Complex, we may as well take this opportunity to improve certain facilities. I suggest setting up a data base for Members. The Secretariat will then be responsible for reminding Members on matters they are required to declare interests. As Members need to declare interests in so many matters, no problems will arise if such a system is in place. If Members knew whether certain interests should be declared, "Ah SHEK" would not have been trapped. When we have to vote, we would be reminded by some vibrating devices like pagers or we would be reminded directly that we have to declare interest. This

is a practical option. With the support of the present advanced computer technology, so long as Members have registered their interests honestly, the Legislative Council Secretariat will take up the duty of a secretary, just like secretaries of large enterprises, to remind their bosses, "Boss, you have a meeting with Henry TANG at three o'clock, a meeting with WONG Yan-lung at four o'clock and Donald TSANG at five." No mistakes will be made then. I think we should do so.

I do not suspect that friends in the business sector will certainly work for their own interest. My analysis is straightforward. Since people with political powers are elected by the minority, inherent corruption in the system will naturally be found in major policies.

I will not doubt the integrity of Members. Whether the failure of disclosure is due to carelessness, a lack of knowledge or an oversight, no remedies can be made. President, I have not missed any declarations, unless you are going to impeach me now ..... If you run the *Apple Daily* and I write football commentary for you, I have to declare that I write football commentary for the *Apple Daily*. I am happy to be left undisturbed, right? In what way is this related to me? There is something wrong with our system. If the system of the United Kingdom is adopted, where Members are representatives, then everyone can be Members. Even LI Ka-shing can be a Member if people agree that LI Ka-shing is marvelous. People may be impressed by his thorough consideration on various issues and thus want him to be a Member. Surely, whenever he speaks, he will have to make 100 or so declarations of interest, and that will be a big problem.

Let me put forth a few more points. First, yesterday, Members did not pass the motion to admonish Mr Abraham SHEK. This is indeed unfair. In my view, those who set him free from admonishment have failed to give him face. Members knew clearly at heart whether he should be admonished. He forgot to declare interest and Members knew that he did not do so deliberately. In fact, Members just need to press the button; but yesterday their remarks only made things worse. Now, all the people of Hong Kong were aware that some people considered that he should not be admonished. Things have run counter to one's desire. In other words, Members who considered that his failure of disclosure was inadvertent have stripped him of his dignity in the attempt to preserve it. This is a problem of this Council. Members of this Council are involved in too

many relationship networks. Whenever something happens, you will either be seeking help from others or being solicited to offer help. It is against this background that we ended up in yesterday's drama of giving a disservice. In fact, Members only need to press a button to decide whether he should be admonished.

What do I mean to say? I mean to say that a more stringent declaration system is required. I agree with Mr Jeffrey LAM that if declaration has to be made, Members have to know what should be declared and what need not be declared. My view is straightforward. If a Member becomes a non-executive director (NED), he must declare interest. Needless to say, a NED does not know the business of the company. As a NED, naturally he is not involved in the operation of the company. But what is the problem then? I believe Members may have joined the Jockey Club and the Clear Water Bay Golf and Country Club. What is the implication of being members of those clubs? Membership is a form of networking. Why would so many people want to be members of these clubs? They want to establish a network to know more people. If any interest arises, I will give you some benefits and in return, you will give some benefits to me. It is as simple as that.

Being a NED, is this a kind of networking? I think it is definitely so, a kind of kind conspicuous networking. If this Council is subject to the monitoring of the public, and this Council is to monitor the Government, all these networks must be made known to the public. This is not an act of distrusting the integrity of Members, instead, it is an act to offer proper protection to Members. For instance, since I am a Member of the League of Social Democrats (LSD), if I speak on behalf of the LSD, no one will criticize me. Since Members are involved in so many social relationship networks, they have been awfully busy in being NEDs, hence they should make these relationships open. How should this stringent system be implemented? I will leave it to the great President to examine how this can be implemented by computers.

As for executive directors, they can in no way shift the blame. They must disclose their interest. I think I am not targeting at individuals. I only think that the system is too corrupted. The outward features of the system well illustrates that it is a corrupted system. As the system is formed by small coterie election, it will only arouse suspicion. In politics, it is an evitable fact that this system is corrupted. However, we can rectify the problem. If the political

system allows corruption or nepotism, we in the Legislative Council should rectify the problems within the Council.

President, I sincerely implore you to consider designing a huge computer for this purpose. If any Member has to declare interest, the Member may ask his or her secretary to press a button to do so, say declaring that he has taken up positions in 13 companies. I consider it worth spending money on this, so as to serve Honourable Members who have been busy handling public businesses.

**DR RAYMOND HO** (in Cantonese): President, I am an independent non-executive director (INED) of a listed company. As Mr WONG Sing-chi has said, the public can lodge a complaint against a Member who has not declared interests on certain occasions. Although I declare my interest as an INED of a company every time, I failed to declare interest on one occasion, and a member of the public lodged a complaint against me because he learnt from newspaper that a director declared that the company was interested in bidding the project. As stated in a report of the Committee on Members' Interests (CMI), because the company had not undertaken any works during the period concerned, hence no problems have arisen. For this reason, Mr Paul TSE may have misunderstood the part of the report about me.

I would like to say that Honourable colleagues have already been very prudent in declaring interests. Regarding the procedures for declaring interests, many Members wonder if they still need to declare interests again whenever certain issues are discussed since they have already registered the relevant details at the beginning of each term of the Legislative Council. I consider it vital to formulate a practical and reasonable declaration procedure; however, the procedure must be feasible, such that the normal business of the Legislative Council will not be impeded, for example, no time for making declaration, or making unnecessary and repetitive declarations, and so on.

According to the requirements of the Stock Exchange of Hong Kong, a listed company must have at least three independent non-executive directors (INEDs), and at least one of the INEDs must have appropriate professional qualifications in accounting or related financial management expertise, so as to monitor the operation of the listed company. One of the main responsibilities of an INED is to ensure that the operation of the company can take care of the

interests of minority shareholders. This is very important as we have to ensure that not just the interests of consortia or a certain consortium will be taken care of. Another important responsibility of the INEDs is to monitor whether the company is effectively governed.

In the event of a conflict of interests between the management and the company, the INEDs will express their views independently. In fact, the INEDs will not take part in the daily operation of the company and they do not know the company's bidding plans. A tender contains highly confidential information and the company will definitely not allow outsiders, such as INEDs, to know its bidding status or whether it is going to bid. Also, it will not immediately notify all INEDs of the final bidding results.

Rule 83A of the RoP provides that a Member shall disclose the nature of the interest. However, it is actually very difficult to provide sufficient information. On the basis of these factors for consideration, in my view, to serve as an INED is a public office; at least, the objective is to serve the community. The fixed amount of fees receivable by director is just for meeting the travelling expenses, and is in no way related to the business of the listed company. Whether a company has profits or not has nothing to do with the INEDs, they just do not have any interests.

To give a broad definition of direct and indirect interest is complicated. For instance, an engineering company has to bid new contracts in order to have source of income; and its INEDs have not taken part in the administrative and management work of the company, nor have they involved in contract bidding. If Members have to inquire into the relevant information whenever discussions are held, they would have great difficulties if the company is big in scale. They also have to spend some time to find out the actual status of the company, for example whether it has made a bid or whether it is permitted to bid. Perhaps the company may decide at the last minute whether it will bid or not.

The definitions of the CMI on direct and indirect pecuniary interests are extensive in scope, and the participation by a company in contract bidding may be included, regardless of the success or failure of the bid. As stated in paragraph 3.4 of the report, "CMI takes the view that for a pecuniary interest to be direct, it should be immediate and not merely of a remote or general character. As regards "indirect pecuniary interest", CMI is of the view that it is an interest

not immediate and personal to a Member, but does have a certain relationship with the Member which would make a reasonable person to consider that such interest might have certain influence on the action or speech of the Member."

Based on this definition, when a company has won the bid and has been awarded the contract, it is considered as a direct pecuniary relationship with the Member; but a failed bid will also be considered as direct pecuniary interest. By this reasoning, no Members can be INEDs of companies involved in engineering projects because an engineering company must participate in contract bidding in order to stay in operation.

If this definition is extended, Honourable colleagues can hardly avoid having conflicts of interests. Are there any effective ways to declare interests so that we will not violate the rules? We may as well say that all Members cannot be INEDs of many types of companies. Is this reasonable? Can this achieve the objective of serving the community? I think this is one of the factors for consideration by Members. Thank you, President.

**MR CHAN KIN-POR** (in Cantonese): President, I would like to declare that I am a director of a company which I had previously worked for as the Chief Executive Office. I used to work in that company and I resigned when I was elected as a Member; however, the company had invited me to become a director. Basically, I do not handle the daily business of the company. As it is a parent company with a subsidiary, the relevant principle has little influence on me, and I trust that I can ..... speaking from another angle, as my interest is not affected, and as I have also been the director of other companies, I can frankly share with Honourable colleagues my opinions regarding this issue.

I believe many Members who have spoken today are certainly not afraid of declaring that they are the directors of certain companies; it would not be difficult to make such a declaration. I do not think that the public will cast doubts on their words after knowing that they are directors of certain companies. We absolutely do not have such worries. We just worry that the new principles may set a trap for no reasons, and people who want to make some practical contribution would fall into the trap. Is it practical to require one to declare the interests of all subsidiaries of a company or all the projects that are in progress? We should understand that directors attend meetings four to six times each year,



mainly to discuss some important issues, including the budget, matters on management and new issues arising. It will not be too difficult for directors to inquire whether the subsidiaries have participated in big projects such as high speed railway projects; however, it is almost impossible for directors to inquire into the daily business operations of the subsidiaries. Basically, it is impossible to obtain the relevant information. Since a director only attends meetings five to six times each year, it is really difficult for him to fully understand what the subsidiaries are doing.

Even parent companies with subsidiaries are different in terms of scale. For example, Hang Seng Bank is the subsidiary of HSBC in disguise; do you think that the board of directors of HSBC will possibly understand what Hang Seng Bank is doing? We should understand that many things ..... this rule not just applies to small and medium sized companies, it also applies to all companies and even multinational companies. Is that actually feasible?

This approach may not be fair to Members. It is not difficult at all to declare interests, and we do not think that any Honourable colleagues would worry about the consequences of declaring that they are the directors of certain companies. The problem is that they basically do not know and fail to understand the situation of the subsidiaries. It will be very unfair to us if we are unrightly wronged.

Another crucial problem is that, Hong Kong people are politicized in their acts. Some people purposely track on others, trying to dig out some information for launching attacks. Their behaviours are irrational. Why do we have to disclose such information? The purpose is to confirm that there is no hidden agenda and no interests are involved. We strive to combat those who have irrational behaviour. We are not going to arrest someone and ruin his reputation because of his technical errors. If so, who would be bold enough to undertake political work? How can we serve the community if we do not get involved in politics? If that is the case, all of us will not be busy preparing documents before each meeting, instead we will be busy verifying if we have interests in the issues concerned.

An Honourable colleague has even been more ridiculous in asking Members to specify the relationship. In that case, should he also state his relationship with the media? Should he describe his frequent contacts with the

media? Some Honourable colleagues from the democratic camp are even more ridiculous. One day, I heard them say that they could get the answers required by conducting a questionnaire survey. I am thus worried about the opinion polls, and I doubt if the results reflect what has really happened.

All of us join this Council because we want to get something done and we do not want to waste time playing around. We are busy reading documents before attending meetings and we should consider how the issues should be handled based on the information contained in the papers, instead of busy verifying whether we have interests in these issues, and then making declarations. The most unfortunate point is that this is not fair disclosure. Today may be the last day of Council meeting in this legislative year or we may have another meeting tomorrow ..... I hope Honourable colleagues would recap that our purpose of participating in politics is to urge the Government to get things done, so that the general public can be benefited. This is the kind of work that we should do; otherwise, we are simply wasting our time. I hope all of us would act seriously and disclose whatever that has to be disclosed.

President, I think Mr LEUNG Kwok-hung's comments are partly correct and partly incorrect. He is right in saying that the Chairmen of various committees will, in future, be responsible for reminding members to disclose interests relating to the matter under discussion on that day, for example insurance or financial matters. If the principle is not clearly formulated, do we have to act like a recorder, and declare the same interest every time before we speak? Is this an appropriate approach? I do not think so.

President, I ask the Committee on Members' Interests (CMI) to seriously consider the five principles proposed, and find out if they are practicable. The CMI should also consider the views of various parties. As the Government also conducts consultations, we just cannot skip the consultation process. Therefore, the CMI must consult Members on this issue and ask them to state the actual difficulties before a decision is made. For sure, it cannot pass this amendment rashly.

Another important point is about clarity. Some Members from the engineering sector understand the facts very well; but it is a great pity that the views of Members who are rational are frequently distorted and suppressed. I hope that Members would be tough and speak out whatever they consider as

correct. They should never act like "a tortoise with a retracted head" for fear of being suppressed. We are not timid as Emily LAU has said. We would be a laughing stock if we do so. Hence, I think it is most essential for us to define the principles clearly and consider if they are practicable. We should also make sure that there are no grey areas, so that Members who want to get things done would not be trapped and their reputation ruined.

President, I so submit.

**MR ABRAHAM SHEK** (in Cantonese): President, I am a non-executive director and I have made declaration on the Registration Form on Members' Interests. I do not think this is a ludicrous matter.

President, Ms Emily LAU has just said that it is a sunshine policy to declare interests, and I believe that all 60 Members would agree. As Mr CHAN Kin-por has mentioned just now, the practice of declaring interests is intended to protect Members rather than bring shame to Members, as if causing them to fall into a trap. It is unnecessary for Members to conceal the post that they held in certain companies. President, the problem is that some Members always like to nitpick and slander Members because of their political positions. For example, a Member pointed out in this report that Mr LAM and I have violated the Rules of Procedure; however, the Member has not taken any actions afterwards because he did not have any evidence. This kind of public examination is very unfair, and does not comply with the principle of natural justice or justice. Why does he find it so ludicrous? President, I have read the information concerning some Members on the Internet; they seem impartial on the surface but they have failed to declare that they have received money from overseas companies. President, the amount involved is considerable.

Therefore, I think we really need to fully examine these interests, rather than just pinpointing the listed companies. While non-executive directors and executive directors should be examined, why are solicitors and barristers not required to disclose the names of their clients? Why can they do whatever they like? Politicians do not need to declare the large sums of political donations received because there are often companies or political parties behind them. President, some politicians have the support of foreign forces in addition to pecuniary interest; should they not declare interests? Members should also

declare the amounts or support received throughout the years. The information that we have declared can be verified but we do not know that some Members have not declared interest.

Thus, I have just asked if the five principles proposed today are inadequate. There should be 10 principles for examining various industries and sectors ..... this is not ludicrous; some Members merely know how to verbally accuse other people, but when the incidents are related to them, the criteria adopted are completely different. President, we must be fair and we must implement the sunshine policy. There is a system for declaration of personal interest so as to protect all Members in the Legislative Council. Nevertheless, this system should not make Members fall into a trap. The comments just made by Mr CHAN Kin-por are remarkable; can that be done? According to the Companies Ordinance, will there be any implications? How should solicitors and barristers deal with the matter? We should take into account all aspects. Politicians are affected because they receive donations; President, not just pecuniary interest is involved, all these interests should be declared. I think the sunshine policy is beneficial to all, and this is fair and impartial. President, this is a very important point.

We should not just pinpoint other people, saying that a certain Member has not declared interests that he has taken up posts in many companies. No problem will arise if he is just a non-executive director (NED). If he is diligent enough, he can still spend a lot of time on the business of the Legislative Council. Why is it that lawyers can continue to engage in lawsuits and make money while Members who are NEDs are ridiculed? Members with the support of foreign companies can sit here without declaring interests; whereas for those Members who are executive directors or NEDs, they are ridiculed even after they have declared interests. This is not funny at all; this is a fact known to me and you. I said yesterday that "God keeps his eyes on us". This is a perpetual truth, President.

We should work out a better system for declaration of interest. Not only pecuniary interests but also direct or indirect interests must be declared. I believe that would be better.

Concerning this report and Rule 83A of the Rules of Procedure, if there is a complaint against a Member violating the rule, we cannot consider the case from

today's viewpoints. We should understand the original intention of drawing up Rule 83A, it is undesirable to have five members reading out the report at a meeting, claiming that a Member has violated the provision, and yet he was eventually not being sanctioned. They should not let the Member off if they said that he had violated the provision; and if they do not have evidence, they should not make the accusation. That is a fair practice.

President, we cannot change the goalkeeper during a match, and it is undesirable if we keep changing the goalkeeper. Not only the Members being accused in this incident, all 60 Members are unfairly treated. President, I do not mind discussing the matter with other Members and I am pleased to declare interests. Nonetheless, I do not think that we should regard the practice of declaring interests as something right or wrong. President, I am smart now, I should declare interest every time before I speak. It does not matter and that is not a secret. We businessmen adhere to the sunshine policy all the time. Yet, those politicians do not need sunshine for they build up publicity under the moon every night.*(Laughter)*

This time, I want Members to embrace the sunshine and drive away the moon. We have always been working under the sun, and we honour our promises. Thank you, President.

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

**MR PAUL TSE** (in Cantonese): President, we should consider Rule 83A and Rule 83 of the Rules of Procedure (RoP) together. The purpose of the motion today is to ask Members to take note of the recommendations of the Committee on Members' Interests (CMI). I believe Members well understand the five recommendations. While three recommendations are in order, two recommendations are highly controversial. One of them is about a subsidiary of a company, and the other is about whether executive directors and non-executive directors should be treated the same.

President, as I made some comments yesterday, I will not repeat them today. Considering the provision of Rule 83A about making declaration, I think the definition of "the matter" is disputable. If a motion is not moved on "the

matter", what is meant by the matter? That would be highly controversial. In particular, the discussions of some committees can cover a very extensive scope other than "the matter". If a declaration is to be made in relation to the matter, there must be an explicit definition; otherwise, it will not be fair.

Second, as I said yesterday, in the guideline issued on 16 December 2009, the CMI stated that subjective and objective tests were necessary. I am not going to repeat my words, and people can review the report on my remarks. President, I would like to focus on three points: the first point is about subsidiaries. According to the logic of the CMI, as Dr Raymond HO has just said, I believe that the CMI seems to have used the following definitions or testing standards in paragraph 3.4 of the report: "..... an interest ..... does have a certain relationship with the Member which would make a reasonable person to consider that such interest might have certain influence on the action or speech of the Member". What is meant by "a certain relationship"? President, in this case, "a certain relationship" means being a director, non-executive director and independent non-executive director. However, the definition of "a certain relationship" can be extended to include shareholders, company employees and even the spouses and relatives of people concerned, or some networks, political parties and members. How large should a network be in order to be considered as reasonable? Why do we only require non-executive directors to declare interests? The interests of shareholders are more direct; why do Members who are shareholders not required to declare interests?

President, at the beginning of my speech, I have said that Rule 83A and Rule 83 should be considered together. Rule 83A is certainly very ambiguous but even if it is stated in Rule 83 that interests shall be declared, it is pretty strange because the issue of subsidiaries has not been mentioned. Although the provision has mentioned the parent company of a company, it has not mentioned the subsidiary, as well as the subsidiary of the subsidiary; neither has it mentioned when this network will come to an end.

Another strange point is that Rule 83 has touched upon shareholders but it is specified that a beneficial interest in shareholdings of a nominal value greater than one-hundredth of the issued share capital should be declared. However, Rule 83A has ignored this relationship. Why is there such a contradiction? If this is not clarified, we cannot arbitrarily extend Rule 83A to conditions that have not been considered under Rule 83, or to cover some contradictions.

President, as some Members have stated, legally, all directors, either executive or non-executive directors, have no differences. That is right, but the CMI has just seen part of the picture. As I understand, fiduciary duty means that a director shall fulfil his responsibilities and uphold integrity in relation to the company and the shareholders. Nevertheless, this is just one of the common responsibilities of the executive and non-executive directors. They are different in many areas, for example, there are big differences between non-executive and executive directors in the control of the company. Concerning the rights of access to information, the authority of non-executive directors will not be higher than that of majority shareholders or shareholders; in particular, non-executive directors does not have the authority to access to information concerning the subsidiary of the company or the subsidiary of the subsidiary, or the parent company of the company, or the parent company of the parent company. In this connection, there is a world of difference between executive and non-executive directors; thus, we cannot zoom in and just focus on fiduciary duty, without considering other factors, and make general comments without making any distinction. I think that this is not fair.

From the perspective alone, shareholders also have this problem. Therefore, we should not only require non-executive directors to declare interests, without asking shareholders to do the same.

Third, I would like to discuss if the requirement of the CMI is reasonable. President, one of the recommendations of the CMI is that a Member is expected to take reasonable steps to declare interests. There is no problem if this only relates to the company of which a Member is a director. However, the problem will be serious if other parent companies or subsidiaries are involved. Why do I say so? President, it is only specified in Rule 83 that every Member shall furnish particulars of any change in interests within 14 days of any such change. In other words, any change in a Member's personal interests can be reported within 14 days. Yet, the existing Rule 83A requires a Member to declare interest at a committee meeting. If the Member fails to declare interests at that time, he will have violated the RoP, and he cannot report such changes afterwards. Why is there such a difference? This requirement is actually impracticable.

President, another problem is that, when I speak, I do not know what decisions the company, or the parent company of our parent company have made

outside this Council. At that moment, I may have just received a bill or have just been notified that a motion moved by a Member has been passed. If the Member fails to declare interests at that moment, some may say afterwards that he has not declared interests, thus he has violated the RoP. These requirements are basically impracticable.

Even though this motion asks Members to take note of the CMI report, this is just a beginning, and I hope that the CMI will not act in an arbitrary manner, thinking that it is the Majesty. It is because their legal advice may not have fully considered all issues. I hope that this motion can extensively allow all Members to express their views. What I have just said may be superficial, but they are crucial. As regards how some rules should be interpreted, if we handle the matters in the past basing on our current viewpoints, this will be unfair to the Honourable colleagues concerned. Although there is a "date back principle" in Common Law, we must handle disciplinary matters more carefully, rather than casually citing the back-tracking or retrospective principle, as that would be unfair.

**MR PAUL CHAN** (in Cantonese): President, I said yesterday and now I reiterate that, as a new Member, I have been working very cautiously in the Committee on Members' Interests (CMI) as if I were approaching a deep abyss and treading on thin ice; and I keep reminding myself that I should be fair and impartial in handling matters because the reputation of Members and that of the Legislative Council are affected. Therefore, I have always been performing my duties very cautiously.

President, according to the Rules of Procedure (RoP), I have limited time for my speech today, and I cannot explain clearly what I would like to say. I believe that the CMI will probably convene open meetings and even conduct consultations on the procedural matters in relation to the declaration of pecuniary interests. We may then have a better forum for exchanging views. For the time being, from what I have heard, what I said is considered as the minority's voice. Nevertheless, as a CMI member, I wish to give an account of the thinking process when we handle this case.

President, in this report, we did not generally touch on the declaration of pecuniary interests, instead we have given an account of the follow-up actions



taken by the CMI in respect of the specific complaint case against a few Members. Since the complaint only involves independent non-executive directors (INEDs) but not shareholders, the report has not touched on issues relating to shareholders. The situation is not, as claimed by Mr Paul TSE, that only INEDs but not shareholders are regulated. That is the purview of the work of the CMI.

President, during our detailed discussions on the five principles, Members are sometimes a bit agitated. The relevant issues are controversial. Rule 83A of the RoP specifies: "In the Council or in any committee or subcommittee, a Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he discloses the nature of that interest." Only the nature of that interest should be disclosed and it is not necessary to describe in detail the amount of the pecuniary interest and other details.

In respect of the complaint against a few Members, we have put forward five principles for consideration.

Firstly, if a company has made a bid for the contract for a project or has been awarded the contract for the project, the company will be deemed as having direct pecuniary interest in the project. President, this is a consistent rule of the Finance Committee (FC). When the FC considers a funding application, if the Member concerned has interests in the funding project or if the company of which he is a director has made a bid, the company is regarded as having direct pecuniary interests in the project.

Secondly, if a company has direct pecuniary interests, Members who are directors of the company will be considered as having indirect pecuniary interests. This point was raised by me yesterday, it was also mentioned in the paper prepared by the Legal Services Division on the high-speed rail incident; I will not repeat what I have said. I believe that these two principles are accepted by Members.

Thirdly, there is no distinction between independent directors and executive directors insofar as the disclosure of interests is concerned. Why is there no distinction? President, it is because it is specified in the RoP that a Member only needs to disclose the nature of pecuniary interest. If the company

engages in infrastructural projects, and it has made a bid when we consider the funding for the high-speed rail project, as mentioned in the first point above, the company has pecuniary interests and a Member, as the independent non-executive director of the company, has indirect pecuniary interests. Then, there is no distinction between executive directors and non-executive directors.

President, what is the most controversial point? It is the point about subsidiaries. President, as we can imagine, if a listed company, registered outside the territory, is just a holding shell company and its business is operated by its subsidiaries. This holding shell company does not operate any business other than holding the interests of its various subsidiaries. Is it the original intention when the rule was formulated that only the interests in parent companies are required to be declared? If so, will this rule be easily evaded?

President, we had lengthy discussions when these five principles were considered. At the meetings, I asked the legal adviser to the CMI whether this was back-tracking, that is, applying new criteria to something that happened in the past, for the sake of explaining the existing rule. The legal adviser replied that this was not back-tracking.

President, I certainly understand that there are views that non-executive directors should have read all information of the subsidiaries, and they should fully understand and grasp all the information. This argument is not plausible. Hence, I stated the minority's views in paragraph 3.15 of the report, that is, a Member should only be expected to find out the primary nature of business of the major subsidiaries of the company of which he is a director, so he will know whether there may be a conflict of interests when certain issues are discussed. If there is a conflict of interest, declaration is required.

President, owing to the time constraint, I have to stop. Thank you.

**PRESIDENT** (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

**MR ALBERT CHAN** (in Cantonese): President, concerning the monitoring of Members' interests and the requirements and procedures thereof, I had already

raised the point that the whole system was ridiculous when we discussed the motion concerning Mr Abraham SHEK yesterday. The system fails to monitor the actual transfer and tilting of benefits. Today, we have a strong impression that the existing rules only monitor the weak ones but not the strong ones.

Some declaration procedures appear to be very stringent, requiring one to declare interest and state his stance before voting. However, we all know very clearly that the transfer of interests and the shielding of interests have been enshrined in many ordinances, political activities and government policies. In the Chief Executive's Policy Address and the Financial Secretary's Budget, policy objectives are vital. How come "developer hegemony" can survive and sustain for dozens of years and even keep expanding without subject to any restrains? Evidently, the system is tilted and the origin is the small-circle election of the Chief Executive. At the time of the reunification, the Central Authorities considered that "developer hegemony" was the major force for stabilizing Hong Kong. Yet, the major force deemed as a stabilizing force during the transitional period has today become the source of instability.

Since "developer hegemony" has overly controlled the economy, ordinary people are facing hardship. As the saying goes, "A single spark can start a prairie fire", and "developer hegemony" has led to social unrest in Hong Kong. The Central Authorities initially thought that "developer hegemony" was the root of stability, but it has unexpectedly become the source of scourge. Concerning the regulation of interests in this Council, many Members, especially many groupings, the amount of interests involved is enormous. As a political party, the Democratic Alliance for the Betterment and Progress of Hong Kong receives dozens of millions of donations, which can never be used up. These interests are much greater than those which Mr Jeffrey LAM and Mr Abraham SHEK have to declare. Nonetheless, such interests are totally unregulated. The donations received by Members and political parties are not regulated by the Government, and the relevant committees of the Legislative Council have not monitored these political groups and parties. Is this not monitoring the chicken but not the eagle?

If one simply lays down a procedure, requiring Members to declare interest before voting or discussions at committee meetings, and then concludes that Members' interests have been monitored, and that there are comprehensive rules and regulation in the Council to monitor acts involving politics and money, such a

remark is basically ridiculous and has distorted the facts. Some Members almost work for consortia on a full-time basis, and they indirectly transfer pecuniary interests through indirect contracts, probably through being appointed as consultants or through the relationship between a company and other companies. These interests may be in the form of an annual salary of millions of dollars; yet, the Members concerned do not need to declare such interests.

For this reason, it can be said that the present political system, especially the structure for monitoring the interests of Members and wealthy people, is apparently useless. I think it does not matter whether the motion today is passed or not because it cannot reflect how Members' interests are monitored. The passage of the motion does not mean successful monitoring, and its being negated does not mean that monitoring is in any way inappropriate. If this monitoring system and the monitoring of Members holding "sacred" offices are not comprehensively reformed, no advancement will be made in connection with the problems raised by Members.

Hence, I repeat the basic request that I made yesterday, that is, we should draw reference from the practice of overseas parliaments. As overseas parliamentary have a history of approximately 200 years, they have ample relevant experience. Why should Members place their assets and shares of companies under a trust after they have assumed office? There is a direct relationship.

I recall that a few years ago when we discussed the development of certain railways, some senior Members spared no effort to help a consortium fight for its interests, and they forced the Government to connect an exit of the railway to a shopping centre owned by the consortium. At last, the Government rejected the proposal. At that time, the Members concerned lambasted the director of bureau in this Council. It was uncommon for Members from the royalist camp to give a director of bureau a dressing-down. I also found it odd, and I later learnt that some people closely related to the Member were the consultants of a certain consortium or a certain project.

These interests need not be declared and through connections and nepotism, the amount involved may be as much as millions or even tens of millions, and such interests can be completely concealed. Having been a Member for almost 20 years, I do not find this situation odd, for I have seen even

more ridiculous and absurd cases. However, today is a bit strange, perhaps there is a God in the unseen world. At the last meeting of the Legislative Council in this Chamber, there are two incidents concerning the alleged violation of procedures. These two incidents and the two relevant debates reflect that the existing system is ridiculous, unreasonable and unjust.

President, after we have relocated to the new Legislative Council Complex, I hope that the new political system will bring about changes. If this system and the political structure remain unchanged, corruption will still prevail in this Council.

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

**MR CHIM PUI-CHUNG** (in Cantonese): President, the Companies Ordinance has laid down specific regulations concerning Members and directors. I think it is definitely absurd for the Committee on Members' Interests (CMI) to require Members who are directors of listed companies to automatically declare interests, regardless of the number of subsidiaries under the parent company. President, this indicates that the CMI does not understand the operation of companies.

For listed companies, it is specifically required that there must be two directors and three non-executive directors (NEDs). As regards the branch office of any listed company or head office, the number of directors can be less than two, that is, one director will suffice; and these subsidiaries may be registered in Bermuda or other small countries. So, there are very specific provisions. It is difficult for NEDs to have a clear picture about the number of branch offices of a large listed company or a non-listed company. People with common sense will certainly understand this point.

At present, the Legislative Council requires Members having more than 2% shares of any company to declare interests. President, I should declare interests because I once owned a company — a restaurant — the company closed down two to three times due to poor business environment. I basically do not attend to the matters concerning the company. After the company has resumed operation, I have declared interests as required by law. Do I own this company? There is no personal interest involved.

President, the declaration of interests by Members should always stay close to the pulse of the economy, and the Legislative Council, being the legislature, should keep abreast of the needs of times. A company may have no business to run and some Honourable colleagues are just nominal directors and they have never taken part in the operation of the company.

We should also understand that the majority shareholders are the biggest beneficiaries of a listed company. In particular, according to the Companies Ordinance in Hong Kong, a majority shareholder holding over 50% of equity can almost have control of all the interests in the company. Thus, other directors or many non-executive directors, and even executive directors do not have any interest in the company. As the interests of a company belong to shareholders, we must clarify whether shareholders or directors of a company are more important.

Undeniably, a director of a company must be responsible to shareholders, and all major matters concerning the company have to be endorsed by the board of directors. For this reason, we must know where his interests lie. In particular, we must find out whether he has direct pecuniary interest as the amount of directors' fees of listed companies may differ vastly. The minimum nominal fee is \$5,000 a year while the maximum fee amounts to hundreds of thousands of dollars, depending on the scale of the companies.

In my opinion, the CMI of the Legislative Council should sometimes assess the actual situation. As I have just mentioned, the subsidiaries of a listed or large-scale company is basically regulated under another framework, as required by the Government. Although the interests of subsidiaries will be counted as the interests of the head office, there is a clear differentiation after all.

Therefore, it is unrealistic to require a Legislative Council Member who is a director of a head office to declare the interests in a subsidiary. It is because the director or majority shareholder of the head office does not have the overall responsibility for the operation or interests of a subsidiary. Under the company registration system in Hong Kong, head offices are fundamentally separated from the subsidiaries. In this connection, Members should certainly declare interests as required but I think that this is a disturbing practice.

**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 Mrs Sophie LEUNG to reply and you have five minutes 40 seconds.

**MRS SOPHIE LEUNG** (in Cantonese): President, many Members have expressed their views on pecuniary interest today. The Committee on Members' Interests (CMI) will carefully consider their views and we do not rule out the possibility of reviewing afresh Rule 83A of the Rules of Procedure (RoP), to determine the principles in treating Members who are directors and independent non-executive directors of companies.

Many Members have just said that these principles should be practical and tally with the objective in Rule 83A of the RoP. Some Members have also asked how Rules 83 and 83A should be co-ordinated as both rules are inter-related. Since Rule 83A was formulated in 2002, there may be areas which warrant detailed consideration. In this regard, we will consider seeking more information from organizations which are familiar with company operation, so as to have a better understanding of the responsibilities of non-executive directors (NEDs) or the extent of their participation in the business of the company.

Lastly, I must point out that the CMI has no intention of restricting Members from taking up the post as NEDs. Hong Kong is an international city and Members should not be restricted. The objective of stipulating the circumstances under which Members who are INEDs are required to comply with the RoP and disclose the pecuniary interest by virtue of their being INEDs is to uphold the credibility of the Legislative Council.

Having listened to the views of Honourable colleagues, I think we all agree that the words, deeds and interests of all Members of the Legislative Council should be monitored under a "sunshine policy". We have no objection to this view and we agree that the disclosure mechanism must be clear and will not be turned into a trap. We have listened very clearly to the views of Members and

we will, by drawing reference to the records of the speeches made by Honourable colleagues, give due consideration to the issue.

President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Sophie LEUNG be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

**MR PAUL TSE** (in Cantonese): President, I seek a clarification. Concerning the wordings of this motion, that is, "That this Council takes note of the issues in relation to the procedural rules .....", what will be the consequence if we vote for or against the motion? Does it mean that we have read the Report if we vote for the motion, and we have not read the Report if we voted against the motion?(*Laughter*)

**PRESIDENT** (in Cantonese): The wordings of this motion have been set out clearly in the Agenda; Members only need to vote according to their personal understanding. As Mr Paul TSE has just said, this is a motion to "take note of" certain issues, this is, this Council takes note of the issues in relation to the



procedural rules on pecuniary interests that are set out in the Report of the Committee on Members' Interests.

**MR PAUL TSE** (in Cantonese): How should we understand a motion to "take note of" certain issues?

**PRESIDENT** (in Cantonese): Members just need to "take note of" certain issues.

**MR PAUL TSE** (in Cantonese): As I am only representing myself, I would like to understand what is the implication of voting for and against the motion. What are the consequences? If Honourable colleagues think that my question is absurd, please do me a favour and tell me what is the implication of voting for and against the motion.

**PRESIDENT** (in Cantonese): We all know that this is a motion with no legislative effect, and how a Member votes represents his attitude. Even though Members have varying views on the recommendations in this Report, if they are sure that the CMI has produced this report after making a great deal of efforts, they can indicate that this Council accepts the Report, but this does not mean that all Members concur with all the contents of the Report.

The expression "take note of" is neutral, and it does not mean that Members fully agree to the contents of the Report. Yet, Members can certainly indicate their attitudes towards the work and report of the CMI by voting for or against this motion.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

(The computer screen failed to show the result)

**PRESIDENT** (in Cantonese): We need to restart the computer. I now suspend the meeting for technical staff to handle the matter. *(Laughter)*

5.35 pm

Meeting suspended.

5.37 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**DR PHILIP WONG** (in Cantonese): President, as the meeting has just been suspended, is it necessary to ring the division bell again?

**PRESIDENT** (in Cantonese): You are right. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Ms LI Fung-ying, Mr Paul CHAN and Mr CHEUNG Kwok-che voted for the motion.

Mr CHIM Pui-chung voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion, one against it and 19 abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 13 were in favour of the motion and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

**PRESIDENT** (in Cantonese): Third motion: Improving the medical services of the various clusters under the Hospital Authority.

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

I now call upon Mr Fred LI to speak and move the motion.

### **IMPROVING THE MEDICAL SERVICES OF THE VARIOUS CLUSTERS UNDER THE HOSPITAL AUTHORITY**

**MR FRED LI** (in Cantonese): President, just now in the ante-Chamber, the Secretary asked me why I moved a motion on such a minor issue. In my view, if the Government can handle minor issues properly, it can definitely handle all other issues properly as well. However, the present situation is that not only are major issues not handled properly, even minor issues are not necessarily handled properly. I therefore propose a motion which genuinely has a direct bearing on people's livelihood, so that colleagues can take this opportunity to add amendments to my original motion, just like hanging their Christmas wishes. Being an elected representative of Kowloon East constituency, and seeing that among the seven clusters, the Kowloon East Cluster (the KE Cluster) has numerous problems in public medical services, I therefore propose a motion debate in this regard.

First of all, I would like to provide colleagues with some information. The KE Cluster, one of the seven hospital clusters, covers Kwun Tong, Tseung Kwan O and Sai Kung, and serves a population of 980 000. The public hospitals under the KE Cluster provide a total of 2 135 general beds, which means that there are 2.2 beds per 1 000 population. Among the seven clusters, the KE Cluster has the second lowest ratio of hospital beds, with the New Territories West Cluster having the lowest ratio of only 1.9 beds per 1 000 population.

According to the information of the Government (quoted from the annual report of the Hospital Authority (HA) and summarized by Dr LEUNG Ka-lau), the average amount of public healthcare resources utilized by residents in the KE Cluster is \$3.15 million per 1 000 population, the lowest among all clusters.

The highest amount is in the Kowloon Central Cluster, reaching \$8.56 million, which is more than double the amount of the KE Cluster. There are only 0.6 doctor and 2.1 nurses for every 1 000 population in the KE Cluster, both of which are also the lowest. The ratio of allied health staff is also lowest in the KE Cluster, with only 0.6 per 1 000 population. Secretary, I do not want the KE Cluster to be the champion in so many areas, but these are real facts.

The waiting time for medical services in the KE Cluster is denoted in terms of weeks. The waiting time for internal medicine services is 60 weeks, which is again the longest among all clusters. While the waiting time is only seven weeks in the Hong Kong West Cluster, it is 60 weeks in the KE Cluster. Is this ridiculous? The waiting time for gynaecology services is 64 weeks in the KE Cluster, but only nine weeks in the Hong Kong West Cluster. Such difference is again outrageous. For ophthalmology, the result is even more absurd. Secretary, elderly persons living in KE have to wait for 135 weeks, as I also have a minor cataract, Secretary, I had better put my name on the waiting list for surgical operations right now. Is this exaggerating? The waiting time is only six weeks in the Kowloon West Cluster. These data are provided by the HA. Why are KE residents so unfortunate that they have to wait for such long time? If surgical operations of orthopaedics and traumatology have to be undertaken, the patient has to wait for 64 weeks. From the above figures, it is well evident that the waiting time in the KE Cluster is the longest among the seven clusters.

Recently, a kaifong approached me. She is a woman aged 62. Owing to privacy, I cannot disclose too much information. Her leg was hurt and her family members showed me a picture of her leg, which was very disgusting. The woman made an appointment for treatment at the Orthopedics and Traumatic Clinic of the United Christian Hospital, and this is her appointment card for the first appointment. Can Members see the date of first appointment? It is 2 April 2013. This is the appointment card she gave me a few months ago. When it comes to her turn to see the doctor on 2 April 2013, she would have been lame and did not need any treatment. I am not lying. This is her appointment card. Why would there be such a great difference? Why is the situation in KE so deplorable?

Secretary, furthermore, among the 18 districts, Kwun Tong has the largest number of elderly persons, the neighbouring district Wong Tai Sin ranks second. When it comes to poverty, Kwun Tong is regrettably again among the top three.

In other words, Kwun Tong has a large population of elderly persons and the poor. As Members may be aware, elderly persons are mostly frail with complicated illnesses and their demand for HA's medical services may triple that of other patients. Generally speaking, poor people have poorer health conditions and they cannot possibly seek private medical services due to financial difficulties. This has created a vicious cycle that they must rely on services provided by general out-patient clinics, specialist out-patient clinics or public hospitals.

From the above data and the actual situation in KE, we learn that Kwun Tong residents have a relatively stronger demand for public medical services than residents in other districts. However, the ardent demand is met by a lack of services, with inadequate hospital beds, doctors, nurses and allied health staff. Is this acceptable to Members?

Worse still, the KE Cluster is the only one in the seven clusters that does not have an Oncology Department. Are KE residents so lucky that they do not suffer from cancer? Certainly not. The hard fact is that the Oncology Department has not been set up in the KE Cluster. Although relevant out-patient services have just been provided, this is only part of the services. Many colleagues had requested, as early as 2008, for the establishment of an Oncology Department, but up till now, the request has not been successful. Consequently, the 1 million KE residents have to go to other districts to seek medical consultation, surgical treatment or hospital services.

The leading United Christian Hospital (UCH) in the KE Cluster was built in 1973, and it has suffered from insufficient space for a long time. The UCH proposed to demolish the four blocks of vacated buildings and construct two new buildings to increase the volume of services. Plans were made by the HA in 2008 and the project was then handed to the Government. And yet, so far, no progress has been made to the expansion project.

This situation has caused great discontent of all people, including medical staff of the UCH, local residents, elected District Council and Legislative Council Members, and even Members from other political parties (including the Hong Kong Federation of Trade Unions (FTU) and the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)), and certainly my ally Mr Alan LEONG. They queried why the Government would let the situation go on for so

long. Are we doing justice to the KE residents? Being their representatives, I hope the Secretary would tell us whether new resources would be injected by the Government in 2012 and 2013 to implement the UCH's expansion plan.

Furthermore, there is a need to reform and review the clustering system of the HA. Whenever we mentioned the lack of services in the KE Cluster, the Secretary would say that, with convenient transportation, KE residents could simply cross the district and seek treatment in the Queen Elizabeth Hospital or the Kwong Wah Hospital in other clusters. If this is the case, what is the purpose of having hospital clusters? If people often have to seek medical consultation across the district, what is the purpose of having hospital clusters then?

At present, there are actually no criteria in the delineation of the seven hospital clusters. The Kowloon West Cluster, for instance, covers Wong Tai Sin, Mong Kok, Sham Shui Po, Kwai Chung, Tsing Yi, Tsuen Wan and North Lantau Island. Is this pretty interesting? The rest of Lantau Island belongs to the Hong Kong East Cluster, in which the population distribution is very uneven. I am not going to elaborate on this.

The problem lies in the population structure. Although Kwun Tong and Wong Tai Sin share a similar population structure of having many elderly persons, they were grouped into different clusters as I said earlier. In Sai Kung, 35.6% of the population is woman of childbearing age between 25 and 44, meaning that the population is relatively young. The ratio of young people is highest in Yau Tsim Mong District, but it is only 29.6% in Kwun Tong. However, an Obstetric and Gynecology Clinic was established in the UCH, so pregnant women would have to be transferred from the Tseung Kwan O Hospital to the UCH for delivery. Regarding the provision of obstetric services in the Tseung Kwan O Hospital, discussions have certainly been conducted in the Legislative Council.

Why did the HA not divide the clusters on the basis of local residents' needs and service planning? If this is not provincialism, it would be very difficult to find another reasonable explanation. Provincialism has seriously affected the services provided to members of the public, such that public medical resources cannot be fully utilized. Apart from the provision of specialist services across districts (such as liver transplant), the KE Cluster is not allowed to

transfer patients to the nearby cluster even it has problems of severe shortage of manpower and long waiting periods.

According to the operation of the clustering system, the HA formulates an annual plan each year to lay down the services to be provided by each cluster and allocate resources accordingly. This is basically a negotiation process, during which various clusters will try by all means to get as many resources as possible. Some healthcare personnel had once told the Democratic Party, in the past, simple surgical operations were performed at specialist out-patient clinics; however, under the current new policy of promoting ambulatory services, these operations are performed at ambulatory surgery centres. This has not only increased the administrative work of hospitals, patients are also required to make a few trips. And yet, this is how hospitals obtain funding. Since all hospitals are doing the same thing, those that do not follow suit will receive fewer resources.

Furthermore, as Members may aware, hospitals will not receive new funding if they just perform well in their existing services. As a result, various clusters and their community hospitals have cut back on existing services and redeployed manpower to promote "new tricks" which can help them secure new funding. They do not care that there is insufficient staff for providing the existing core services; the situation is just like "trying to cover 10 pots with just seven lids". The problem is that only new funding will be provided for "new tricks". Some front-line healthcare personnel also criticize the HA for not attending to its own proper duties. Healthcare personnel who are working industriously to take care of patients have to cope with increasing workload, but promotion opportunities often go to someone else. Worse still, they are forced to adapt to the ever-changing management style. Healthcare personnel who earnestly wish to take care of patients gradually lose their incentives and quit, thereby resulting in manpower wastage.

Different clusters receive a one-off funding each year, and then the funding will be allocated to various hospitals within the cluster. The Government considers that this arrangement allows flexible resource allocation. However, as the post of Cluster Chief Executive is often taken up by the Hospital Chief Executive of the leading hospital, who makes decisions on the cluster's major staff deployment, resource allocation and service development, a conflict of interest may arise. Even though some clusters have received considerable



resources, community hospitals within the cluster still complain all the time. We have time and again heard of hospital management blaming the unfair system. Furthermore, Cluster Chief Executives only visit community hospitals once every few months and do not care much about the needs of the community hospitals. Thus, community hospitals are forced to find their way out under the rigid policy restrictions, and there are no channels available for expressing views.

It has been 10 years since the clustering system was implemented in 2001, and the system is plagued with problems. Neither the HA Head Office, Cluster Chief Executives or department heads can give play to the strengths of the system. Given the present situation, the Government should consider if the clustering system should continue to develop in this way, and whether there is a need for reform to improve the HA's management.

We have appealed to the Government, but right now, the Government seems to be focusing on developing more private medical services, as various plans have been introduced to purchase services from private practitioners. Also, sites have been allocated for the construction of private hospitals. Furthermore, the Government has decided to introduce the Health Protection Scheme (HPS) in 2015, under which public money will be used to encourage people to take out health insurance for private medical services.

However, as private medical services are even more difficult to handle than the HA, the outcome of developing the private healthcare market is hard to predict. The recent incident relating to obstetric services is a very good example. The increasing number of Mainland pregnant women giving birth in Hong Kong has clearly reflected how public healthcare services will be affected by the development of the healthcare industry. The quality of service received by Hong Kong people has been affected. With tens of thousands of Mainland pregnant women coming to Hong Kong to give birth, there is a great demand for obstetricians. The turnover rate of obstetricians in the HA has reached as high as 10%, whereas that of senior doctors and Associate Consultants have even reached 22.2%.

For this reason, the Food and Health Bureau has held discussion with private hospitals on receiving fewer Mainland pregnant women. All Hong Kong people can witness how hegemonic the private hospitals are. It seems that no conclusion has been reached, and the Mainland-Hong Kong families have been

sacrificed in this case. The Government said that it was fully aware of the problem but it has yet to figure out a solution. Nonetheless, I learnt that little progress has been made. Perhaps the Secretary can tell us later if a ray of hope has emerged.

Doctors in the public sector only account for half of the total number of doctors in Hong Kong, but they have to take up 90% of the in-patient services of the entire territory. Thus, private hospitals are far less cost-effective in terms of manpower deployment. If the same volume of services is to be provided by private hospitals, more doctors will be required. The Government stresses the development of medical services, but it has failed to formulate long-term manpower planning. Therefore, manpower is now very much stretched.

In 2006, the authorities estimated that there would be a shortfall of 110 to 190 doctors each year between 2007-2008 and 2011-2012. So, what can the Food and Health Bureau do then? Enhancing the training of doctors will incur additional resources, and the training of a specialist doctor takes more than a decade. Thus, distant water cannot put out a fire nearby. However, the proposal to recruit overseas doctors is not supported by local doctors (like Dr LEUNG). It seems that there are obstacles preventing the smooth implementation of various measures.

In my opinion, some government policies warrant our support, such as the recruitment of non-local registered doctors. I think that with better supervision and allowing these doctors to take up more responsibilities, the problem of acute shortage of doctors can be solved to a certain extent.

I propose this motion today to pool together collective wisdom from Members. I so submit.

**Mr Fred LI moved the following motion: (Translation)**

"That the proportion of the Government's expenditure on medical and health services in its recurrent expenditure has increased from 15.9% in 2007-2008 to 16.5% in 2011-2012, but population ageing and population growth have resulted in increased healthcare costs, and the Government's development of the healthcare industry and private medical services in the absence of proper manpower planning has led to a serious wastage of

healthcare manpower and manpower shortage in the public healthcare system, and the manpower retention measures adopted by the Hospital Authority (HA) have resulted in further increases in the costs of public medical services; at the same time, owing to the uneven distribution of resources among the various clusters and the lack of transparency in the allocation of manpower and resources within individual clusters, many community hospitals are unable to improve services in response to the demands of residents within the communities; in this connection, this Council urges the executive authorities to face up to the problems of increasing healthcare costs and healthcare manpower shortage, review the policy direction and the pace of developing the healthcare industry and private medical services to reduce the impact on the public medical system, improve the management of HA, set a staffing establishment so as to ensure that public medical resources are put to proper uses and spent on the districts and fields with the greatest need, and apart from handling problems commonly found in various districts, such as the HA Drug Formulary rendering many patients unable to get the required drugs, long waiting time for services of accident and emergency departments as well as specialist out-patient services, long booking periods for surgical operations, difficulties in booking out-patient services and the non-provision of dental services in the public medical system, etc., focus particularly on clusters facing a particularly severe shortage of medical resources and manpower, such as New Territories West Cluster and Kowloon East Cluster, etc., and allocate more resources and manpower to respond to people's aspirations and improve services within the districts; the relevant measures should include:

- (a) to expand United Christian Hospital and include the provision of oncology services;
- (b) to extend the services of Tseung Kwan O Hospital, provide a more comprehensive range of healthcare services, and draw up a timetable for equipping it with delivery rooms;
- (c) to introduce 24-hour out-patient services or services of the Accident and Emergency Department in Our Lady of Maryknoll Hospital;

- (d) to expeditiously and fully launch the new facilities at Pok Oi Hospital, which was redeveloped in 2007, for service commencement;
- (e) to extend the services of North District Hospital by providing in-patient services in its Paediatrics and Adolescent Medicine Department, strengthen the support for its Accident and Emergency Department, and, in view of the various major medical incidents at North District Hospital, to raise the number and quality of its healthcare personnel; and
- (f) to improve transportation support for Lantau Island residents going to Princess Margaret Hospital, and expeditiously complete the construction of North Lantau Hospital, so as to provide medical services for Lantau Island residents."

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

**PRESIDENT** (in Cantonese): Six Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the six amendments.

I will call upon the Members who intend to move amendments to speak one by one; but no amendments are to be moved at this stage.

**MR CHAN HAK-KAN** (in Cantonese): President, the Hospital Authority (HA) can be regarded as one of the institutions which has received the most public funding. In the past couple of years, there has been a year-on-year increase in funding. The amount of funding for this financial year alone has exceeded \$36.8 billion. Although additional resources have been injected, the pressure on front-line staff is still on the increase, and so is the turnover rate. Worse still, the longstanding problem of long waiting time for medical consultation has remained unresolved. Today's motion has offered us a good opportunity to discuss how services provided by the HA can be improved. I support the

content of the original motion. The reason of my proposing an amendment today is mainly to highlight the current concerns of the people on public medical services.

President, I will mainly focus on three areas: first, obstetric services; second, conjoint Chinese medicine and Western medicine consultations; and third, local integrated clinics.

President, first of all, I would like to talk about the obstetric services provided by public hospitals. Last month, the Government reached a consensus with the public and private medical sectors on the quotas for Mainland pregnant women giving birth in Hong Kong next year, whereby public hospitals will only receive 3 400 Mainland pregnant women next year. I strongly agree that Hong Kong people should have the priority in using the obstetric services provided by local public hospitals. However, given that Hong Kong people's Mainland wives also have close relationship with Hong Kong as their husbands are Hong Kong residents, it is reasonable and justifiable for public hospitals to reserve some quotas for these Mainland wives. Yet, after the introduction of this quota system, we have observed a number of adverse effects. For instance, some Mainland pregnant women often rush to the Accident and Emergency Departments of public hospitals at the very last minute for urgent delivery. Let us look at some data on Mainland pregnant women giving birth in local hospitals via the Accident and Emergency Departments. There are 71 such cases in March; 86 in April; 103 in May and 122 in June. President, we can actually describe this as an exponential increase. Pregnant women rushing to the Accident and Emergency Departments for urgent delivery will aggravate the problems of tight manpower and inadequate supporting services, and since some of them have not received any prenatal care, they might have problems of abnormal fetal position or dystocia. Consequently, these pregnant women may have to be transferred to hospitals with an Obstetric Department or a Neonatal Intensive Care Unit for follow up.

President, which hospital cluster has to bear the greatest pressure? I personally think that it is the North District Hospital as it is nearest to the border. In the face of Mainland pregnant women flocking to the Accident and Emergency Department, this hospital has to bear the greatest pressure. Since obstetric services is not provided in the North District Hospital, it often takes 30 to 40 minutes to transfer pregnant women of high-risk cases to the Prince of Wales

Hospital in an ambulance for intensive care. This would however cause great danger to the pregnant women or the baby. In fact, the North District Hospital used to provide emergency obstetric services. It subsequently cut back on such services due to the integration of services by the HA. Yet, the actual situation has now changed. Nowadays, obstetric services are highly demanded not only by Mainland pregnant women, but also by local residents in the North District. We therefore hope that the HA will seriously consider reinstating emergency obstetric services in the North District Hospital.

President, the influx of Mainland pregnant women giving birth in Hong Kong has not only affected the quality of obstetric services, neonatal intensive care services and the Accident and Emergency Department, the increasing number of Mainland pregnant women and their newborn babies will also generate a greater demand for maternal and child health services. Recently, there have been numerous reports on the significant increase in the number of Mainland babies (whose parents are not Hong Kong people) using local maternal and child health services, from 6 900 cases in 2006 to 11 800 cases in 2010. The greatest pressure has fallen on the maternal and child health centres in New Territories East. One in every four infants who use the maternal and child health services belongs to this kind of Mainland baby. The workload of individual maternal and child health centre has increased by about 50%. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers that Mainland pregnant women giving birth in Hong Kong has caused a knock-on effect on local medical services, thereby imposing greater pressure on local service demand. The quota system introduced by the Government can only contain the adverse effects, it cannot solve the problem at root. The HA needs to conduct a comprehensive assessment and review on staff training and resource planning, only in this way can the impact of newborn babies on local healthcare services be minimized.

President, I wish to add one last point about obstetric services. The Legislative Council Panel on Health Services has already discussed the issues relating to the provision of obstetric services in the Tseung Kwan O Hospital upon its expansion. We understand that there is manpower shortage in obstetric services, so it is difficult to immediately establish an Obstetric Department in the Tseung Kwan O Hospital. However, we hope that the Secretary can tell us, in his reply later on, whether a concrete timetable will be set in regard to the

establishment of an Obstetric Department in the Tseung Kwan O Hospital, with a view to responding to the aspirations of the community and the District Council.

President, I will then move on to the provision of Chinese medicine services in public hospitals. At present, of the 18 districts in Hong Kong, Chinese medicine services have still not been provided in public hospitals in three districts, namely Yau Tsim Mong, Kowloon City and Islands. The HA explained that suitable locations for establishing the relevant clinics have not been identified. I have recently discussed with some local people on this issue, and they have expressed many views on the Chinese medicine clinics. Take the Lantau Island as an example. District Council members from the DAB had proposed a plan to integrate the public medical services in Tung Chung by relocating the existing Tung Chung Health Centre to the North Lantau Hospital under construction, and subsequently building an integrated Chinese medicine services centre in the vacated site, thereby solving the problem of identifying a suitable site for building a Chinese medicine clinic in Island District. We hope that the Government will listen to and examine the feasibility of the proposals put forward by the District Council, so that Chinese medicine out-patient services can be expeditiously provided in the three districts mentioned above.

Regarding the introduction of conjoint Chinese medicine and Western medicine consultations and in-patient services, it seems that the development of such service has remained stagnant in recent years. Except for the Kwong Wah Hospital which has recently provided Chinese medicine in-patient services, no other hospitals under the HA has formulated any plans to expand their Chinese medicine services. The DAB has all along considered that Hong Kong does have the potential and the need to develop modernized Chinese medicine services, and conjoint Chinese medicine and Western medicine consultations can even be regarded as a development priority of Hong Kong's future medical services. We opine that all hospital clusters of the HA should, in the days to come, formulate plans to develop Chinese medicine in-patient services and conjoint Chinese medicine and Western medicine consultations. And in the end, Hong Kong should have a Chinese medicine hospital to provide teaching, research and development, treatment and sustainable training, thereby enabling Hong Kong to comprehensively develop Chinese medicine services.

President, last of all, I would like to talk about issues relating to district clinics and integrated clinics. In my amendment, I request the authorities to

finalize the planning details of the district hospital under the Kai Tak Development. As far as I understand, the Government intends to develop the hospital into the Centre of Excellence in Paediatrics and the Centre of Excellence in Neuroscience. However, residents of Kowloon East told us that as the population of Kwun Tong and Wong Tai Sin has exceeded 1 million, they are in desperate need of accident and emergency services. Therefore, it is desirable for the Government to reconsider its plan by taking heed of the advice of the District Council and local residents, and consider developing the district hospital into a healthcare centre for providing accident and emergency services to the benefit of the residents in Kwun Tong and Wong Tai Sin.

President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): President, the various clusters under the Hospital Authority (HA) have always been denounced of having mismatched development owing to insufficient resources and uneven distribution of resources. As we may recall, whenever Members moved motions on reforming the HA, other Members would rise to launch an avalanche of criticisms. They would put forward a list of amendments to address various problems relating to the lack and inadequacy of healthcare services in various clusters and communities, which may range from the establishment of Obstetrics and Gynaecology Department and Oncology Department, the provision of additional accident and emergency services and local integrated healthcare service centres, to the construction of new hospitals in remote areas. The amendments can be said to be all-inclusive.

This reflects that the authorities lack concrete and scientific planning in the provision of hospital services, in particular, they have failed to provide appropriate services with regard to the demographic characteristics and age profile of various districts, the geographical factor, as well as the influx of Mainland pregnant women giving birth in Hong Kong. Furthermore, the management and approaches adopted by the HA are apparently too bureaucratic, which are "cost-containment-based" rather than "people-based". Regarding manpower deployment and resource allocation, there is a total lack of transparency and not supported by the statistics on the actual demand.

For instance, the authorities were only awakened to the problem of Mainland pregnant women coming to Hong Kong to give birth in recent years



when obstetricians and gynaecologists, as well as local pregnant women expressed strong dissatisfaction. The authorities then rushed to set a quota through administrative means. However, prior to the introduction of this measure, the authorities have not specifically assessed the impact of Mainland pregnant women giving birth in Hong Kong on the local medical system, including how far reaching and serious the impacts are on obstetric and gynaecology, neonatal intensive care as well as maternal and child health services, with a view to formulating appropriate manpower and resource planning.

As a result of the authorities' blunders in planning and resource allocation, people who desperately need healthcare services have been victimized. The existing medical services have completely failed to respond to the changes in demographic characteristics and the needs of different districts.

President, the findings of the consultation on healthcare reform was announced some days ago. The high-sounding purpose as claimed by the authorities is to strengthen the regulation of private medical insurance so as to promote the voluntary health protection scheme. However, the apparent aim is to relieve the heavy burden of the public healthcare system and further turn people's demand for healthcare services to the private sector. As a result, there may be a wastage of manpower from the public sector, thereby further aggravating the current situation of inadequate planning in the provision of medical services, as well as the scarcity and uneven distribution of resources. These are precisely the concerns of the Hong Kong Association for Democracy and People's Livelihood (ADPL) regarding the promotion of the voluntary health protection scheme.

Some people may think that the HA can only act with the resources available. Given that the amount of funds received by the HA annually under the budget is fixed, it can hardly undertake any extra or additional services, not to mention the formulation of long-term plans. If this is the case, does this not reveal the root of the problem? The problem is that Hong Kong's medical services have all along been solely driven by cost containment, and people's healthcare needs have all along been discarded aside.

President, this is, after all, attributed to the principle of "small government", under which public expenditure is contained, for no reasons at all,

to below 20% of the Gross Domestic Product (GDP). This Golden Hoop of financial management has undermined the effect of numerous social policies, rendering them unable to give play to their social effects. In fact, as indicated by the latest statistics of the Food and Health Bureau, the current total health expenditure only accounted for a pretty low percentage of the GDP. It accounted for only about 4.8% in 2007-2008, whereas public expenditure took up just 2.3% of the GDP. It was also lower than the 3.2% in 2003-2004, and was even lower than those of other developed regions, which ranged from 6% to 9%. President, do you think that the Government has spent too much on medical services? As reflected from the above figures, the amount is obviously insufficient.

President, I must stress that the Government's commitment to medical services must absolutely not be seen as a burden. Healthcare expenditure is not merely a set of accounts, and should not be examined by commercial principles. According to some people, with incessant increase in healthcare expenditure in both the cost of drugs or medical facilities, the system is on the verge of collapse. Such a remark has actually neglected the inherent positive social effects of healthcare policies. The provision of appropriate medical services by the Government, charged at a relatively low cost, can actually help stabilize the society and cool down the much expanded wages, thereby lowering the operating costs of businesses.

The underlying value of healthcare policies is to improve people's livelihood and protect people's right of receiving medical treatment. President, a just and caring society should take care of the underprivileged and provide services to the needy patients. It is obliged to do so. Therefore, politicians must first change their philosophy of governance and the principle of financial management, and redefine the true meaning of social policies. At present, the scarcity and uneven distribution of medical resources well indicate that politicians do not have such line of thought to solve the problems.

President, so much for the medical resources, now I would like to bring up the issue of primary healthcare, which has been discussed for years and has all along been the concern of the ADPL. The so-called primary healthcare is usually taken to mean the first point of contact when members of the public seek medical treatment, and it constitutes the first level of care in the context of the healthcare system. According to the findings of the Organization of Economic

Co-operation and Development, sound primary healthcare services can bring about better health benefits for the public. This is precisely what the ADPL has promoted in the previous consultation exercises on health reform. In fact, improving primary healthcare services and providing a set of efficient, sustainable and comprehensive care services do not only perform a gate-keeping effect by reducing people's need for specialist, in-patient and even accident and emergency services, but more importantly, it can prevent and enable early detection and treatment of diseases, thereby people can be spared from suffering the pain of illnesses at an advance stage.

Therefore, the ADPL has all along strongly advocated for a better primary healthcare services, not just establish a family doctor register and subsidize individuals for preventive care, but also establish integrated health services centres at the district level to increase the number of sustainable and comprehensive contact points of care. Furthermore, it is also essential to provide healthcare services beyond the traditional framework. Prevention is better than cure, President, I believe Under Secretary Prof LEUNG well understands its true meaning, which means curing the disease at root. As we all know, urbanization and unhealthy lifestyle lead to illnesses, and subsequently, an increase in healthcare expenditure. Should we now change our way of living? The authorities should not just focus on the medical perspective, it should also provide support in various policy areas, such as promote environmental-friendly and simple lifestyle, and tackle seriously the unhealthy lifestyle brought about by urbanization, such as worsening air pollution, long working hours, general lack of exercises and the prevalence of junk food. The authorities must change the situation through the enactment of legislation, provision of incentives and even the imposition of tax.

The amendment propose by me today is therefore related to primary healthcare. In the past, the ADPL has time and again put forward proposals at the District Council level to improve and relocate Shek Kip Mei Health Centre. This maternal and child health centre, built more than 50 years ago, does not have insufficient hardware facilities, and worse still, the location is pretty remote. Patients have to climb hundreds of stairs and walk up steep slopes before arriving at the health centre, which is extremely inconvenient to elderly persons. In order to thoroughly rectify the accessibility problem, we think the best solution is relocation and reconstruction. We therefore propose that, in the wake of the redevelopment of Shek Kip Mei Estate, this health centre should be relocated and

upgraded to an integrated health services centre to enhance primary healthcare services. In fact, during the years of negotiations, the responses from local people, District Council, as well as the Housing Department and the HA were positive. And yet, so far no actions have been taken. Would the funding and construction of the health centre tie in with the relocation and redevelopment of the Shek Kip Mei Estate, so that the construction works can be completed at the same time? I therefore move an amendment to today's motion to urge senior government officials and the Secretary to expeditiously give the green light to the proposal, so that residents in Sham Shui Po will be served by an accessible and new integrated health services centre upon the redevelopment of the Shek Kip Mei Estate.

Thank you, President.

**DR PAN PEY-CHYOU** (in Cantonese): President, the Hospital Authority (HA) is tasked to provide over 90% of specialist medical services for the 7 million Hong Kong people, which is indeed a grave responsibility. The resource allocation mechanism, which is of paramount importance, can be said to be HA's core task, and the clustering system is also closely related to resource allocation. I would like to discuss this point.

At the end of 1990s, the HA decided to group all hospitals in Hong Kong into seven clusters for easy management and enable secondary healthcare service, which includes the majority of specialist services in each cluster, to be self-sufficient.

Prior to 2004, the HA had planned to merge some of the clusters, namely merging the Hong Kong East Cluster and the Hong Kong West Cluster as well as merging the Kowloon Central Cluster and the Kowloon East Cluster, into five clusters. However, the project was called to a halt after the outbreak of SARS in 2003.

Prior to 2004, the HA had planned to gradually change the resource allocation mechanism to one based on population, and the plan had been put in place for a short period of time before 2004. It was, however, suspended after Dr York CHOW took office as the Secretary for Food and Health in 2004.

Over the past few years, funding to the HA clusters are allocated on the basis of workload. The merit of this system is that resources allocated are linked to the service volume. In other words, the more service provided, the more resources allocated; the less service provided, the less resource allocated. The funding allocated to each cluster is usually on a par with its workload. Resistance to this arrangement is therefore minimized, and smooth operation is guaranteed. Nonetheless, a number of deficiencies have also arisen.

First of all, a funding criteria based on workload often fails to cater for the needs of local residents. Since certain clusters do not have a high service volume, many people are forced to seek medical consultations across the district. The elderly and the weak, children and chronically-ill patients are particularly hard hit. Being the underprivileged, they have been neglected and they often have to suffer the pain of seeking medical consultations across the district.

Under the system of "more work, more pay", hospitals under the HA are forced to create demands. New services would therefore be introduced, and some of them might not be essential, but would only further enhance the heavy workload of the staff. Worse still, under the workload-based funding system, various clusters are required to collect lots of data, which has further increased the workload of front-line staff.

It can be said that the resources allocated among the HA clusters are seriously uneven. Mr Fred LI has just provided a series of figures relating to the Kowloon East Cluster, which I believe can reflect the actual situation. In fact, the New Territories West Cluster also faces similar problems, but I am not going to repeat here.

My amendment today suggests that while the HA can retain the funding system based on workloads, refinements should be made to take into consideration other factors, such as population structure and age, so that the funding can better meet the needs of local people in respective clusters. Over time, the gap in resource allocation among various clusters would narrow down, and various clusters would then provide services in a self-sufficient manner.

My amendment also mentions the development of Chinese medicine services under the HA. Let me briefly recount the history of the development of Chinese medicine in Hong Kong. Before the reunification, Chinese medicine

was basically left to survive on its own, and it is still vibrant today. After the reunification, Chinese medicine obtained formal recognition and a legal status. We now have the Chinese Medicine Council of Hong Kong to regulate issues relating to registration and certification. Besides, three local universities, namely The Chinese University of Hong Kong, the Hong Kong Baptist University and the University of Hong Kong, provide full-time Chinese medicine degree programmes.

From 1 December 2006 onwards, both Chinese and Western medical practitioners can issue valid sick leave certificates. Nonetheless, the development of public Chinese medicine services was relatively slower. For out-patient services, as Mr CHAN Hak-kan has said earlier, not all districts have Chinese out-patient medicine services. Worse still, the charges for Chinese medicine services are higher due to a lack of funding, and there is no formal Chinese medical hospital in Hong Kong. Chinese medicine services provided by hospitals, either the cojoint Chinese medicine and Western medicine consultations, out-patient or in-patient services, are in acute shortage. Only a few hospitals provide such services.

Are the demands for Chinese medicine services not strong? No, this is not the case. According to the Thematic Household Survey conducted in December 2010, among the respondents who had consulted doctors during the 30 days before enumeration, 13.2% had consulted practitioners of Chinese medicine. The median age of these people is 46, which is similar to those persons who have consulted practitioners of Western medicine. The rate of having consulted practitioners of Chinese medicine was the highest for persons aged 35 to 64, which is around 3.5% of that age group. This was followed by elderly persons aged above 65, and the rate is relatively lower than the abovementioned middle-aged group. Only 2.9% of elderly persons aged above 65 had consulted practitioners of Chinese medicine.

Therefore, as evident from the above figures, Chinese medicine is a popular medical service among Hong Kong people and it can meet people's needs. People who consult Chinese medicine practitioners do not confine to elderly persons. There are a number of factors accounting for the lower percentage of elderly persons seeking medical consultations from Chinese medical practitioners, the most important factor is financial reason. Nowadays, the general out-patient fee of Western medical practitioners is \$45 per

consultation and \$120 for Chinese medical practitioners. The fee for acupuncture is nearly \$150, which is beyond the affordability of those retired elderly persons.

We thus suggest that the HA should expeditiously honour the pledge of providing public Chinese medicine services in all districts. Furthermore, we hope that all public hospitals will provide Chinese medicine services, such as joint consultation of Chinese medicine and Western medicine, out-patient services, and if possible, the necessary in-patient services. More importantly, the Government must attach importance to Chinese medicine services and provide formal funding, with a view to narrowing the difference between consultation fees charged by Chinese and Western medicine services. We hope that the consultation fees of Chinese medicine services can be lowered so as to benefit more people. Besides, the Government should also consider establishing a hospital of Chinese medicine.

I had enquired colleagues with district offices on Hong Kong Island and local District Council members, they were generally satisfied with the services provided by public hospitals on Hong Kong Island. There is, however, a district which has long been neglected, and that is, Siu Sai Wan. Siu Sai Wan is located at the far end of Chai Wan, on the eastern side of Hong Kong Island. It is further away from the town centre of Chai Wan and has a population of 80 000. I just learnt from Mr WONG Kwok-hing that the population in Siu Sai Wan is similar to that of Tung Chung. The area is not accessible by MTR and transport is rather inconvenient. What is more, the population is ageing.

Over the past decade or so, Tung Chung residents have requested for a health centre and their requests have been put forth through the relevant District Council and other channels. With an increasing population, the demand has become more pressing, but nothing has been done. When the District Council discussed the issue in March 2011, the Food and Health Bureau and the HA pointed out that the proposal was still at a planning stage in view of the inadequate number of residents. If a health centre can be established in Tung Chung, why can't a health centre be established in Siu Sai Wan? I consider this unfair. The reasons for establishing a health centre in Siu Sai Wan are indeed very simple, the area is not easily accessible and the population is ageing. It is therefore very inconvenient for the frail elderly persons to seek medical

consultations. Furthermore, the services currently available in Chai Wan are not conveniently accessible and the utilization rate is very high.

I therefore call on the Government to expeditiously implement Phase II of the Integrated Community Centre project, and provide general out-patient, family medicine and some basic rehabilitation services, including physiotherapy and Chinese clinic services. If these services can be provided, I believe Siu Sai Wan residents would definitely benefit and genuinely feel that the Government cares for their needs.

I so submit.

**MR TOMMY CHEUNG** (in Cantonese): President, the lack of planning in public medical services has resulted in manpower shortage and an upsurge in workload, which have all along been the subject of criticisms. The development of the healthcare industry has driven up the manpower demand of private hospitals, and many healthcare personnel from public hospitals are attracted by high remuneration to join the private sector. This has not only accelerated the manpower wastage of public hospitals, but also further aggravated the manpower shortage problem in the public sector, thereby seriously affecting the quality of service.

Let us take the hardest-hit obstetric and gynaecology services provided by public hospitals as an example. The rebound of Hong Kong's birth rate and the prevalence of Mainland pregnant women giving birth in Hong Kong have generated a huge demand, resulting in a drain of obstetricians and gynaecologists from the public sector to the private sector. In the previous financial year, the turnover rate of obstetricians and gynaecologists in the Hospital Authority (HA) reached as high as 10.2%, which is the highest among all services. The turnover rate of nurses also reached 7%, only second to paediatrics.

While there is an upsurge in service demand, the manpower wastage is serious and vacancies cannot be filled up immediately, the public obstetric and gynaecology services are hence on the verge of collapse. We therefore fully support the authorities' introduction of the quota system for non-local pregnant women giving birth in Hong Kong, so as to alleviate the blow dealt by Mainland pregnant women to the public healthcare system in Hong Kong.



However, we must note that Hong Kong people's pregnant wives on the Mainland and other Mainland pregnant women are not separately handled by public hospitals under the quota system. To respond to the aspirations of these Mainland wives of Hong Kong residents, the authorities have negotiated with the private hospitals so that out of the 31 000 quotas allocated for Mainland pregnant women giving birth in Hong Kong at private hospitals next year, some 7 000 places will be reserved for receiving Hong Kong people's Mainland wives on a priority basis.

As for those Hong Kong people's Mainland wives who have failed to reserve beds for delivery this year, according to the latest news, private hospitals have, after meeting with the Food and Health Bureau, consented to receive some 100 such pregnant women at a package cost of \$39,000, which is the charge imposed by public hospitals.

While private hospitals are well-intended to receive these pregnant women, a problem arises as an element of inequality is involved. The fact that private hospitals agreed, after negotiation with the Government, to receive these pregnant women at a rate lower than the original \$50,000 to \$60,000 would undoubtedly cause dissatisfaction of local families, which do not enjoy such a discount.

Furthermore, private hospitals only offer the concessionary package cost of \$39,000 for this year, and if the concession is not offered next year, and the original cost or even a higher costs is charged, many Mainland-Hong Kong families may not be able to afford to go to private hospitals. Hence, even though a number of places have been reserved, these places cannot be used. Consequently, more Mainland pregnant women may force their way to the Accident and Emergency Departments of public hospitals for delivery.

In fact, the public sector is obliged to take care of the Mainland wives of Hong Kong people. In order to solve this problem, the authorities should adopt administrative measures to handle these Mainland wives of Hong Kong residents and other Mainland pregnant women separately, so that the former can make use of the quota allocated by public hospitals on a priority basis.

However, the authorities have complicated this simple matter by passing the ball to private hospitals and staying out of the hot kitchen. They have even refused to offer assistance when private hospitals indicated that they have

difficulties in distinguishing eligible Mainland-Hong Kong families. This gives us an impression that the Government is shirking its responsibilities and being irresponsible.

Moreover, we are concerned that an upsurge in the number of Mainland pregnant women giving birth in Hong Kong does not only affect the obstetric and gynaecology services of the public sector, but also other downstream services, such as maternal and child health services. Information shows that five years ago in 2006, only 6 900 babies whose parents are non-local residents registered at the 31 maternal and child health centres operated by the Department of Health (DH). However, the number has increased by more than 80% to 12 500 last year, and the proportion of new cases has increased from 12% to 19%.

Many Hong Kong parents complain that the maternal and child health centres are now overcrowded and often packed with Mainland parents. Doctors of these centres have also pointed out that their workload has doubled in the last five years, and very often, they get tired and exhausted from handling Mainland parents who do not comply with the rules or have not made advance booking.

It should also be noted that, if the maternal and child health centre has identified children having problems with their health, development or behaviour, it will usually refer them to HA's specialist services or DH's Child Assessment Service for follow-up. However, due to the lack of proper manpower planning on the relevant medical services, doctors are subject to undue pressure and timely treatment may not be provided.

For some middle-class parents in Hong Kong, in order to seek better service, they do not use public services and instead bring their children to private clinics for vaccination or medical checkups. As a result, they are forced to spend more money in this regard. All these reflected that the inadequate planning of the authorities on manpower and service demand has seriously undermined the healthcare rights and interests of local pregnant women, infants and children.

Thus, in order to address the serious turnover of healthcare personnel in public hospitals, which include the serious manpower wastage in obstetric and

gynaecology services and other specialties, the authorities should expeditiously formulate comprehensive plans and avoid taking stopgap measures, so as not to push our public healthcare system to the verge of collapse.

As it takes time to train up healthcare personnel, in order to address the acute manpower shortage problem of public hospitals, we agree that the HA should recruit part-time doctors and attract overseas doctors to work in Hong Kong's public hospitals under the "limited registration" system.

Unfortunately, although this measure only aims to address the manpower shortage problem of public hospitals, there are strong opposition from members of the trade. They query that "limited registration" is tantamount to practice without having to take further examination. Hence, it would be difficult to monitor service quality.

In fact, only a limited number of people will be recruited in this exercise, we learn that only 20 people will be recruited. Candidates are required to have obtained at least three years of relevant experiences and passed the intermediate examination. They would be selected by Presidents of the Faculty of Medicine of the University of Hong Kong and The Chinese University of Hong Kong, as well as the Hong Kong Academy of Medicine. It is believed that the quality would be guaranteed and their appointments will not affect the job opportunities of local medical school graduates who are presently in acute shortage.

We do not want to see members of the trade rebuking the shortage of manpower and immense workload in public hospitals on the one hand, but refusing to accept the transitional plan to recruit a small number of overseas doctors to relief the heavy pressure. It is not our wish to see that they have acted out of a sense of protectionism. Should the public healthcare system collapse, not only public hospital staff will be affected, everyone in Hong Kong will be implicated.

The concrete proposals to address the problems encountered by various clusters as contained in the original motion are basically in line with the views of the Liberal Party. We will therefore support the original motion. As for the amendments, Dr LEUNG Ka-lau suggests that all improvement measures should

undergo cost-benefit assessment. However, as I am worried that this might not be able to safeguard the interests of the general public, we have reservation about his amendment. As regards the other amendments, we support them all.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, when my assistant was preparing today's speech, he found the speech made by me on 9 March this year. President, the subject back then was very similar to the motion today. Both request for a reform of the Hospital Authority (HA).

President, I was infuriated when I spoke on 9 March. Almost the same Members moved amendments on that day and today, namely Mr CHAN Hak-kan, Dr LEUNG Ka-lau and Dr PAN Pey-chyou. Today, we have Mr Tommy CHEUNG as well, who did not move any amendment at that time. On 9 March, these colleagues met with the Financial Secretary, who requested them to support the Budget.

I read through the speech made by me back then, and I said: For Members, it "serves them right" for not receiving additional resources from the Government to reform the HA as they have failed to faithfully perform their duties for Hong Kong people. Although there was an once-in-a-lifetime opportunity to request the SAR Government to allocate additional resources to improve the healthcare system, they failed to do so and thus did not do justice to Hong Kong people. Instead, they had moved numerous amendments and given glamorous speeches in this Council which bore no fruit at all.

Four months later, once again we are now back to square one. We are still playing the same old tune which sounds so appealing for television or radio broadcasts. What will be the outcome? President, nothing will be attained. By delivering pleasing speeches in front of the television or moving attractive amendments, can Members be taken as having performed their duties or getting their job done?

President, I must say again, no wonder the popularity ratings of Legislative Council Members are so low. If we do not respect ourselves, it would be difficult to earn people's respect for us. We have failed to duly monitor the

Government. We did have a chance to request the Government to allocate additional resources. Mr CHAN Hak-kan did have a chance to meet with the Financial Secretary, but he did not do anything. In respect of self-discipline, we did have a chance to be more self-disciplined and show more respect to the operation of the Legislative Council in front of the general public, but we did not do anything.

President, the two motions on self-discipline had been negated. So, what actually is the role of the Legislative Council? President, I really do not have the mood to speak on this motion because whatever we say is meaningless. On 9 March, the motion was passed without having to claim a division. Four months later, another similar motion is raised again in this Chamber. Today, perhaps the motion can be passed without having to claim a division. But does it mean that the mission is accomplished? President, the issue under discussion today is related to resource allocation and I do not see what difficulties are involved. Are we lacking in resources? Are we lacking in money? No, President, not at all. Rather, we have a fiscal surplus which amounts to 18 months of public expenditure.

President, I have done some calculations for the Government during the Budget debate. Over the past 11 years since the reunification, we have on average underestimated our income by \$30 billion. In other words, we have received \$30 billion more every year. How many resources do we need to reform the HA? According to my previous calculation, the total cost incurred will only be \$3 billion, even after taking into account all scenarios. It is a mere sum of \$3 billion. We have spent more than \$40 billion on the cash handout. You may say that we will not hand out cash each year, let us just wait and see if cash will be handed out next year.

Secretary, do you think it is possible to allocate an additional \$3 billion each year? Why is the Government reluctant to do so? Colleagues have quoted many examples just now, President, I can also give a lot of examples. In the case of the maternal and child health centres in Fan Ling and Yau Ma Tei, the workload of healthcare personnel has doubled in the past five years, and some doctors are so busy that they do not have time to take a sip of water or answer the call of nature. Doctors, nurses and even clerical staff are working overtime day after day. This may sound totally absurd, but it is true.

President, we have some data for the year 2008 to 2009. The number of people employed in the healthcare industry has increased from 70 400 to 72 000. Such an increase has completely failed to catch up with the social need and is seriously lagging behind. Secretary, can you tell me the reason for this? Why do we have to repeat the same words in this Chamber year after year? I want you to tell me, why do healthcare personnel have to work so hard?

President, let me quote a very good example. Since I have been elected as a Member, I have requested for the establishment of an Obstetric and Gynaecology Department in Tseung Kwan O. As Tseung Kwan O belongs to the Kowloon East Cluster, residents have to go to the United Christian Hospital to seek medical consultations. This arrangement has caused great inconvenience to residents, especially pregnant women. The Government told us that even if resources were available, the low birth rate did not justify for an Obstetric and Gynaecology Department. The requirement is to have 3 000 new-born babies. President, I find this difficult to comprehend. Are newly graduated doctors or nurses not capable of providing child delivery service? Is it because they do not have experience? This is too frightening. In other words, newly graduated doctors cannot provide obstetric and gynaecology services, am I right? Secretary, please give a reply later on.

Two years ago, a birth rate of 3 000 babies was recorded in Tseung Kwan O and the Government agreed to establish an Obstetric and Gynaecology Department. However, another problem has arisen. Owing to insufficient healthcare manpower, the establishment of the Obstetric and Gynaecology Department was postponed. President, why would this happen? If it is a problem related to manpower, why not employ more staff? Do we have insufficient resources? Why is overseas recruitment impracticable? This is an important issue and I wonder why the SAR Government allows the healthcare industry to have such strong sense of protectionism. For lawyers, practitioners from the United Kingdom can come to practice in Hong Kong. Why are overseas doctors not allowed to practice in Hong Kong? President, some people may query why overseas lawyers can practice in Hong Kong given that the legal systems are different in different countries. However, when it comes to medical consultation, everyone has eyes, ears, nose, arms and feet; the skin colour may be different, but the body organs and symptoms of diseases are the same, why then are overseas doctors not allowed to practice in Hong Kong? If there is a genuine shortage of doctors in Hong Kong, why overseas doctors cannot be recruited?

President, the problem is therefore not a shortage of doctors. We do have sufficient doctors. Information shows that the proportion of doctors to the overall population is not low in Hong Kong. For medicine, surgery, obstetric and gynaecology, paediatric and orthopedic services, we are even on a par with other developing regions, except that we have comparatively less psychiatrists. Why is it that despite repeated demands from Members of different political parties and groupings year after year, the Government still fails to get the job done? President, I really want to hear the explanation of the Under Secretary who represents the Secretary today. Apart from resources, what other difficulties have they encountered? Another thing I must say here is that colleagues have not done their best to pursue healthcare resources for Hong Kong people, which is my deepest regret.

(Mr CHAN Hak-kan rose)

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

**MR CHAN HAK-KAN** (in Cantonese): President, I wish to make an elucidation. Just now Mr Ronny TONG has mentioned my name twice, saying that I met with the Financial Secretary to discuss about the handout of \$6,000. As far as I remember and upon checking my itinerary, I did not meet with the Financial Secretary, I stayed in the Council instead ..... This is what I want to tell Mr Ronny TONG, to rectify the facts.

**PRESIDENT** (in Cantonese): Mr CHAN, what you said did not comply with the Rules of Procedure. Your speaking time has expired.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, it has been our policy to make the best effort to provide people with quality public medical services, and we have all along been rendering full support to the work of the Hospital Authority (HA). As the major provider of public medical services in Hong Kong, the HA is tasked to co-ordinate the management of 41 public hospitals and medical institutions as well as more than 100 clinics. Over the past years, the HA has been upgrading both the quantity and quality of services of

public hospitals through a brand new mode of organizational management. Today, with a force of 60 000 healthcare personnel, the HA has become one of the most efficient medical institutions in the world. In the financial year 2010-2011, the number of discharges for in-patient and day in-patient services reached up to 1.4 million while the numbers of attendances at accident and emergency services, specialist out-patient services and primary care services have reached up to 2.2 million, 8.7 million and 5.2 million respectively.

It is evident to all that the current medical services standard in Hong Kong has been upgraded, as compared with that two decades ago prior to the establishment of the HA. At present, the average life expectancy of Hong Kong people is amongst the top in the world. While the average life expectancy for men is 79.8 years and ranks third in the world, the average life expectancy for women is 86.1 years and ranks second. Furthermore, the HA has successfully overcome various challenges over the years and handled various contingencies which threaten public health, including pandemics such as SARS, avian influenza and human swine influenza, as well as the melamine incident and the recent plasticizer incident. The professionalism and service of all the staff have earned the commendation of Hong Kong people.

President, in the face of an ageing population and growing public expectation on the standard of public medical services, the Government has provided additional funding provisions to the HA to increase its service volume and upgrade the quality of medical services. Allocation for recurrent expenditure earmarked for the HA has increased from \$29.1 billion in 2007-2008 to \$36.8 billion in 2011-2012. Next year, the HA will make use of the additional funding to introduce a number of improvement measures, which include strengthening of various specialist services, such as cataract extraction, joint replacement surgeries, magnetic resonance imaging and computerized tomography scan diagnostic services; expanding the coverage of the Drug Formulary under the relevant review mechanism; recruiting additional staff; enhancing palliative care for patients with terminal cancer and end stage organ failure through a multi-disciplinary team, as well as enhancing various mental health services.

On upgrading of hardware facilities, President, eight new public hospitals have been commissioned since the establishment of the HA and many hospitals have also undergone redevelopment or expansion. Furthermore, the HA has



procured and installed various state-of-the-art medical equipments. As for software, the HA has been striving to train up healthcare personnel with a view to strengthening manpower supply.

The HA will take into consideration a number of factors when planning its services and facilities, such as the population growth in different districts, the projected demand for medical services having regard to population growth and demographic changes, the growth rate of services of individual specialties, as well as the changes in healthcare services utilization pattern. In response to the changing demand of the people for healthcare services, the HA has been striving to improve its services, enhance service quality as well as efficiency. The HA Board consists of members from various sectors of the community and consultation bodies have been established at the district and hospital levels. The HA has also maintained close communication with different sectors of the community, local organizations and patients' groups on various service areas, hospital operation and use of resources, with a view to providing appropriate services for members of the public.

While the Government has increased its commitment to public healthcare services, it has all along adjusted the delivery modes of healthcare services outside the HA, by strengthening its upstream work and efforts on disease prevention so as to enhance primary healthcare services. Our efforts include the implementation of the Elderly Health Care Voucher Pilot Scheme; the provision of outreach primary dental care and oral healthcare services to elderly people in residential care homes and Day Care Centres for the Elderly, and the development of a Primary Care Directory to help members of the public to identify family doctors and dentists who suit their individual needs.

President, we are striving to promote the development of "evidence-based" Chinese medicine. Relevant services are being provided by more than 20 public hospitals under the HA, covering pain management, cancer treatment, palliative care and treatment of diabetes mellitus. We have set up a public Chinese Medicine Clinic (CMC) in each district one after another and a total of 15 CMCs have been set up so far. Another one (the 16th CMC) will come into operation within this year.

In recent years, the Government has continued to allocate additional resources in public healthcare. Apart from government funding, we also need to

have a team of healthcare personnel to spare no efforts in providing services. I encourage people to treasure our healthcare services and properly use various services under the guidance of healthcare personnel, so as to receive the most appropriate care.

President, I so submit. After listening to Members' views on the original motion and various amendments, I will make a response again.

**MR WONG KWOK-HING** (in Cantonese): I would like to raise a few points regarding the amendment proposed by my colleague Dr PAN Pey-chyou.

First of all, I urge the Government to introduce men's medical check-up. The Men's Health Programme launched by the Department of Health in 2002 was only for promotion purpose, and I consider it extremely insufficient. Why did I say so? Let us look at the death rate. According to government statistics, the death rates of men are higher than women at all ages. Let us turn to the top eight killer diseases. The death rates of men are again higher than women in respect of malignant neoplasms, diseases of heart, pneumonia, cerebrovascular diseases, general external causes of morbidity and mortality, chronic lower respiratory diseases, nephritis and nephrotic syndrome, as well as septicaemia. The death rates of men are higher than women. For urology, government support in respect of early diagnosis and treatment is particularly essential for men. I hope that the Government will honour the undertaking of reinstating the provision of urology services at the Yan Chai Hospital after its redevelopment.

Cases of prostate cancer have been on the increase in recent years, and doubled that of a decade ago. This is also the cancer which has recorded the highest increase rate. Before 1998, only 600 new cases were registered. Yet, by the end of 2008, prostate cancer had ranked third with 1 369 new cases. Hence, I hope that the Government will provide more support for prostate cancer patients. At present, 4 500 prostate cancer patients had died while being hospitalized, which accounts for 3.2% of the total number of hospitalized cancer patients.

Secondly, I urge the Government to expeditiously implement the establishment of Chinese medicine clinics in all 18 districts of Hong Kong. Although the Government undertook to establish 18 public Chinese medicine

clinics when the Chinese Medicine Ordinance was enacted in 1999, only 15 have been established so far. The remaining three in Kowloon City, Yau Tsim Mong and Islands have yet to be established.

Thirdly, I urge the Government to provide chiropractic out-patient services in public medical institutions. The Chiropractors Registration Ordinance was enacted in 1993 and came into effect on 13 February 2003. Being an independent healthcare system, chiropractic service does not belong to traditional Western medicine. Thus, no chiropractic services have been provided in any public medical institutions. Most cases of chiropractic treatment concern with the functional disorder of the neuromusculoskeletal system, such as low back pain, neck pain, shoulder pain, elbow pain and joint pain. An organization has conducted a research on this subject. According to a paper submitted recently by the Society for Community Organization to the Legislative Council Panel on Manpower, low back pain and shoulder pain are very common nowadays. I therefore urge the Government to include chiropractic treatment in the public out-patient services of the Hospital Authority, and provide the relevant support.

According to the survey conducted by The Hong Kong Polytechnic University in 2007, which had interviewed 481 bus drivers about pain problems, 70% of the respondents reported having two or more body areas of musculoskeletal discomfort during the past 12 months, involving the neck, back, shoulder, knee and thigh. About half of the respondents reported that the discomfort has present for one to four years, and nearly 40% of the respondents experienced prolonged discomfort of more than five years. It can therefore be concluded that the provision of chiropractic treatment in the public sector is essential.

Last of all, I urge the Government to enhance consultation services, in particular, during the transitional period before the commissioning of the public hospitals in the remote new towns. I refer particularly to the evening and special evening out-patient services in Tung Chung, as well as the services provided by the integrated clinic building in Tin Shui Wai Area 109. We certainly welcome the North Lantau Hospital now under construction in Tung Chung, but before its completion, evening out-patient service is only available between 6 pm and 10 pm from Monday to Friday, whereas special evening out-patient service is only available between 10 pm and 11.45 pm. Worse still, the services are only provided on a trial basis for six months. Local residents consider these services

insufficient. They sincerely request the Government to provide 24-hour out-patient services for residents in Tung Chung and the outlying islands. In other words, they request round-the-clock service. With the provision of such services, patients need not travel a long way to the Princess Margaret Hospital.

On the other hand, I hope that the Government will expeditiously complete the integrated clinic building in Tin Shui Wai Area 109 and provide services. At present, general out-patient services are only provided in the Tin Shui Wai Health Centre located in Tin Shui Wai South and the Chinese Medicine Clinic in the Pok Oi Hospital located in Tin Shui Wai North. They have altogether served some 50 000 patients and provided about 163 000 attendances, which is obviously far from adequate. I therefore hope that during the transitional period, the Government will allocate more resources and provide services to cater for the patients' needs.

The above four proposals are further information to supplement the amendments proposed by Dr PAN Pey-chyou, and I hope that the Government will adopt them.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, in the past, the major area of discontent of the public and healthcare personnel on the healthcare system was the lack of resources. Over the past two years, funding provision for the Hospital Authority (HA) has increased from \$32.8 billion in 2009 to \$36.8 billion in 2011, representing an increase of 12%. And yet, cries of discontent still rise all round.

Healthcare personnel of obstetric and paediatrics services have already voiced great discontent, and doctors of the Tuen Mun Hospital are planning to go on strike. Doctors normally adopted a low-profile attitude, working quietly and seldom take part in any protests. Thus, when medical personnel, and even department heads, have to step forward to voice their grievances, the situation of manpower wastage and mounting work pressure have really become very serious. However, the HA has acted indifferently and was slow in responding to the urgent needs.

The greatest blunder of the HA is that it plans to develop the healthcare industry and expand the private sector at a time when healthcare personnel are insufficient to meet the increasing demand for services. The wastage of healthcare personnel of the public sector is thus accelerated, undermining the interests of local patients.

The Government has promoted the development of private hospitals in recent years. Between 2006 and 2009, an additional 700 beds were provided by nine hospitals including the Hong Kong Baptist Hospital, St Teresa's Hospital and Union Hospital. On the other hand, the Adventist Hospital and Hong Kong Sanatorium & Hospital have also undergone large-scale expansion.

While private hospitals will provide hundreds of additional beds in the years to come, the Government has allocated four sites at discounted costs to operators to build private hospitals. The Health Protection Plan to be launched in 2015 will also act as a catalyst to promote medical services in the private sector. At present, demands for obstetric services are excessive, and so are many other specialist services. With the implementation of various new initiatives, the problem of wastage of manpower in public hospitals will aggravate, we can even say that the situation is like rubbing salt into the wounds.

According to the Secretary, the development of private medical services aims to improve the imbalance between the public and private sector, such that the local healthcare system can achieve sustainable development in the long run. This argument is indeed specious.

Since the ratio of private healthcare expenditure to public healthcare expenditure is currently 50.1% to 49.9%, they are actually not in anyway imbalance. However, the cost-effectiveness of public medical services is far better than its private counterpart. With the same amount of expenditure, the public sector can take care of 90% of patients and nearly all those at critical conditions.

As the Government thinks that it is too demanding for the public sector to take care of 90% of the patients, it wishes to transfer some patients to private hospitals so as to reduce public healthcare expenditure. However, an international research conducted by the Organization for Economic Cooperation and Development pointed out that the implementation of the Health Protection

Scheme (HPS) will only increase private medical services, but the number of patients will remain the same and hence healthcare expenditure of the public sector will not be reduced. Contrarily, the HPS will stimulate medical inflation and push up public healthcare expenditure.

The Secretary said that the development of private medical services aims to increase the overall volume of medical services, thereby enhancing the quality of service. This argument is again specious. No doubt, the development of the private healthcare industry can attract Mainland clients and thus increase service demand. However, the expansion and construction of private hospitals will not increase the overall service volume because unlike hospital beds, healthcare personnel cannot be increased overnight. In case there is a need to increase the service volume of private hospitals, doctors from public hospitals would be lured to work in the private sector. Consequently, public hospitals will suffer and the quality of public medical services will decline.

The Secretary also pointed out that the provision of private medical services would stimulate market competition, leading to a fall in costs. The fact is, however, government intervention has given rise to a twisted market. In order to expand private medical services, the Government has, on the one hand, encouraged members of the public to take out insurances, lured overseas people to seek medical treatment in Hong Kong and provided sites at discounted costs for building private hospitals; but on the other hand, it has restricted the supply of medical services by, for instance, imposing strict restrictions on overseas doctors to practice in Hong Kong. Furthermore, the increase in the number of medical student has failed to tie in with the current increase in demand. Worse still, it has assisted local medical students to practice on the Mainland, thus further aggravating the acute shortage of local doctors. How can the demand for doctors not be tight?

In fact, policies relating to the voluntary HPS and the healthcare industry will only increase the clientele of insurance companies and boost the businesses of private hospitals and healthcare groups, thereby greatly increasing the income of private practitioners. The public sector, on the other hand, will face manpower shortage. Doctors are lured to leave the public sector and those who stay behind will have even tougher times. This has created a vicious cycle of pressure. In the end, only insurance companies and private practitioners will win, whereas public doctors and patients will lose. The rising medical inflation

will further push up the Government's healthcare expenditure. This is indeed "throwing good money after bad", and probably marks the end of Hong Kong's healthcare reform.

President, with these remarks, I express my deepest regret.

**MS LI FUNG-YING** (in Cantonese): President, medical services are closely related to people's daily life. More than two years ago, when the Task Force on Economic Challenges proposed to develop six major industries including medical services, I had requested the Government to ensure that the healthcare industry would not affect the medical services provided to members of the public. Subsequently, this Council had a debate on the six major industries where Hong Kong enjoyed clear advantages, during which an amendment was moved by me. Two years have past, although the six major industries have yet to be fully developed, medical services became the first to be industrialized. This has aggravated the healthcare resources already in acute shortage, and the effect is most obvious on the delivery care service, which is indeed the most prosperous business in the healthcare industry. Last year alone, nearly half of the local obstetric and gynaecology services were used by non-local residents, thereby causing a shortage of beds for pregnant women in Hong Kong.

President, an imbalanced supply of local obstetric and gynaecology services reflects that the industrialization of medical services has a bright future. I once discussed with a specialist doctor working in a private hospital about the development of the healthcare industry in Hong Kong, and he pointed out that actually not only obstetric and gynaecology services, Mainlanders also come to Hong Kong to receive other medical services. This has significantly enhanced the demand for hospital beds and healthcare manpower in private hospitals, thereby making it extremely difficult to maintain the quality of service. If the industry continues to develop along this line, the major beneficiary of the industrialization of the healthcare industry would be the hospital operators, whose income will increase accordingly.

The specialist doctor also pointed out that the development of the healthcare industry would not be conducive to improving public medical services. Apart from the limited resources and sites allocated by the Government and the inadequate training of manpower, it takes a long period of time before a hospital

can be well developed upon its commissioning. The development of the healthcare industry would accelerate the wastage of public healthcare personnel. Worse still, the healthcare industry may fail to divert patients from public hospitals to private hospitals. At present, private medical institutions cannot meet all the demands for services, and some patients have turned to seek treatment in the public sector. Patients who fail to secure a bed from private hospitals would turn to public hospitals for treatment. With an ageing population, there will be increasing demand for medical services by Hong Kong people. Coupled with the plan of the Government to develop the healthcare industry, which aims to absorb overseas patients, the specialist doctor worried that the quality of healthcare services provided to the general public would deteriorate.

President, I share with the doctor's concerns. Over the past two years, I had, on different occasions, asked the Government about the impact of the development of the healthcare industry on the public healthcare system. However, the official reply failed to address my concerns. I notice that in the original motion of today, the stance on the development of the healthcare industry is the same as mine. We see eye to eye that in the absence of proper manpower planning, the Government's development of the healthcare industry and private medical services have led to serious wastage of healthcare manpower and manpower shortage in the public healthcare system. Such criticism can also be found in the amendments proposed by different political parties. President, I am glad to see that different political parties in this Council have expressed concern about the implication of the development of the healthcare industry on people's livelihood.

President, in the original motion and amendments, Members have put forward many concrete proposals requesting the Government to allocate more resources to improve the healthcare services. I believe the proposals will be supported by the public at large, but the proposals are nonetheless inconsistent with the Government's proposed development of the healthcare industry. This is because the development of the healthcare industry will definitely compete for the resources which are already in acute shortage, not to mention making further improvements to the medical services provided. I believe the Government should fully rationalize the development of the healthcare industry and the provision of services for the people. Otherwise, mere emphasis on the



development of the healthcare industry will only undermine the overall interests of the community in the end.

Thank you, President.

**MR IP WAI-MING** (in Cantonese): President, concerning the amendment proposed by Dr PAN, I would like to state our views on the provision of obstetric and gynaecology services in Hong Kong. As many Honourable colleagues have just pointed out, the recurrent expenditure on health stands at \$39.9 billion this year, which amounts to 16.5% of the Government's total recurrent expenditure. Notwithstanding, the entire healthcare system has been over-burdened as a result of demographic and other social changes.

As many colleagues have pointed out just now, efforts to develop the medical industry in Hong Kong has resulted in a higher standard of healthcare services in Hong Kong than Mainland China. Hence, many Mainlanders have come to Hong Kong to seek medical services, particularly obstetric and gynaecology services. Many colleagues have spoken on this phenomenon, and highlighted the immense additional burden subsequently imposed on our healthcare personnel. Of the unionists whom we have contacted with, many healthcare personnel have already left the public sector to work in the private sector, and some of them have even changed their field and worked in the education sector. As stated by many colleagues, the shortage of healthcare personnel has become more acute and the standard of healthcare services has deteriorated.

Regarding obstetric and gynaecology services, the number of babies born in Hong Kong has been on the increase in recent years. In 2007, about 71 000 babies were born and the number has risen to 88 495 in 2010, representing an increase of 24.8%. Many of these cases involved babies born to Mainland parents. Recently, much discussion has been held on this matter as the standards of obstetric and gynaecology services in Hong Kong have been impacted. Most importantly, it has impacted on the demand of local citizens as well as their chance of receiving quality obstetric and gynaecology services.

As we said earlier, this is the cause of problems at the Tseung Kwan O Hospital and the North District Hospital. In fact, the New Territories East

Livelihood Cluster has, on behalf of local residents in Tseung Kwan O, Tai Po and North District, repeatedly requested the Government to provide obstetric and gynaecology services. According to the statistics of the Census and Statistics Department, while there are as many as 370 000, 200 000 and 305 000 residents living in these three districts respectively, there is not a single hospital in these districts which provides relatively comprehensive obstetric services. As a result, many pregnant women living in these districts have to deliver their babies at hospitals in another district. For instance, people living in Tai Po and North District have to go to the Prince of Wales Hospital in Sha Tin for delivery, while those living in Tseung Kwan O have to go to the United Christian Hospital for delivery.

Very often, such kind of cross-district service would cause inconvenience or even risks to pregnant women. For example, local residents in Tseung Kwan O have been requesting for obstetric and gynaecology services at the Tseung Kwan O Hospital. Despite our repeated demands, nothing has been done. We even said jokingly that we have waited so long that our necks were longer than a giraffe. While we are aware of the difficulties involved with the provision of obstetric and gynaecology services at the Tseung Kwan O Hospital, we hope the Administration will not give up so easily. We hope that the Administration will tell us its relevant plans for achieving this target when it responds later on. We hope that the Government would not simply give up the plan to introduce obstetric and gynaecology services at the Tseung Kwan O Hospital on the pretexts of staff shortage or inadequate resources.

In addition, I would like to talk about the abolition of emergency obstetric services at the North District Hospital. We have always suspected that the abolition is due to the fact that the Government does not want Mainland pregnant women crossing the border to come to Hong Kong for delivery at Accidents and Emergency Departments. While the Secretary has always maintained that the decision was made as a result of population policy, we consider that it is more closely related to the reason I just stated. By adopting this approach of "trimming the toes to fit the shoes", the Government has in fact sacrificed the right of local pregnant women. In this regard, we still call on the HA to reinstate emergency obstetric services at the North District Hospital because if pregnant women must go to the Prince of Wales Hospital in Sha Tin for delivery, the half-an-hour journey would constitute major risks for them. In this regard, I

hope the Secretary can explain to us later whether other considerations are involved apart from reasons concerning population distribution.

Lastly, the Hong Kong Federation of Trade Unions would like to discuss the issue of Mainland wives of local residents giving birth in Hong Kong. We consider that the current approach adopted by the Government is discriminatory. Their situation is completely different from that of Mainland pregnant women coming to give birth in Hong Kong. Being the wives of Hong Kong residents, they should be regarded as locals and are eligible for delivery care services. We find it unacceptable that restrictions are now imposed by the Government on the ground that it is difficult to verify their status. Secretary, we consider that equal treatment should apply so that these Mainland wives are given the same treatment as local pregnant women in receiving obstetric and gynaecology services at public hospitals. We do not think the Government should resort to some administrative or policy reasons just out of expediency, and deprive the right of Mainland wives and offsprings of local residents in enjoying the fruits of Hong Kong's economic development.

President, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): President, I think we can sum up our discussion on today's motion with just one word: Money. Many suggestions have in fact been made by Honourable Members for improving the public services provided by the Hospital Authority (HA), including various hospitals mentioned by Mr Fred LI. We notice that there are shortcomings with individual clusters, and the problem of resource allocation is found in each cluster. Why is that so? Later on, Under Secretary Prof Gabriel LEUNG will no doubt highlight the Government's commitment in this regard by saying that the recurrent expenditure on health has been increasing and will ultimately account for 17% of the total recurrent expenditure. That is the Government's commitment, but we would often wonder what results will be attained after the expenditure is increased to 17%? Yet, we can get no answer from the Government.

The biggest problem now is that the Government plans to use \$50 billion to implement a voluntary Health Protection Scheme (HPS). By injecting \$50 billion into the private insurance market, the Government hopes to provide

incentives to insurance companies and hence subject them to supervision. Some people may say that instead of subsidizing insurance companies, the Government should provide subsidies to the people. In fact, the Government intends to provide a market for insurance companies so as to allow collective bargaining. Insurance companies must provide coverage for all people and cannot reject any persons. What are the incentives provided by the Government then? It is that policy holders must start paying the premium from an early age. By providing incentives to insurance companies in the form of an expanded market, the Government is trying to put them under supervision. The Government will use the \$50 billion as subsidies to ensure that the expanded market is acceptable to insurance companies. Of course, insurance companies will be able to make profits out of this arrangement.

However, what is the crux of the problem? The problem is that the Government would have to use \$50 billion, but what will happen eventually? We all know that acute patients still go to public hospitals for treatment. We all admit this fact. I am worried that little would be achieved with \$50 billion spent. In cases of emergencies, people would still seek help from public hospitals. How effective will the voluntary HPS be? This really leaves a big question mark.

(THE PRESIDENT'S DEPUTY, Ms Miriam LAU, took the Chair)

There is another pitfall, which is actually the experience of the United States. With its reliance on the private insurance market or healthcare insurance market, the United States ranks first in the world in terms of healthcare expenditure, which exceeds the normal benchmark of 5% to 6%, or up to 8%, of a country's gross domestic product (GDP). Healthcare spending of the United States is a double-digit percentage of its GDP. Why is that so? As a matter of fact, medical inflation is a by-product of the healthcare insurance system in the United States, in that people would undergo unnecessary medical tests. As they have already taken out medical insurance, they would undergo all sorts of expensive tests, and many of them are useless eventually. As people are insured, the demand for medical services will naturally arise, resulting in increasing resources or costs. This point is very clear. We can be certain that this will surely happen in any private insurance market.

As shown by the experience of the United States, health insurance is not a way out. Yet Hong Kong still wants to give it a try. In this connection, I would like to advise the Under Secretary that the \$50 billion might as well be used on the public healthcare system. At present, there is an acute demand for public healthcare services and the waiting time is long. The Government may provide some figures indicating that the waiting time for critical cases is not too long, but what about non-critical cases? Patients may have to wait for six months. What actually are the problems? If a patient must wait for six months, nine months or even a year, their conditions may turn from non-critical to critical. If their conditions remain non-critical, they will have to continue waiting and tolerate the pain of illness. That is not what we want to see. At present, patients are classified into critical and non-critical cases. For the least critical cases, patients might have to wait for one year, two years or even three years. However, for critical cases, the waiting time may be shorter. But for other patients, the waiting time is very long.

How can the problem be improved? What can be done to prevent the deterioration of a patient's condition from non-critical to critical? The Government should not allow the situation where the conditions of patients have worsened due to delay in receiving treatment. I think that is the problem the entire public sector must face up to.

On the other hand, we all know that doctors must work long hours. Has this problem been resolved? Notwithstanding on-going talks between the HA and doctors, the problem cannot be resolved because there is indeed serious staff shortage. Although talks have been held, doctors still have to work long hours, and the problem remains unsolved. Faced with such long working hours, many doctors choose to quit and join the private sector. In fact, this is the reason for the high wastage of doctors in public hospitals. At present, public hospitals are faced with the crisis of "succession gap"; has the Government paid any attention to this problem? At present, the cost of medication is extremely high. We will talk about the Drug Formulary (the Formulary) later, and many suggestions have been made. Notwithstanding the Government's claim that many drugs have been incorporated in the Formulary, why do we still receive so many complaints from patients that the drugs they take are not listed in the Formulary? In these never-ending arguments, the problem of resource allocation is involved.

Lastly, I would like to talk about the question involving Hong Kong people's pregnant wives on the Mainland. The Government's method of handling the problem of Hong Kong people's pregnant wives on the Mainland is unfair because it just shifts the burden to private hospitals. Private hospitals are willing to admit Hong Kong people's pregnant wives on the Mainland. While I of course agree that efforts have been made by the Government, I would like to ask the Government why it still refuses to deal with the problem squarely. Why does it shift the burden to private hospitals by asking them to give priority to admitting Hong Kong people's pregnant wives on the Mainland for delivery, yet public hospitals still refuse to accord the same priority to these women (unless their husbands are civil servants)? Why does the Government refuse to do so? Why does the Government insist that the so-called non-eligible persons should be handled under one category, instead of handling them separately?

I have stressed time and again that the problem can be resolved so long as these pregnant women can be clearly divided into two categories: namely Hong Kong people's pregnant wives on the Mainland and other Mainland pregnant women. Public hospitals will not admit Mainland pregnant women other than pregnant wives of Hong Kong people so that they do not have to go to private hospitals for delivery. However, the Government refuses to accept its responsibility and just shifts the burden to private hospitals. This is very unfair. I do not understand why the Government still refuses to change this policy. Deputy President, I hope the Administration can change this policy (*The buzzer sounded*) .....

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

**MR LEE CHEUK-YAN** (in Cantonese): Thank you, Deputy President.

**MR ALAN LEONG** (in Cantonese): Deputy President, first of all, I would like to thank Mr Fred LI for moving this motion debate today. Both Mr LI and I serve the Kowloon East constituency, so we understand the situation very well. As shown from the statistics quoted by Mr Fred LI, local residents in Kowloon East are being unfairly treated. A good case in point is the demand for

expanding the United Christian Hospital (UCH) in Kowloon East Cluster (KE Cluster) that we have been fighting for.

According to the annual plan of the Hospital Authority (HA) for 2010-2011, 1 000 additional chemotherapy attendances will be provided at the UCH in the first quarter of 2011. Yet there are 1 300-odd new cancer cases in Kowloon East per annum, which accounts for one-sixth of the total over the territory. At any one time, there are about 2 500 to 3 000 cancer patients in the district. Therefore, funding provision is extremely inadequate. If patients in Kowloon East have to undergo more complicated chemotherapy or post-operation treatment, they would be transferred to the Queen Elizabeth Hospital or the Pamela Youde Nethersole Eastern Hospital for treatment. Given the radioactivity involved, chemotherapy must be administered underground. Therefore, such treatment can only be provided at the UCH upon its expansion, and chemotherapy is not yet available at the hospital.

In July 2010, the HA's KE Cluster applied to the Government for a funding of \$6 billion to construct two new blocks at the UCH and set up an administrative centre so as to accommodate chemotherapy facilities underground. While the project was originally planned for completion in 2018, it turned out that the Government's funding for the UCH was inadequate. Therefore, we must keep on waiting. On the one hand, the Government hands out \$6,000 to members of the public and many people would spend the money on iPads or travelling; and on the other hand, local residents in Kowloon East must continue to wait indefinitely for the expansion of the leading hospital in the district. The Government's action is really baffling because we see no reason why long-term investment on medical infrastructure should be forsaken just to gain a moment of applause.

Deputy President, a few days ago, the Legislative Council received a briefing from Secretary Dr York CHOW on the Second Stage Public Consultation Report in relation to public healthcare financing. On that occasion, the Civic Party pointed out to Secretary Dr York CHOW that perhaps the most immediate results would be achieved by spending the \$50 billion funding on the public healthcare system. In fact, that was the first time Secretary Dr York CHOW had indicated clearly and unequivocally at a meeting of this Council that the purpose of introducing a voluntary Healthcare Protection Scheme (HPS) was to monitor more effectively the private healthcare system and insurance industry. As pointed out by many Members just now, Secretary Dr York CHOW's was

incapable and incompetent in handling the problem of Mainland pregnant women (regardless whether their husbands are Hong Kong people or not) and the operators of private hospitals. In respect of the insurance industry, the Secretary indicated that he did not intend to stipulate by legislation that a certain percentage of the premium must be used as compensation. Citing the experience of Australia where the premium of high risk groups, particularly the elderly and chronic patients, could be three times as high as ordinary persons, we were concerned for how long the Government's funding of \$50 billion could be sustained? Despite our queries, the Secretary Government has not made any response. What were our worries? We were worried that the Secretary would do more harm than good when seeking to exercise more effective control on the private healthcare system and insurance industry and thus, the problem might worsen.

I would like to take this opportunity presented by Mr Fred LI's motion debate to express the Civic Party's reservation on this matter. I hope more explanation will be provided by the Administration in future so that not only the Civic Party, but every citizen of Hong Kong, can feel assured about the feasibility of the voluntary HPS.

Regarding the problems concerning hospital clusters, a number of motion debates have been held by this Council, Deputy President. Basically, the clustering system is illogical, the rationale in terms of population and provision of facilities cannot hold water. Many factors are left over by history, and the Secretary has not made any suggestions, which can give us the hope that a more reasonable arrangement in terms of staffing and resource allocation will be put in place. Deputy President, if we want to reform Hong Kong's public healthcare system, a more fundamental direction is primary healthcare services. The Administration would need to provide us with more explanation in this regard. At present, our healthcare system evolves around hospital services which account for the greatest share of healthcare expenditure. However, preventive healthcare services, that is, primary healthcare services, are far from satisfactory. At the meeting of the Panel on Health Services held a few days ago, the Secretary told me that the problem was being dealt with. However, how many graduates from our two medical schools will become primary healthcare doctors? I can neither see any encouraging results nor feel optimistic about the future. This is the point I would like to raise through today's motion debate.



**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, Mr LEE Cheuk-yan just said that "money" was the root cause of all problems in our healthcare system. I very much concur with his view. Instead of "prevention is the cure", our healthcare system is always geared towards the direction of "money is the cure". Why do I say so?

This afternoon, Dr LAM Ping-yan attended a meeting of the Kwai Tsing District Council to receive views of District Council members about healthcare services. Many problems have been reflected by members, and one of them said that he suffered from influenza a few days ago. As he always had great trust on public hospitals, he called to make an appointment. But after he got through, the receptionist told him that bookings were full and hung up without asking any further question. Although he was angry, he still had faith on public hospitals and did not go to see a private doctor. The next day, he called again for an appointment, but was told that the earliest appointment was at noon the next day. In other words, he could only see a doctor after three to four days. That District Council member said that he had almost recovered, or he would have died if he had not. If a person does not want to wait, what can he do? He can only turn to private doctors. Hence, "money is the cure" for patients who cannot afford to wait; they must spend money to visit a private doctor. Here is an example of how inadequate our healthcare services are.

The District Council members have also raised other problems apart from the telephone appointment service, such as the lack of night clinic, inadequate night clinic service and dental services. Regarding the problems concerning dental services, Dr LAM Ping-yan pointed out that as a matter of principle, some government dental clinics only provide service to civil servants, and not to members of the public. Nonetheless, in considering of benefiting members of the public other than civil servants, a number of service quotas would be allocated to members of the public. It turns out that members of the public are only incidentally provided with dental service, while the best service is reserved for civil servants.

It is not an isolated case with dental services. Just now, Mr LEE Cheuk-yan talked about the issue of pregnant Mainland women. It turns out that civil servants also enjoy special privileges in this regard. While we have no objection to the employment benefits enjoyed by civil servants — I have also been fighting for workers' benefits — the problem is that as civil servants enjoy

their employment benefits, why do members of the public who are in need cannot use the same service? That is the biggest question.

During our discussion on the issue of pregnant Mainland women, particularly those whose husbands are Hong Kong residents, the initial excuse given by the Administration was that it was difficult to distinguish between the two categories of pregnant women. I fail to see where the difficulties lie. Is it difficult to distinguish whether the husband of a pregnant woman is a Hong Kong resident or not? Why is there any difficulty? While civil servants can be easily identified, why the same rule cannot be applied to other members of the public? In giving excuses in the future, the Administration should learn how to pick a more plausible one because it is definitely possible to make a distinction. Yet the Administration still insists to give such an implausible excuse, I really admire their deeds. The matter is really being handled in a most unfair and unjust manner. But as the Administration insists on taking this course of action, our hands are tied. Given the Government's strong stance, if pregnant Mainland women want to come to Hong Kong to give birth, they would have to go to private hospitals. The question is about money after all. Therefore, I very much agree that the entire healthcare system in Hong Kong is about "money being the cure".

This observation is not only valid today, but also in future. What will happen in future? If you want to seek medical consultation, you would have to take out medical insurance. Honestly, how do people feel most strongly about medical insurance? They think that it is a case of giving undercover payments. In the case of the Mandatory Provident Fund (MPF), the Government introduces legislation to give private organizations the opportunities to earn profits; this time, the insurance companies are given the chance to earn profits. But can the people really be benefited? Nobody knows, we have to wait and see. It is also uncertain about how people can be benefited. There are still many uncertainties. After taking out medical insurance, insurers are subject to various conditions in enjoying the kind of services that they are entitled to.

Therefore, if the final outcome is not desirable, the public have no alternatives but turn to private doctors. The services provided by public hospitals will not be greatly improved as well. The Government has not told us how public healthcare services will be improved while medical insurance is being implemented. Hence, to put it bluntly, the final outcome is simply "money is the

cure". However, we must rely on ourselves most of the times. In other words, we can only "fend for ourselves". I think this healthcare system is just pathetic.

In our view, the healthcare services in the last century were excellent and we had nothing to worry about. That was a time when there was no Drug Formulary and just a limited number of self-financed items. When a person was sick, he could get treatment. Of course, healthcare expenditure has been increasing, but people do not mind paying a little bit more. Yet, the Administration does not consider the matter from the perspective of asking people with the financial means to pay more, so that the burden of healthcare expenditure can be alleviated. The Administration does not think this way. Instead, it wants to send the people to private doctors. This approach sounds appealing, claiming that the burden of public hospitals can be alleviated. However, in reality, this approach benefits private medical institutions. I do not think the Government should formulate a policy to serve the market. The private medical institutions should attract people with quality service. That is the right way to go. In the healthcare services market, high quality of service is demanded. Then, what about public hospitals? Public hospitals should play their own role. The current problem is that they have not played a good role. How can public hospitals play a good role? It turns out that they are transferring ..... not transferring, but forcing the people to private doctors. How can they do so? Hence, in this regard, I cannot accept the Administration's direction that "money is the cure". Public hospitals and public healthcare services should have their own functions and roles. But it is not the case now. Therefore, I cannot accept this approach.

In addition, regarding the medical insurance system, many people told me that the Government was legislating again to transfer benefits to private institutions, just as in the case of the MPF. Why must it legislate to allow private institutions to earn profits? Even if the medical insurance scheme is to be introduced, why should it not be implemented by the Government? That is the practice adopted by many countries. The Government itself can take up the role of a "big boss" and implement the medical insurance scheme on its own. Is that not a more desirable option? However, the Government is unwilling to make the commitment. To date, it is still unwilling to shoulder the social responsibility to provide better healthcare services for the people.*(The buzzer sounded)*

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

**DR JOSEPH LEE** (in Cantonese): Deputy President, during my service as a Member of the Legislative Council for seven years, I have spoken many times on the issue of healthcare services. Thanks to Mr Fred LI for his "all-inclusive" motion and other Honourable Members for their "all-inclusive" amendments that we can have a comprehensive discussion on all the current problems in our healthcare system. It so happens that today is the day we bid farewell to the Legislative Council Building and this is the last time we discuss the issue of healthcare services in this Chamber. After we have moved to the New Legislative Council Complex, we will raise some new problems for discussion, or perhaps we may raise some new perspectives.

Just now, some Honourable colleagues said that the crux of the problem was money. Both Mr LEUNG Yiu-chung and Mr LEE Cheuk-yan talked about "money being the cure". But is it just a question about money and nothing else? While money is very important, is it a solution to all problems? It seems that some Honourable colleagues are of the view that despite our strong fiscal position, the current standard of healthcare services is still far from satisfactory with insufficient hospitals and healthcare manpower. However, some Honourable colleagues consider that if more money is available, all problems can be resolved by building more hospitals, providing more manpower training and introducing more comprehensive services.

In my view, money is of course very important but it is not the crux of the problems. Given our current healthy fiscal position, we can of course blame the Government for not allocating additional resources on healthcare services. Of course, the Government has its own explanation. Therefore, we need not argue about this point now. But what will happen if additional resources are allocated by the Government? As Members have pointed out just now, the Administration is indeed unwilling to allocate additional resources. If it is willing to allocate additional resources, at least the above three problems can be resolved.

As front-line staff of the Hospital Authority (HA) ..... I forget to declare interest, and I must do so now, otherwise I will be blamed by the Committee on Members' Interests later on. I am a Board Member of the HA, and I will stay on

this post for several months. My capacity as a Board Member does not involve any pecuniary interest as I am not remunerated. The question is, even if the Government is willing to allocate additional resources, how front-line staff will react? The Secretary or the Under Secretary has also said that the Government will not reduce its commitment on public healthcare services. He said that healthcare expenditure would increase by a few percent from \$30-odd billion to almost \$40 billion; how will front-line staff react towards the additional resources? They may still think that the resources are unevenly distributed. They may still query why hospital clusters get different amount of resources? Why more resources are allocated to a particular cluster, yet for the cluster they work with, it seems that ..... As asked by Mr Alan LEONG, how come some clusters can buy iPads or even sponsor their staff to conduct overseas visits, while the cluster of his geographical constituency cannot do so? Of course, he is more concerned about the situation in his geographical constituency. That is quite normal. However, why are resources unevenly distributed among various clusters? This question is always in the mind of front-line nurses and doctors.

Unfortunately, a medical incident happened last night. Someone said to me that if more staff were around, the incident would not have happened. I really did not know how to reply. Obviously, front-line staff are of the view that the additional resources allocated by the Government have not been spent appropriately. There are problems of under-provision of staff and resources. Then, where have the money gone? Is that a problem with management? Has the management of clusters created more service demands after getting the additional funding? Why is that so? What I mean is that when the clusters receive additional funding, they will introduce new services, yet no additional staff will be recruited because the funding is for financing new services but not for recruiting staff. As a result, even though new equipments have been procured, no one will use them and these equipments are just placed aside in hospitals. When the public learn about the new services provided in a particular cluster, they would seek medical treatment in that cluster. Service demand has thus been created continuously. After the money has been spent, has the problem been resolved? I really dare not answer this question.

I would like to ask the Secretary, if an additional funding of \$50 billion is now provided to the HA, does that imply that more hospitals would be built, more manpower would be recruited and more comprehensive services would be introduced? I absolutely dare not answer, because as far as I know, the matter is

not that simple. If the HA is given a funding of \$50 billion, the situation of uneven distribution of resources, as described by Mr Alan LEONG, will emerge; while some clusters can procure iPads or PlayBooks, other clusters cannot do so. Why will this situation arise? I honestly have no idea. Therefore, this is not a problem about money.

As I understand, in addition to the problem of money ..... Money cannot solve all the existing problems of the HA. In fact, there are also a number of problems that must be resolved. Looking back, I joined the service in 1980. From 1980 to 1990, the Government's policies were clear and direct. The public healthcare system would only provide the basic healthcare services. At that time, a former Governor injured his head after a fall. Yet it turned out that public hospitals did not provide brain scan service, hence the former Governor had to go to a private hospital for the scan. By then, people realized that such service was only provided in private hospitals but not in public hospitals. As this situation was not desirable, the service of public hospitals had to be enhanced. In those years, only basic healthcare services were provided by the Government.

After 1990, the Government changed its policy; the public could, upon paying \$50, enjoy a range of services provided by the HA. The then policy was that as healthcare services were a kind of welfare benefits, they should be provided across-the-board for members of the public. The policy had changed at that time. However, in the aftermath of the financial turmoil in 2000 and the subsequent SARS pandemic, the Government suddenly realized that it was stuck in financial difficulties. Therefore, the welfare benefits must be reduced. Healthcare services were no longer regarded as welfare benefits, yet the Government dared not admit such a change. Now, the Government is talking about introducing healthcare reform, claiming that such a reform has nothing to do with money. However, what is the Government's policy after the reform? Therefore, looking back at history, the Government had a clear policy on medical and healthcare services in the past which concentrated on the provision of basic healthcare services. Its policy objective had always been clear until the welfare era. Nonetheless, the current policy objectives of the Government are neither clear nor certain. How can the Government proceed with resource allocation under such circumstances? Therefore, the resources allocated are always inadequate.

Assuming that — Members can just take it as a joke — when the Secretary gives his reply later on, he suddenly indicates in clear words that the Government will revert to its policies in the 1980s, that is, only basic healthcare services would be provided (assuming that the Government is capable of deciding what "basic healthcare services" are), and the provision of other services would depend on the voluntary healthcare financing scheme. The Government can tell the people, if you want to enjoy better services, you must take out healthcare insurance, and then you can use the services provided by private hospitals. The Government is also confident of implementing the plan effectively to the satisfaction of all people. We can consider this as a clear policy objective. Of course, even if voluntary healthcare insurance is to be implemented, it can only proceed on a voluntary basis. This will, let us say, only "invite challenge". People would query why not inject the \$50 billion into the public healthcare system. Is the Government transferring the interest of \$50 billion to the insurance industry and benefiting private doctors? Certainly, some people will voice this view. I think this is really a matter of policy.

Therefore, even if we can convince the Government to allocate funding, serious problems will arise if the objectives of its healthcare policy are unclear. Of course, I know that if the Government tells the people that only basic healthcare services will be provided under the public healthcare system, it will be tantamount to committing a political "suicide", the consequences will be serious. People would wonder why the Government has allocated resources in this area, but not in other areas. Without money, can the best services be provided? Without money, can good healthcare services be provided? Why do we need the Drug Formulary? People will raise a host of questions.

Therefore, I hope the Government will not just introduce patchwork remedies and allocate financial resources in some particular areas; instead, it should also formulate clear-cut medical and healthcare policies. In respect of the entire public healthcare system, does the Administration want to practice welfarism or does it just want to introduce the most basic healthcare services? That question is vital for both the front-line staff and the allocation of resources.

Of course, the HA must also be reformed. How should resources be allocated? People are not happy with the current state of resource allocation and they question the lack of monitoring in the course of resource allocation. How should the money be spent? Will the public consider this a very serious

problem? To tackle all these questions, I think the Government has to formulate a definite and specific policy. With a specific policy, coupled with the Government's willingness to inject additional funds, the public healthcare system of Hong Kong will become rationalized and undesirable incidents can be avoided as far as possible.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Dr LEUNG Ka-lau, you may speak now, but no amendment shall be moved at this stage.

**DR LEUNG KA-LAU** (in Cantonese): Deputy President, first of all, I must apologize for being late. My amendment ..... Let me first explain why I seek to amend the original motion proposed by Mr Fred LI.

Firstly, why do so many colleagues of the HA quit? The answer is poor working conditions, and this is an important factor. In fact, many colleagues who choose to work in the private sector may not earn as much as they used to. But working in the private sector can at least give them control over their working hours. Most of them no longer have to work night-shift, and they can take care of their families. In that case, what are the problems with working in the public sector? For doctors, it is the excessively long working hours; and for nurses, the under-staffed establishment.

In fact, the Hospital Authority (HA) is a rather bureaucratic institution. I have mentioned time and again that most nurses in the HA work 44 hours per week. Undeniably, such number of working hours is quite acceptable. For young girls, they have absolutely no problem working eight hours a day. But if nurses only work eight hours a day, the staffing establishment would have to increase by 20%. There is a price to pay for solving the problem. In fact, the HA can offer allowances to nurses because this provision has already been stipulated in their employment contracts. Yet the HA is unwilling to do so.

Moreover, is it because of retention measures adopted by the HA that the costs of public medical services have escalated? Why do I delete the relevant wordings of the original motion in my amendment? Based on the findings of



surveys and my personal experience, the HA has been reducing the remuneration and benefits of its staff over the years, at least that is the case for doctors. For example, the ranking of Consultants was previously at D2 level, but it has been lowered to D1 level since 2000. As regards ordinary Resident Doctors, although the HA has followed the practice of the Government by raising the starting salary of HA doctors from Master Point Scale (MPS) Point 27 to Point 30, the adjustment made by the Government was in fact from MPS Point 27 to Point 32. Hence, HA doctors are actually two pay points less than their counterparts in the Government, and they have accepted this pay scale.

We can consider these data from a macroscopic point of view. According to the annual reports of the HA, the percentage of staff costs to its total expenditure has lowered from 79.2% in 2000 to 72.95% in 2010 due to a series of cost reduction measures implemented by the HA. In fact, the HA has done a remarkable job in cutting staff salaries. That is why I propose to delete the relevant wordings from the original motion.

Thirdly, I would like to talk about the development of private healthcare industry. While the development will definitely affect the public sector, we do hope that some positive impacts will be attained. What kinds of positive impacts can be attained? Firstly, the demand of the middle class for public healthcare services will be lowered as they have the financial means to get better services. However, the pre-requisite is that sufficient hospital beds are available in private hospitals. When a patient is in an acute condition, it is often quite difficult for him to get admitted to a private hospital even though he can afford the costs or has taken out medical insurance. This is because private hospitals cannot provide acute hospital beds instantly. Therefore, patients suffering from acute illness, such as appendicitis or retinal detachment, would often be referred to public hospitals. A feasible solution is to consider charging patients, who have taken out insurance, of a higher fee at a cost-recovery level for receiving public healthcare services in public hospitals. Although these patients are covered by insurance to receive treatment at private hospitals, they seek treatment in public hospitals instead, hence it is acceptable to charge them of a higher fee at a cost-recovery level, and furthermore, they do not have to pay the fee out of their own pocket since they are covered by insurance.

Regarding the last part of my amendment ..... Technically, my amendment would have to be withdrawn later because it is too far down the list of

amendments. Once the preceding amendments have been passed, I have to withdraw my amendments automatically. Having read through all these amendments, I think the Honourable colleagues are just like some three-year-old kids, asking their mothers to buy snacks, ice-cream or toys. All in all, they have to buy this and that for whatever reasons. Members just keep urging the Secretary to meet their requests, so that he must oblige.

However, they never consider the matter from the perspective of cost-effectiveness. I am not against the suggestions made by the Honourable colleagues. But why do so many Honourable colleagues fail to consider the matter from the perspective of cost-effectiveness? For example, do you know the cost per attendance if 24-hour out-patient services or services of the Accident and Emergency (A&E) Department are introduced in Our Lady of Maryknoll Hospital? At present, the cost per A&E attendance in other public hospitals is \$800. If the cost per A&E attendance in Our Lady of Maryknoll Hospital is as much as \$2,000 due to low utilization, do you think it is justified to introduce A&E services in that hospital?

Or for example ..... there is one more incident. Well, I think it is alright to talk about it. In part (e) of his motion, Mr Fred LI suggested that the number and quality of healthcare personnel should be raised. While that is indeed an ideal scenario, it would depend on the types of work concerned. Let me illustrate my point by using the work of a surgeon as an example. During his training, each surgeon would have to handle 100 critical cases in six months time. In fact, under the present circumstances, there are not enough critical cases in Hong Kong. That is because more doctors are available and critical cases ..... Critical cases cannot be created. The number of cancer patients is fixed. If the incidence rate of colon cancer is 4 000 cases per year, there are just 4 000 new patients every year. Hence, theoretically, only 40 doctors are allowed to undergo training every year. I cannot create 5 000 to 6 000 cases of colon cancer. Hence, the number of clinical cases with teaching value is in fact quite limited. If these cases are shared among a greater number of doctors, the clinical experience of these doctors would certainly be undermined.

Therefore, there is a disproportionate relationship between the quantity and quality of healthcare personnel in some circumstances, while the reverse is true in other circumstances. Moreover, there is a limit with regard to quality enhancement in certain circumstances. What are the difficulties at present? As

Honourable Members are demanding additional services from the HA, many services are highly cost-ineffective. As a result, the HA must provide the necessary manpower to handle these cost-ineffective services. For example, a surgeon must handle many out-patient cases, yet the teaching value of these cases is very low. Furthermore, there is often repetition in these out-patient services. For example, gallstones and haemorrhoids are treated under two separate specialist departments. The same arrangement would definitely not be adopted by doctors in private practice. Only one surgeon would be responsible for both types of cases. However, in the HA, additional resources are available in some clusters. Given the additional resource from the Government, some clusters would spin off their facilities and services so as to spend all the funds allocated.

In addition, the problem faced by the department of surgery in public hospitals is that surgeons must handle a lot of cases with low cost-effectiveness and low teaching value. In order to meet the increasing demand of such services, additional manpower would have to be recruited. With additional manpower, the share of clinical cases with teaching value would be smaller for each surgeon. Therefore, surgeons who receive training nowadays ..... When I became a specialist in 1990, that is, four years after graduation from medical school, I was already quite confident in myself, thinking that I was very much "invincible" in terms of surgery. However, if you now ask a doctor who has graduated from medical school for four years the kinds of surgery he had performed, he would only lower his head in silence. Nowadays, surgeons usually have to be in their fifth or sixth year of training before they can actually perform more surgeries.

Some Members ask whether it is possible to enlist the help of "foreign" doctors; what I can say is that there are indeed more doctors in overseas countries than in Hong Kong. Yet they also face the same problem because with more doctors, they get a smaller share of teaching material. Therefore, I can say that they only perform more surgeries after they have become specialists. In other words, even if foreign specialists are recruited, their training is hardly adequate.

I hope Honourable Members will stop acting like three-year-old kids who keep on asking the Government for things. No matter what, I hope Members will take cost-effectiveness into consideration when they demand for something, so that only cost-effective demands are proposed. This is the right thing to do.

Regarding the problems with the HA, Dr Joseph LEE just mentioned the issue of uneven distribution. I have a newsletter here to share with Members. I think Members have not read it. The first article in this newsletter is about the costs and effectiveness of the HA. I hope Members will spend some time reading through this 2 000-word article because no system is now in place in the HA to measure the cost-effectiveness. Therefore, no matter how much resources have been allocated to the HA, some clusters would have a greater share while some a smaller one. It is just like the case of a cirrhotic patient. As the organ for regulating fluid in his body has become dysfunctional, fluid is retained within the abdomen. However, he must drink water constantly because there is inadequate fluid volume in his blood vessels. Yet, no matter how much water he drinks, it is all retained within the abdomen (*The buzzer sounded*) .....

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

**DR LEUNG KA-LAU** (in Cantonese): ..... all the water is retained within the abdomen. Thank you, Deputy President.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, the Government's recurrent spending on healthcare amounts to tens of billions of dollars each year. While healthcare expenditure stands at about \$37 billion in 2010-2011, it will account for an increasingly higher proportion in the Government's total recurrent expenditure. In this connection, how to improve the services provided by various clusters of the Hospital Authority (HA) has become increasingly important in terms of optimizing the use of resources.

At present, resources are unevenly distributed among various HA clusters. For example, \$3.65 billion has been allocated to the Hong Kong West (HKW) Cluster which serves a population of 530 000, whereas only a slightly larger sum of \$3.98 billion has been allocated to the New Territories West (NTW) Cluster which serves a population twice as much as the HKW Cluster. As such, only 1.9 general hospital beds per 1 000 population are provided for the NTW Cluster, while 5.4 general hospital beds per 1 000 population are provided for the HKW Cluster.

I understand that resource allocation should not always be based on population size because the costs of providing healthcare services for different kinds of patients may vary and there are no standard rules. For example, for districts with a larger population of elderly persons, the demand for certain related services may be greater, and hence, a greater need for financial resources. Therefore, I think it would be most important to increase the HA's transparency in terms of resources allocation and manpower deployment, so that the society is also aware of the criteria for computing and allocating resources.

As different districts may have different service demands and population size, I think the HA should formulate a mechanism for effective and fair distribution of the limited resources. One option is that the HA should first assess the demographic structure of a district because the demand for healthcare services by different age groups may vary. Through such an assessment, the HA can roughly estimate the ratio of resource to be allocated among individual districts, so as to ensure a greater degree of fairness. Moreover, we can avoid the inadequacy of the present situation where some districts suffer from serious under-provision of staffing and funding, which undermines the basic healthcare rights of people.

Although the Government has explained that as the conditions of each patient is different, the cost of healthcare services provided is thus different, hence there is a difference in the average costs of service among various HA clusters. In addition, as certain clusters provide specialist services such as liver transplant and heart surgeries for patients territory-wide, the costs of healthcare services have been pushed up. However, all these excuses are not valid because only a handful of patients are in need of such specialist services, and the Government can actually place the resources allocated for such specialist services under a separate item, so as to give the public a clear picture. At present, provisions for general healthcare services and specialist services are put together, making it difficult for the Legislative Council to carry out the monitoring work.

Another problem is the huge discrepancy among HA clusters in terms of the waiting time for non-critical specialist out-patient appointment. The situation in the Kowloon East (KE) Cluster is the worst. Of the eight specialist departments, the waiting time for five specialist departments in the KE Cluster is the longest among all seven clusters, with the median waiting time of the Optometry department being as long as 135 weeks, and Surgery department 98

weeks. As a comparison, the median waiting time for these two specialist departments in the Hong Kong East Cluster is just 18 weeks. In the most ridiculous case of Ear, Nose, Throat department, the median waiting time in the Kowloon Central Cluster is just one week while it is 92 weeks in the NTW Cluster.

Of course, the best solution is to ensure a more even distribution of resources. But in fact, a mechanism can be established among various clusters, under which a patient, subject to his consent, can be referred to another cluster with a shorter waiting time for treatment. In this way, the waiting time of patients will certainly be reduced drastically within a short period of time, and the workload of doctors can also be evened out.

As the population ages, the demand for healthcare services will keep on increasing. It is of utmost importance to achieve the greatest effectiveness with our limited resources. This point is particularly valid given the serious mismatch in resource allocation at present. I believe that if these issues can be rationalized, it will not only benefit the public, but also help reduce the workload of healthcare personnel.

Deputy President, I so submit.

**MR TAM YIU-CHUNG** (in Cantonese): Deputy President, I have recently followed up on a case about the unfortunate death of a 12-year-old girl, who had been athletic and healthy. One day, she fainted at home and was taken to Tuen Mun Hospital for treatment. As the cause of her problem could not be identified after a series of tests, the doctor suggested that she should undergo a 24-hour Holter monitoring. Normally, she had to wait till 2013 before the relevant equipment would be available for test. Later, the doctor admitted her to the hospital again in the hope that there might be a vacant slot for using the equipment. But after her readmission, the equipment was still unavailable. Subsequently, she was discharged and referred to a private laboratory for the necessary test. Unfortunately, after the girl went to the private laboratory and wore the Holter monitor, she passed away in her sleep on the final night of a 10-day wait for the results. The misfortune of this young girl is very saddening. We can hardly imagine that in this city with a high degree of economic development, a patient was dead because she could not undergo the necessary test at the earliest time due to inadequate resources and hence could not receive timely

treatment. I have listened carefully to the speech made by Dr LEUNG Ka-lau just now. He said that the problem was sometimes unrelated to resources. Instead, there were other reasons such as the failure of the Hospital Authority to utilize its resources efficiently. It does not matter whether it is due to inadequate resources or inefficient use of resources, we really do not want to see the recurrence of similar incidents.

Generally, residents in New Territories West think that healthcare resources are extremely inadequate. Compared with other clusters, the New Territories West (NTW) Cluster lags behind in terms of financial resources and the per capital share of manpower establishment. With a population of 1.05 million, the NTW Cluster only receives about \$4 billion as healthcare funding, which translates to only \$3,800 per person per annum. This amount is arrived at by some simple calculation. The doctor to population ratio of the NTW Cluster is also much lower than other clusters; with only 677 doctors, the ratio is merely six doctors per 10 000 population. Therefore, residents in New Territories West have to go to other clusters for treatment. According to statistics, as much as 12% of patients have to go to other clusters for treatment.

Recently, a survey was conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong on services provided by Tuen Mun Hospital. In respect of waiting time of the Accident and Emergency (A&E) Department, the average waiting time for "semi-urgent" cases pledged by Tuen Mun Hospital is about 1.5 hours, and about two hours for "non-urgent" cases. But according to the findings of our survey, 59% of the respondents indicated that their waiting time is longer than the pledged waiting time. While the median waiting time for dispensary service should be 60 minutes, some patients have to wait up to four hours. In other words, a patient would need to spend three hours or more in order to receive A&E treatment. Regarding specialist out-patient services, the average waiting time is 22 weeks. The average waiting time for surgeries is 34 weeks. Public hospitals in Tuen Mun and Yuen Long have been suffering from under-provision of healthcare resources for a long time. Telephone booking quotas for consultation at government clinics in the districts are always full. Being the leading hospital of the cluster, Tuen Mun Hospital has to shoulder heavy responsibilities, yet it has not been given adequate support. As a result, there is serious wastage of doctors in the Hospital. For example, over the past year, the wastage rate of doctors in the Departments of Medicine and Geriatrics is as high as 14%, and 14 vacancies have yet to be filled to date.

In our view, improvements to healthcare services should start from the provision of hardware facilities. The community has requested for the construction of Tung Chung Hospital for over a decade, whereas for Tin Shui Wai Hospital, the request has been made for almost 20 years. Yet Tung Chung Hospital is still under construction. Owing to repeated delays, the first phase of the project would only be completed next year. As far as the Tin Shui Wai Hospital project is concerned, planning is still underway. At present, the territory-wide average time required for an ambulance to transfer a patient to the A&E Department is 17 minutes. However, it takes 33 minutes for a patient living in Tung Chung to be transferred to the nearest hospital, that is, Queen Margaret Hospital. Over the past four years, the number of emergency calls for ambulance service made by Tung Chung residents has increased by more than 240%. Of these calls, over 60% of the patients were of urgent or serious conditions. This reflects the ardent demand for hospital services by Tung Chung residents.

Similarly, a regional hospital has yet to be provided in Tin Shui Wai which has a population of 300 000. Due to the presence of marble cavity in the proposed hospital site, the completion date of Tin Shui Wai Hospital will be postponed to 2016 at the earliest. I hope the Government will expedite the construction of Tung Chung Hospital and Tin Shui Wai Hospital on the one hand, and on the other hand, allocate additional resources to provide 24-hour out-patient or A&E services in the districts before the commissioning of these hospitals. In addition, we also hope that the construction work of an integrated building in Tin Shui Wai Area 109 can be expedited and the necessary resources earmarked for the provision of additional general and specialist out-patient services so that the lives, health and well-being of residents in Tin Shui Wai and Tung Chung can be better protected and safeguarded.

I so submit. Thank you, Deputy President.

**MR ALBERT HO** (in Cantonese): Deputy President, just now the two Members representing the Democratic Party, namely Mr Fred LI and Mr CHEUNG Man-kwong, have already macroscopically expressed their views on today's subject, pointing out how the Hospital Authority (HA) should improve the services in various clusters.



I will focus my speech on the New Territories West (NTW) Cluster and, on behalf of the residents in the district, I have to denounce the Government for not providing a reasonable and fair share of healthcare services to them.

The NTW Cluster serves 1.06 million people in Tuen Mun and Yuen Long. These two remotely located, densely-populated districts are extensive in area, and are populated mostly by low-income families. Moreover, except with very special reasons, residents in the NTW Cluster cannot use hospital services in another cluster, leading to great unfairness. Basically, only Tuen Mun Hospital and Pok Oi Hospital in the cluster can provide the Accident and Emergency services as well as in-patient services for the million-odd people. The other two hospitals in the district, Castle Peak Hospital and Siu Lam Hospital, only provide services for psychiatric and severely mentally-handicapped patients.

With only 1 997 beds in Tuen Mun Hospital and Pok Oi Hospital, the district has "three-low ratios". What does it mean by "three-low ratios"? It means low in doctor-to-patient ratio, low in population-to-cluster funding ratio and low in population-to-hospital bed ratio. Based on its population, the NTW Cluster only has two beds or 1.9 beds per 1 000 population. As for the other two ratios, Mr TAM Yiu-chung has already mentioned them and I will not repeat. As we can see, the hospital beds in this cluster cannot meet the demand and are always occupied. With 92% of its beds occupied, the bed occupancy rate of the NTW Cluster is generally far higher than that of 82% in other clusters. With an average length of stay of 5.1 days, the average length of stay of this cluster is also the shortest among all clusters in the territory (I am using the average figures for comparison). I do not understand why, statistically, Tuen Mun seems to be treated most badly and unfairly. The statistics even indicate that residents of Tuen Mun have not been provided with reasonable and adequate healthcare services.

Basically, Tuen Mun Hospital is the only hospital in the NTW Cluster which can provide a comprehensive range of services. The HA has spent \$2.1 billion in renovating Pok Oi Hospital. The renovation project, which sought to provide 622 acute beds, was completed in 2007. However, a few years after the completion of the project, Pok Oi Hospital is still not fully commissioned. At present, Pok Oi Hospital only has 454 beds, and there will be an extra 13 beds in 2011-2012. As many specialist services are not provided in

Pok Oi Hospital, Yuen Long residents in need of in-patient services will all rush to Tuen Mun Hospital.

Deputy President, the situation in Tin Shui Wai is even worse. The integrated building to provide out-patient services will only be commissioned in 2012-2013. The construction of Tin Shui Wai Hospital will only be completed in 2016 the earliest, but there are likely other complications, as mentioned by Mr TAM Yiu-chung just now. In the interim, residents in Tin Shui Wai have no choice but resort to in-patient services in Tuen Mun Hospital when they have such need. Hence, Tuen Mun Hospital will still be overloaded for a long period in the future.

Another problem is related to the utilization of resources and the management of the HA; it also involves the problem of not having a specific staffing establishment in the HA. We opine that the HA lacks transparency in its decision-making process. Very often, the management of the clusters has too much discretionary power, so much so that they can decide the use of resources at will. When resources are not used properly, front-line healthcare staff who have to undertake heavy workload will be greatly discontented.

Recently, though the NTW Cluster has been allocated with additional resources, there are no marked improvements in its services. As the new resources are used on renovation, decoration and launching of new management programmes, front-line healthcare staff are greatly aggrieved.

Recently, the HA launched a Hospital Accreditation Scheme. Some front-line doctors of Tuen Mun Hospital have reflected to us at the Legislative Council that the services of the Obstetrics and Gynaecology department have reached maximum capacity, and that there has been an exodus of doctors in the department of Medicine. As Tuen Mun Hospital has received very good comments in the Accreditation Scheme, the management obviously tries to paint a rosy picture to cover up the harsh reality. The healthcare staff are very discontented as they have to spend a lot of time on paperwork instead of treating patients.

Due to the serious wastage of healthcare manpower in Tuen Mun Hospital (as much as 15% to 20% in the departments of Medicine and Obstetrics),

front-line staff has been subject to a very heavy workload. However, the HA has not provided any effective schemes to fill the wastage. Even when Pok Oi Hospital is fully commissioned in future, the increased number of hospital beds cannot meet the demand, and there are insufficient healthcare staff to meet the need. Hence, the situation will only deteriorate.

I hope that after listening to the views expressed by the few Members, such as me, Mr TAM Yiu-chung, Mr CHEUNG Kwok-che or other colleagues, the Secretary will give us some positive response.

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

**MR CHAN KAM-LAM** (in Cantonese): Deputy President, many colleagues have just pointed out that healthcare facilities and resources in various districts are insufficient. I believe the Secretary knows very well about the situation in Kowloon East. Recently, we have joined the District Council members to have a meeting with the Secretary. The members have raised many demands because the facilities in United Christian Hospital, Our Lady of Maryknoll Hospital and Tseung Kwan O Hospital are severely insufficient ..... Some colleagues have just mentioned some figures relating to the Kowloon East (KE) Cluster. For instance, the waiting time for services of the ophthalmology department and out-patient clinic is the longest in Hong Kong; the number of hospital beds is the lowest, and the resources allocated to the KE Cluster is also the smallest among the seven clusters.

While the Government has provided extra resources in recent years, and the resources allocated this year has increased to \$36.9 billion, the KE Cluster only got \$3.1 billion. The resources allocated to the KE Cluster in the previous few years were even less. In 2008-2009, the KE Cluster was only allocated \$2.6 billion to \$2.7 billion and last year, it was allocated \$3.2 billion. This year, the KE Cluster still gets the least amount among other clusters, when calculated in terms of the population. The problem certainly lies in the allocation of resources, and I believe that the current ideology and principle adopted for resources allocation should also be reviewed. At present, the HA adopts a pay-for-performance approach for resources allocation. The main purpose of the

clustering system is to avoid duplication of healthcare facilities; however, when the necessary healthcare facilities are in short supply due to widely varying demographic structures in different districts, a bottleneck will appear, resulting in very long waiting time for certain specialist treatments. This phenomenon is not desirable.

It has long been our aspiration to expand the United Christian Hospital in the KE Cluster and include the provision of oncology or other specialist services and other additional facilities. Moreover, Our Lady of Maryknoll Hospital has raised strong aspiration to be developed into a hospital with an accident and emergency department and provide other healthcare services. Identifying a site for expansion is also an option.

Moreover, we note that the two major hospitals in Kowloon East fall under two different clusters, one under the Kowloon West Cluster and the other under the KE Cluster. Residents are sometimes confused. For example, Choi Wan Estate is under the KE Cluster. Knowing that hospitals in the KE Cluster have very high occupancy rate, residents calling for ambulance services will request to be transferred to Ngau Chi Wan. This situation frequently happens. We certainly do not wish to see people switching to different hospital clusters at will, but this phenomenon is well evident of the insufficient resources.

I hope the Government will examine the issues again after listening to our views today. As additional resources will be available and the voluntary health insurance scheme will be implemented in the future, healthcare resources will also be substantially increased. As such, efforts should be made to rectify the lack of healthcare facilities in some districts.

The Centre of Excellence in Paediatrics in the Kai Tak new site has been long-awaited. We hope that the Centre will be able to share part of the healthcare burden of the hospitals in the district. People in Kowloon West and Kowloon East anticipate that the hospital in the new site can provide a range of healthcare facilities. They are concerned that if the hospital only provides paediatric services, it may not be able to meet the different demands in the district. I hope the Government can pay special attention to this point when it considers this issue. Apart from the Centre of Excellence in Paediatrics, it should also consider the provision of other healthcare services, particularly the

problem of insufficient hospital beds. I hope the Government can increase the facilities in this regard.

Thank you, Deputy President.

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

**MR LEE WING-TAT** (in Cantonese): Deputy President, many colleagues have talked about the hospital services in different districts, but I wish to focus on discussing two points. First, I wish to thank Dr LEUNG Ka-lau. As a doctor and a Member, he has prepared a sophisticated chart. In fact, I have referred to this chart before. It is about the median waiting time (in number of weeks) for new non-urgent specialist routine cases for 2009-2010.

Mr Fred LI has just cited many figures. For example, the waiting time for services of medical out-patient clinic in the Kowloon East (KE) Cluster is 60 weeks, the waiting time for gynaecology services is 64 weeks and the waiting time for ophthalmology services is 135 weeks, which is the worst. Take ophthalmology as an example, according to this chart, the waiting time for services of the ophthalmology specialist out-patient clinic in the KE Cluster is 135 weeks, which is almost two years. However, the waiting time for the same service in Hong Kong East (HKE) Cluster only takes 18 weeks, and the waiting time in Kowloon West (KW) Cluster, which is close to KE Cluster, even takes six weeks only.

Under Secretary, I respect you as if you were the Secretary. Would you please explain this phenomenon? How is it possible for a resident in Wong Tai Sin who needs to seek ophthalmology specialist out-patient service has to wait for 135 weeks? Yet Kowloon West, such as Tai Kwok Tsui, which is not far away, the waiting time for the same service ..... I am not saying that this is not good; the waiting time is certainly the shorter the better ..... but the waiting time is only six weeks.

I also participate in other public services. For instance, the Housing Authority has the same performance pledge across the board. The waiting time for the first allocation of public rental housing flat is three years. The time is the

same whether the applicant lives in Kowloon West, Kowloon East, New Territories East or New Territories West. There is basically no big difference.

It is acceptable that services are slightly different in different districts because it is impossible for services to be identical. I will not be surprised if there is a 5% to 10% or even some 10% difference. However, when it comes to waiting time, if there is a 20 times difference (mathematically it is 2 000%), I really do not know how to explain if I were in your position. I hope I have not misinterpreted Dr LEUNG Ka-lau's chart. If there is any mistake, the responsibility is his as I only read from the chart. Hence, in your capacity as the Secretary, please explain why there is such an interesting phenomenon.

The next problem is, people are smart. If my place of residence is in the KE Cluster where the waiting time for healthcare services is very long, and if I have a relative living in Bonham Road, can I borrow my relative's address so that I can seek healthcare services in the Queen Mary Hospital? The waiting time will be much shorter, only some 10 to 20 weeks. I hope the Secretary can tell me whether this approach is legitimate. If it is, he will understand after reading this chart that there is no point to be so silly as to wait for 135 weeks. Instead of waiting, why not ask around and see if there is any friend or relative living in Kowloon West or Hong Kong, so that the waiting time can be shortened? I hope the Secretary can tell me in his reply whether this approach is feasible and whether it is legitimate.

My Party leader reminds me that if this approach is legitimate, this chart to illustrate the waiting time will no longer serve any purpose. I will then openly call on the public not to wait for 135 weeks for services in the KE Cluster; be smart and join the waiting list in the KW Cluster or the HKE Cluster, which only takes six to 10 weeks. I hope the Secretary will respond to this question later.

Another point that I am concerned about is the construction of a hospital in the Islands. I know that the construction is already in progress and is near completion. I hope the hospital can be commissioned as soon as practicable. At present, there is no hospital in the Islands. The residents there who call for ambulance services will be transported to the Princess Margaret Hospital which is the nearest. Hence, the sooner the hospital is commissioned the better.

However, pardon me if I am wrong as I seldom participate in the work of the Panel on Health Services. It has been learnt that the authorities is considering a new trial programme, a public-private partnership (PPP) project to be exact, to be launched in the new hospital in the Islands. I do not know if the authorities still have this plan in mind. If so, I hope they can inform the Legislative Council and the public on the operation of this PPP project and, in particular, how they are going to adhere to some principles. First, what is the purpose of the PPP? Does the PPP seek to introduce a private market element or its management mode into public hospitals so as to improve public healthcare services?

Another question that has to be answered is, will the present service-related measures or service deployment under public hospitals be affected? Will it jeopardize the interests of the people in need of elementary healthcare services, leaving them with no choice but to wait longer for in-patient services or accept lower-quality services?

The third question is raised by some members of the public. I also do not know how to answer. They thought that Legislative Council Members know everything and I told them we are not omniscient. I thus have to raise the question here. Recently, the issue of Mainland pregnant women giving birth in Hong Kong has sparked a heated debate on the services in public and private hospitals. We realize that despite private hospital services are increasing in scale and have taken up a larger market share, their charges are not lowered. According to economic principles, should supply of private service increase while the demand remains constant, the service charge should decrease. However, the present situation does not follow this principle. It has been learnt that the charge of private obstetric services is becoming more and more expensive and the intermediaries only serve rich customers and show no interest in those who are not rich.

Secretary, the current problem is, whether the above problem will arise should PPP is introduced to the hospital in the Islands. If the operation mode of the private hospitals and the elements of private services are introduced into public hospitals, the service charges will reflect a different clientele. In the end, people using PPP hospital services will have to pay a much higher price or be

wringed a much higher service charge. I hope the Secretary can respond to these concerns of mine.

Thank you, Deputy President.

**MR WONG SING-CHI** (in Cantonese): Deputy President, the motion today seeks to discuss how to improve the services and measures of the Hospital Authority (HA). Different Members have expressed their views in respect of their constituencies. I am no exception. Unlike Mr LEE Wing-tat who has talked about another area of the policy, I will talk about the situation in North District.

I would also like to talk about the residents' views on the North District Hospital or the healthcare services in Tai Po, in the hope that the Under Secretary would have a better understanding of the situation. Regarding the North District Hospital, I dare not take the credit, but we have played a crucial part in fighting for it. I remember that in 1990, TIK Chi-yuen and I prepared a report, highlighting the fact that there was no hospital in North District. The policy at that time was to provide one hospital bed per 1 000 population. Time has changed. There are more germs in hospitals than in our homes and people should certainly avoid staying in hospitals. Back then, community healthcare services were severely insufficient. We slept on the street and staged protests, and eventually the Government constructed the North District Hospital.

However, since the commissioning of the North District Hospital, people in the district have the impression that though the healthcare personnel are very hardworking ..... I do not want to belittle doctors and nurses in the Hospital because they really work very hard ..... Dr LEUNG is encouraging me to speak out my heart ..... However, people in the district still have the impression that these doctors and nurses are not very professional. I do not know whether they are incapable or they are not well qualified. Even though they are consultants, senior doctors, nurses and ward managers, they give people an impression that they are professionally inadequate. According to some nurses, as very few people are willing to work in North District, the HA has no choice but to promote those doctors and nurses who are less experienced and qualified. It is mere hearsay. I dare not say that it is true.



The North District Hospital is like a place for exile. Its services seem professionally inadequate, which is indeed a very serious problem. I hope the Under Secretary can look into the problem and provide, if possible, transport subsidy for doctors and nurses in North District. Having said that, I believe they care little about the subsidy. What they need is more attention, care and support from the Government because they are really working very hard.

Located near the border, the North District Hospital may operate in a better condition now, but during the early morning hours, it is often packed with people seeking accident and emergency services. Many people who go to the Mainland to take drugs may suddenly collapse on their way home, and they are sent to the North District Hospital for treatment. Victims of traffic accidents that happened on the Tolo Highway are also sent to the North District Hospital, the healthcare personnel of the Accident and Emergency Department are thus burnt out with fatigue.

Moreover, the North District Hospital used to have an Obstetrics and Gynaecology Department long time ago, but the department is now closed. The hospital now only provides obstetrics and gynaecology out-patient services. This has also sparked much discontent among the residents.

Coming back to the point on the inadequacies of the healthcare personnel in the North District Hospital, I believe Members can still remember that quite many medical blunders have occurred in that Hospital. A female patient who should have a right mastectomy had her left breast wrongly removed. The medical blunder was reported in the news. We originally planned to help the victim, but the hospital later had the matter settled. Hearsay has it that the victim was indemnified. There was also a fatal case involving a patient being injected morphine by mistake. Another terrifying blunder happened in the mortuary of the North District Hospital. The hospital had mixed up the wrist-band of a living elderly patient with that of a deceased elderly patient, and the wrong message was sent to both families. Almost scared to death by the news, the family members of the living patient later found out between laughter and tears that it was a mistake, while the deceased elderly patient was left unattended until the hospital informed his family members.

Why is the service always at a sub-standard level? I hope the Secretary can conduct a study to see whether the Government has exiled the North District

Hospital, so that nobody cares about the Hospital and many people are not willing to work there to provide proper services to the residents. This is in fact very unfair to the people living in North District because the North District Hospital not only serves the people living in North District, Sheung Shui, Fan Ling, Sha Tau Kok and Ta Kwu Ling, it also takes care of the Hong Kong people coming back from Shenzhen and some of them are not even Hong Kong people. The Hospital and its healthcare personnel will be subject to a very different and tragic position if the Government accords no importance to its resources and personnel.

On behalf of the Tai Po District Council members, I wish to express the views which they have reflected to the Legislative Council. There are two hospitals in Tai Po providing general and extended-care healthcare services, one of which is Alice Ho Miu Ling Nethersole Hospital and the other is Tai Po Hospital. However, the services rendered by the out-patient clinics in Tai Po are insufficient. This may not be a problem of the HA as it should be under the purview of the Department of Health. Here, I wish to tender a proposal to the Under Secretary, that is, I hope the Government can substantially enhance the services of out-patient clinics in Tai Po and North District. As a matter of fact, many people still completely rely on the public healthcare system, particularly the services of out-patient clinics. Given that the elderly persons account for a considerable percentage of the population in Tai Po and North District, they are in great need of these services. I hope the Under Secretary can pay more attention to the healthcare services in North District and Tai Po, and allocate more resources to these districts. Although the Government always says that the resources of the HA is stringent, I hope these districts can be treated more fairly and be accorded more attention, and that the medical blunders in these districts can be reduced. Service enhancement is certainly important, but frequent medical blunders are a greater concern to the people living in these districts. I hope the Under Secretary can listen to these views and pay more attention to these problems. Thank you, Deputy President.

**MR WONG KWOK-KIN** (in Cantonese): Deputy President, first of all, I wish to reiterate the views expressed by Mr WONG Sing-chi as I also live in North District. The biggest problem with the North District Hospital is that there are too many people seeking the services of its Accident and Emergency (A&E) Department. Why? It is because the whole Sheung Shui district does not have any clinics operating round the clock. Residents in need of medical consultation

at night have no choice but go to the A&E Department, thus contributed to the high attendances of the A&E Department. Given that the district has many public housing estates and quite a large population, I hope the Secretary can explore the feasibility of establishing a 24-hour clinic because the residents sometimes do not want to go to the A&E Department, they just have no choice.

Let me come back to the speech that I have prepared. The Secretary is sitting there smiling. I find that he is exceptionally important because he controls the most important events in life, that is, people's birth, senility, illness and death. Birth certainly refers to giving birth, which is self-explanatory. For the elderly, healthcare is most vital, disregarding it is the treatment of geriatric, chronic or other serious illnesses, and whether it is related to medical, surgical or other specialties. He even controls the supply of niches after people's death. I must express my views to him today as he is so influential.

The focus of our debate today is concerned with the hospitals under the Hospital Authority. I mainly wish to reflect the situation in Kowloon East. Just now, Mr LEE Wing-tat has already shared with us some of the problems in Kowloon East. I thank "Brother Tat" for speaking out for justice and reflecting our situation. What is the biggest problem in Kowloon East? Many residents are extremely dissatisfied because according to statistics, the Kowloon East (KE) Cluster, while being a densely-populated district, is allocated with the least resources among the seven clusters. I am not sure whether the present situation has changed. Just Kwun Tong alone already has 590 000 people, but the KE Cluster is only allocated \$3 billion. Moreover, the two districts in Kowloon East (Kwun Tong and Wong Tai Sin) have the distinctive feature of having many public housing estates, many elderly people as well as many poor people. Yet, resources allocated to the KE Cluster are the least.

The United Christian Hospital is the only leading hospital in Kwun Tong, but it is not a general hospital. Over the years, people in the district have been lobbying for turning the Hospital into a general hospital, and for this purpose, demonstrations, protests and petitions have been held. Finally, I am not sure it was last year or this year, we learnt that the authorities planned to establish an oncology department in the United Christian Hospital; but the plan was later shelved due to insufficient resources. I do not know what has happened in the process. I hope the Secretary can later provide an update on this matter in his reply and tell us the reasons for withholding the allocation, such that the oncology

department cannot be established in the Hospital. In fact, healthcare issues are a major concern to the residents of the district.

Just now, Mr LEE Wing-tat has already spoken on the waiting time for healthcare services. I also have some statistics that I can share with Members. For new ophthalmology cases, if your name is on the waiting list now, you can get treatment 160 weeks later, that is, in November 2013. The waiting time is exaggeratingly long. The waiting time for a new surgical case is 127 weeks; in other words, if the patient is on the waiting list now, he has to wait for two to three years before he can receive treatment. The situation is seriously grave, which, in a way, is a torture to patients.

As for the situation in Wong Tai Sin, residents in the district are being forced to seek medical services at Queen Elizabeth Hospital, which belongs to the Kowloon West Cluster. Although the Government claims that people in Kwun Tong can be diverted to Tseung Kwan O Hospital, the latter is not a general hospital and cannot provide adequate backup support. Another hospital in Wong Tai Sin is Our Lady of Maryknoll Hospital, but it does not provide A&E services and it does not offer many specialist services. Hence, can the Secretary pragmatically examine how the healthcare problems in Wong Tai Sin can be resolved?

There is now a turning point and that is the Kai Tak Development project. The Government has reserved some area in the Kai Tak Development site for healthcare purposes. With much regret, it has been said that the authorities only plans to build a paediatric hospital in the area; that is to say, the hospital will only serve children, not elderly persons. Hence, given that the area has been reserved for healthcare purposes, can the authorities conduct a research to explore the feasibility of constructing a general hospital to take care of residents in Wong Tai Sin, Kowloon City and To Kwa Wan? If the Government can do so, I believe the residents will extol the beneficence of the Secretary. If this happens in old times, people may even build an ancestral temple for the Secretary (*Laughter*), so that they can burn joss sticks to worship him in future.

People living in the districts are indeed very concerned about the healthcare issues because the problems have persisted for years without any sign of solving. I thus take this opportunity today to reflect the anxiousness of the residents to the Secretary. We indeed support Mr Fred LI's motion and hope that the Secretary

can empathize with our efforts over the years and expeditiously increase resources for the KE Cluster, such that the public do not need to go and see the expensive private doctors.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr Fred LI, you may now speak on the six amendments. The speaking time limit is five minutes.

**MR FRED LI** (in Cantonese): Deputy President, six Members have proposed amendments today. The majority of them, except Dr LEUNG Ka-lau, have added more "Christmas wishes" onto my original motion, voicing the aspirations of their constituency. As they are directly-elected Members from different constituencies, they naturally wish to voice the aspirations of their constituents. The amendments include the arrangement of general out-patient clinics and improvement of the services of Chinese medicine, psychiatric, and obstetrics and gynaecology. I believe Members will not oppose these proposals.

(THE PRESIDENT resumed the Chair)

Mr CHAN Hak-kan and Mr Tommy CHEUNG's amendments highlighted the impact of Mainland pregnant women giving birth in Hong Kong on our healthcare system. In this connection, I concur with the views mentioned in the amendments. Many Members have various grievances about the operation and management of the Hospital Authority (HA), I have to particularly respond to Dr LEUNG Ka-lau ..... I have read his amendment ..... because he has not listened to what I just said and he might have misunderstood me. We are not three-year-old kids asking for toys; we are striving for services. Nevertheless, I can appreciate why he has emphasized cost-effectiveness in his amendment. He

also questioned why specialist services provided by public hospitals are more expensive than those provided by private hospitals. The point is, if a member of the public who live in Kowloon East receive, among the seven clusters, the least healthcare resources and is subject to the longest waiting time, and so on, he will certainly question the reason for this situation, and he will not be satisfied with the answer given by the Government that this is due to cost-effectiveness. Dr LEUNG said just now that if an Accident and Emergency Department was set up in Our Lady of Maryknoll Hospital in Wong Tai Sin, the cost of handling each acute case might be as high as \$2,000. However, has he considered the fact that the ratio of elderly person is highest in Wong Tai Sin? Dr LEUNG may not be aware of this fact. Kwun Tong has the largest number of elderly persons aged over 65, but in terms of the proportion, the ratio is highest in Wong Tai Sin. The two districts are actually very close to each other, but Wong Tai Sin belongs to the Kowloon West (KW) Cluster while Kwun Tong belongs to the Kowloon East Cluster. The coverage of KW Cluster is strange. It also includes Tsuen Wan, Kwai Chung and Tsing Yi (I do not know how the boundary is drawn), together with Sham Shui Po and Lantau North. That is why I question just now how the boundaries of a number of clusters are drawn and how resources are deployed and allocated. Moreover, different clusters will fight for resources to launch new programmes, but the old programmes are still operating. It all boils down to the need to fight for more allocation. This is why I criticize that the monitoring work of the HA or the Government may have "spoiled" the clusters. Besides, the clustering system has been implemented for a decade. It is high time to review whether the boundaries of clusters and deployment of resources are reasonable.

Regarding the measure of increasing doctors and nurses' remunerations so as to retain them, we certainly support such measures. Doctors and nurses should be given over-time allowance. The Democratic Party fully supports this proposal, but holds that resources should be deployed to retain doctors in the public healthcare system. However, I believe money is not the panacea. The Secretary and the HA should also consider factors such as working environment, working hours, promotional prospect and transparency of the system.

The Democratic Party supports all six amendments.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I sincerely thank many Members who have put forth their valuable suggestions and views in the debate just now on the services of the Hospital Authority (HA), particularly Mr Fred LI for moving this motion today and those Members who have moved amendments. In the last meeting of this Legislative Session, a Member has moved a motion on the services provided to Hong Kong people in the public healthcare system, which is a subject of great public concern. Members have called on the HA to enhance its performance so as to enhance this territory-wide safety net for the people of Hong Kong.

President, as the population ages, the public has increasing demand on healthcare services, both in terms of quality and quantity. We must ensure that the whole healthcare system can keep abreast of the times, so as to cater to the needs of society. While we discuss how to further enhance the services of the HA, we must also promote the advance development of other aspects of the healthcare system. In this connection, the Government strives to take forward the healthcare reform, which will facilitate the sustainable development of the whole healthcare system in Hong Kong by strengthening primary healthcare, promoting public-private partnership and developing private healthcare sector, with a view to meeting the increasing healthcare demand. Next, I will respond to Members on various HA services and development plans of individual hospitals mentioned in the debate just now.

I will first talk about the resource distribution mechanism of the HA. President, the HA provides services through its hospital clusters. Each cluster is made up of several acute and rehabilitation/convalescence hospitals. These hospitals, each of which has its own position, complement and support each other. Hospital clusters can thus rationalize the hospital services in their respective catchment areas, such that repetition and wastage of service can be avoided. For instance, each cluster has a major acute regional hospital to provide comprehensive services, while its community hospitals provide rehabilitation, day-care and extended-care services. The strength of the clustering system is that it can standardize and rationalize the management structure, thus strengthening operational efficiency. The cluster framework can also achieve synergy by tailoring to the situations of different hospitals and service needs and enhance competency by flexibly deploying resources among hospitals. In this regard, I am indebted to Dr LEUNG Ka-lau for moving an amendment on cost and benefit.

President, generally speaking, all clusters provide primary and secondary healthcare services, such as accident and emergency services, specialist in-patient services, out-patient clinics and community-based services. In order to ensure service quality while maintaining cost-effectiveness, certain specialist services with relatively lower demands (such as organ transplant or burns treatment) are provided in the form of a service network or a specialist centre under individual cluster. By centralizing these specialist services, which often require sophisticated equipments, advanced technologies and personnel with special qualifications, under one or a few clusters, the limited public resources can be put to most effective use. On the other hand, many scientific and medical literatures have found that if attendances are different among the clusters in the territory, the best way to ensure service quality and provision of best services to patients is to centralize service provision under one or a few clusters, like our existing practice. The scope of service of the abovementioned specialist centres may cover a few clusters or even the entire territory. Hospitals with these specialist centres which provide tertiary or even quaternary services are allocated more resources due to their service needs.

President, since the 2009-2010 financial year, the HA has adopted a new pay-for-performance system to allocate resources in a fairer and more transparent manner. Under this system, resources are pegged with the nature of work and service throughput. By laying down the costs required by different types of services with a set of standardized parameters, that is, according to the number of patients treated by individual hospitals and the complexity of the cases, the workload of individual hospitals is assessed and the resources are allocated accordingly. The system can encourage hospitals to enhance their efficiency in resource utilization and service provision.

President, I will now talk about the major hospital improvement works and service enhancement measures under the HA in recent years. A number of Members have just mentioned the services and facilities of individual clusters and hospitals. As a matter of fact, in recent years, HA clusters have used their additional resources to improve their services and conduct a number of hospital extension and renovation works according to the healthcare service demands of the population in their respective catchment areas. A number of Members have just mentioned the cluster hospitals in their constituencies and the special demographic combination and special needs of their districts. I will now



highlight the major works projects and service enhancement measures which have been launched and plan to be launched in the seven clusters in recent years.

Let me begin by the Hong Kong East (HKE) Cluster. The HKE Cluster has launched a number of measures to improve patient services in recent years. For instance, a Community Health Call Centre has been established to serve discharged high-risk elderly patients; additional hospital beds have been provided for acute and rehabilitation patients; the quota for cataract surgeries has been increased; services of the day-time chemotherapy centre have been enhanced; the infant intensive-care service has been strengthened, and cardiac patient care has been enhanced, and so on. In the past few years, the HKE Cluster has also enhanced the infrastructural facilities of its hospitals. As far as the hardware is concerned, these enhancement works include renovation of psychiatric wards, addition of a psychiatric observation room in the accident and emergency departments; installation of elevator safety devices in hospitals and enhancement of the blood bank and laboratory for urgent blood tests, and so on.

Next, I will turn to the Hong Kong West (HKW) Cluster. Most of the hospitals under the HKW Cluster are at least 50 or even 140 years old. In order to dovetail with hospital service development, the HKW Cluster has carried out phased improvement works on hospital wards and hospital environment. In the past two years, the HKW Cluster has carried out over 100 renovation or extension works, including the renovation of about 30 hospital wards and the enhancement of Queen Mary Hospital, covering the paediatric out-patient department, the Children's Centre for Cancer and Blood Diseases, the paediatric day-care ward, the clinical oncology out-patient department and the occupational therapy department. Moreover, since the relocation of departments of cardiothoracic surgery, paediatric cardiology and cardiothoracic anaesthesiology of the HKW Cluster from Grantham Hospital to Queen Mary Hospital in mid-2008 for better service efficiency and specialist centralization, Queen Mary Hospital has become the only heart, heart lung transplant and paediatric surgery centre in Hong Kong. Meanwhile, since the inception of a Cataract Centre in Grantham Hospital in end 2009, the Centre has completed about 4 500 cataract surgeries in 2010-2011, substantially shortening the surgery waiting time from two years to two months. This is one of the reasons why some Members have said that the waiting time for ophthalmology services is shorter and more satisfactory in some clusters. Recently, the David Trench Rehabilitation Centre on Bonham Road which had been in service for 40 years was re-provisioned to the Old Upper Levels Police

Station in April 2011. The reprovisioned Centre, which has increased by 40% in area, will provide a better waiting and diagnostic environment for patients. In order to tie in with the need for future development, the HA is now discussing with relevant government departments on a renovation plan for Queen Mary Hospital, in a bid to enhancing hospital services and improving the working environment of the healthcare personnel.

President, I will now turn to the Kowloon Central (KC) Cluster. To meet the increasing service demands, the HA has allocated an additional \$42 million in 2010-2011 for Buddhist Hospital of the KC Cluster to establish a specialist centre for joint replacement. The centre will provide total hip and knee joint replacement surgery, post-surgery care as well as comprehensive rehabilitation and physiotherapy. Members have been briefed earlier on the details of the project at the Panel on Health Services. It is expected that at the full commissioning of the specialist centre in 2011-2012, it will be able to provide an annual capacity of 750 surgeries and the patient waiting time will be shortened by about 60%. Moreover, in order to meet public demand on cataract surgery, the Hong Kong Eye Hospital of the KC Cluster is dedicated to strengthen its services in recent years. In 2010-2011, the Eye Hospital has successfully completed almost 5 770 surgeries, which has exceeded its expected service target. The KC Cluster will open a Chinese medicine clinic in Ho Man Tin in this year end, serving residents living in Kowloon City.

Next comes to the Kowloon East (KE) Cluster. The HA has kicked started the extension project of Tseung Kwan O Hospital in 2009. With the new Ambulatory Block to be completed by the first quarter of 2012 (next year), the extension project will then proceed to the remaining renovation works. It is anticipated that the whole extension project will be completed by early 2013. Under the HA's plan, an obstetrics and infant care ward is included in the Tseung Kwan O Hospital extension project. Having considered that the extension project will be completed in early 2013, after which a trial run will have to be carried out on the hospital blocks, it is estimated that the preparation work of the above facilities will be completed around 2013 to late 2014. Apart from putting in place the hardware of the obstetrics and infant care ward, as many Members have reminded us, providing sufficient and appropriate manpower is also of paramount importance to service quality and safety, before the ward can serve the local residents. The HA will keep a close watch on the manpower of the obstetrics and paediatric departments and review the opportune time for starting

the obstetrics and infant care service in Tseung Kwan O Hospital in 2012-2013. The public and the Legislative Council will be informed on the progress later.

With respect to United Christian Hospital, in order to cope with the rising service demands, the HA has initiated preliminary planning on the expansion of the Hospital in 2008. Based on information supplied by the HA, including the proposed budgets and details of the works project, we have accepted in principle the expansion project. We are now at the final stage of the preliminary planning of the expansion works project and will submit the funding proposal in accordance with the established procedure so as to expeditiously kick start the works project.

President, a number of hospital expansion and renovation projects under the Kowloon West (KW) Cluster are in progress to cope with the service demands. Just now, a number of Members are concerned about the construction progress of North Lantau Hospital (that is, Tung Chung Hospital). The construction is in good progress and should be completed in December 2012 as scheduled. A dedicated team has been formed by the HA to prepare for the service initiation programme of the new hospital, which is expected to come into operation in 2013 and start providing various services by phases. On the other hand, with the funding approval of the Finance Committee, to which we owe our thanks, the Yan Chai Hospital redevelopment project has just been kick started. The construction of the new community and wellness centre is expected to complete in 2014, while the remaining facilities, including the landscaped area cum parking facilities, are expected to be ready by the first half of 2016. The urology out-patient service will be resumed when the redeveloped hospital comes into operation. With respect to the phase 2 redevelopment of Caritas Medical Centre, it is expected that the construction of the new ambulatory/rehabilitation block will be completed in the second half of 2013, while the rehabilitation garden is expected to be ready by mid 2014 or the third quarter of that year.

A number of patient services in the KW Cluster have also been strengthened in recent years. For example, the day-time chemotherapy and cancer case management services have been strengthened; nocturnal palliative care for organ failure patients has also been enhanced, and an AIDS centre has been established. In the coming years, the KW Cluster will continue to strengthen its services. For instance, another joint replacement centre will be established in Yan Chai Hospital; community outreach service for the elderly in

Wong Tai Sin will be taken forward at full swing to cater all elderly homes in the district, and the quotas for general out-patient clinic will be increased.

With respect to the New Territories East (NTE) Cluster, the expanded Prince of Wales Hospital inaugurated its new Main Clinical Block and Trauma Centre last October. Equipped with 870 hospital beds and various modern systems and facilities, the new Main Clinical Block and Trauma Centre provides better in-patient environment for the public. Taking opportunity of the relocation, Prince of Wales Hospital has reformed its flow of operation to enhance efficiency and service quality. In recent year, Prince of Wales Hospital and Alice Ho Miu Ling Nethersole Hospital have dedicated a ward for accident and emergency (A&E) cases to expedite patient clearance at the A&E room and render closer attention and better care for patients pending admission to specialist wards. Moreover, in order to strengthen support for patients with chronic obstructive pulmonary disease, North District Hospital established a multi-disciplinary Respiratory Collaborative Care Team in January 2009 to provide education and home support for discharged patients, with a view to minimizing their readmission need and hospitalization frequency.

In recent years, the NTE Cluster has strengthened its primary healthcare services and adopted measures to shorten the waiting time for specialist out-patient services such as the specialist out-patient clinics on medicine, urology and colorectal surgery. In the coming years, the NTE Cluster will strengthen its nephrology services, including the provision of haemodialysis services in North District Hospital and the setting up of a nocturnal home haemodialysis training centre in Nethersole Hospital.

Last but not least, it is the New Territories West (NTW) Cluster. With the redevelopment project completed in 2006, Pok Oi Hospital has adopted a phased approach for various service commencements, based on the healthcare demands of the population in the catchment area and the availability of healthcare manpower. These services include the commissioning of medical hospital beds and the inception of its surgical operation services and A&E services. The Hospital has also made a number of service enhancements in recent years. For instance, the service quota of its specialist out-patient clinic has been increased; the departments of cardiology and interventional radiology have been inaugurated; the newly-established New Territories West Diabetes Centre and

Rheumatology Centre have provided extra care for chronic patients. In 2011-2012, the Hospital will increase its hospital beds to 382 beds.

President, many Members have reminded the Government that Tin Shui Wai community is developing quickly. In order to strengthen primary healthcare services in the district, the first purpose-built Community Health Centre will be established in the first half of 2012, and it is expected that general out-patient service, family medicine and other specialist services for the public will be provided. The NTW Cluster has also made vigorous effort to construct Tin Shui Wai Hospital, which will provide acute, in-patient and specialist out-patient services. The new hospital is expected to complete construction and come into full operation in 2016.

President, next, I will brief Members on the measures taken by the HA to improve its services. Apart from measures tailored to individual hospital clusters above, the HA has taken active measures over the years to strengthen its services and implemented the measures in a number of clusters. For instance, in respect of mental healthcare services, the HA has launched in recent years a series of measures to step up community support services for different types of mental patients, for example, providing case management for patients with serious mental illnesses, providing primary care for patients inflicted with common mental illnesses at stable condition, extending the psychogeriatric outreach service to more residential care homes, and stepping up support for children and youngsters with autism and hyperactivity disorder. Moreover, the HA has made active efforts to enhance its primary care services in recent years. A series of pilot enhancement programmes for treatment of chronic illnesses have been launched. These efforts have precisely epitomized Members' remarks just now that prevention is better than cure and the best time for treatment is at the early onset of an illness or disease. Such efforts include the multi-disciplinary Risk Factor Assessment and Management Programme, Nurse and Allied Health Clinics, Patient Empowerment Programme, Tin Shui Wai Primary Care Partnership Project, and Public-Private Chronic Disease Management Shared Care Programme. By providing continuum and comprehensive healthcare services to the public, these programmes serve as a gatekeeper to alleviate demand on hospitalization and specialist services and provide better-tailored services for chronic patients. In respect of medication, with new drugs ever surfacing in the market, the HA has continuously expanded the Drug Formulary

and the scope of the Samaritan Fund to enhance the medication for treatment of different diseases and illnesses.

In addition, I wish to talk about the training of healthcare personnel and the deployment of manpower. President, I find that many Members have expounded on this point just now and we very much echo their views in that service enhancement must be complemented by the support of healthcare manpower. As a matter of fact, professional healthcare personnel have long been the backbone to the HA and the entire public healthcare system of the Government. We are highly concerned about the healthcare strength in public hospitals. We are greatly indebted to all front-line colleagues who have worked very hard every day, be it holiday or weekday, under heavy workload to serve the public and patients. In recent year, the HA has been actively recruiting healthcare staff to cope with the rising service demands and has strived to attract and retain front-line staff by improving the professional development framework, promotion and training opportunities, remunerations and working environment. In 2011-2012, the HA will continue to strengthen its workforce by recruiting about 330 doctors, 1 720 nurses and 590 allied health professionals, while retaining talents with a multi-pronged approach, such as further increasing promotion quotas, increasing the amount of training grants and going on with measures on working environment improvement. The HA is now consulting the views of healthcare personnel of different grades on these measures in order to secure their general support. Continual efforts will be made to establish and maintain a proactive, responsible and outstanding healthcare team. In the long run, we will continue to encourage tertiary institutions to increase places for the healthcare profession, so as to ensure that sufficient manpower will be available for different services and that people are given appropriate medical attention in public healthcare institutions.

President, as the principal public healthcare service provider in Hong Kong, the HA has won general acclaim for its professional services and outstanding efficiency. Many overseas and Mainland public healthcare system also frequently draw reference from the operational experience of the HA. I wish to take this opportunity to thank every member of the HA for always delivering their duties and serving the public with professionalism and dedication.

As I have said in the beginning, with the ever-rising public demands on healthcare services, we must ensure that the entire healthcare system, that is the

public and private healthcare systems, can remain sustainable and roll forward on a double track. The Government has just released the healthcare reform second stage public consultation report which has summed up the views from different sectors of society and proposed a work plan for the way forward. Society generally supports the Government to continue to strengthen the public system as a core, while reforming the private healthcare market including private health insurance and private healthcare services. Members of the public also support regulating private health insurance and healthcare services through introducing the voluntary Health Protection Scheme (HPS) to enhance market transparency and promote healthy competition, and strengthen protection to the public. In the coming two years, we will adopt a three-pronged action plan to further take forward the healthcare reform.

Firstly, we will set up a Working Group on HPS. It will formulate detailed proposals on the supervisory and institutional frameworks for the HPS, taking into account public views and other relevant considerations. The aim is to regulate, through an enabling legislation, private health insurance and private healthcare services under HPS to strengthen protection for the public and patients through enhanced market transparency and greater competition.

Secondly, we will set up a high level steering committee to conduct a strategic review on healthcare manpower planning and professional development. It will formulate proposals on manpower planning and strengthening the professional standards and qualities of the various healthcare professions (including doctors, dentists, Chinese medical practitioners, nurses and allied health professionals) having regard to the known and projected healthcare needs of the community as well as the need for ensuring the long-term and sustainable development of our healthcare system.

Thirdly, we will facilitate the development of healthcare services and infrastructure. Measures include allocating land for private hospitals development; purchasing healthcare services from the private sector to improve and strengthen public healthcare services; as well as developing the supporting infrastructure for private health insurance and healthcare services.

President, lastly, the present public healthcare system provides an indispensable safety net for the public. While taking forward the healthcare

reform, we will continue to step up our commitments on public healthcare. We will continue to provide support to the work of HA and render quality and effective public healthcare services to the public.

Thank you, President.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, you may now move the amendment to the motion.

**MR FREDERICK FUNG** (in Cantonese): President, I move that Mr Fred LI's motion be amended.

**Mr Frederick FUNG moved the following amendment: (Translation)**

"To add ", although" after "That"; to delete "but" after "2011-2012,"; to add "(e) to relocate Shek Kip Mei Health Centre and upgrade it to an integrated health services centre, so as to rectify its existing problems of remote location and inadequate facilities, etc.;" after "service commencement;"; to delete the original "(e)" and substitute with "(f)"; and to delete the original "(f)" and substitute with "(g)". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Mr Fred LI's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

(Dr Raymond HO stood up)



**PRESIDENT** (in Cantonese): Dr Raymond HO, what is your question?

**DR RAYMOND HO** (in Cantonese): President, I wish to declare that a number of my family members work in the medical field. *(Laughter)*

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Members have already been informed, as Mr Frederick FUNG's amendment has been passed, Dr LEUNG Ka-lau has withdrawn his amendment.

**PRESIDENT** (in Cantonese): Mr CHAN Hak-kan, as Mr Frederick FUNG's amendment has been passed, you may now move your revised amendment.

**MR CHAN HAK-KAN** (in Cantonese): President, I move that Mr Fred LI's motion as amended by Mr Frederick FUNG be further amended by my revised amendment.

**Mr CHAN Hak-kan moved the following further amendment to the motion as amended by Mr Frederick FUNG: (Translation)**

"To add "; (h) to finalize the planning details of the district hospital under the Kai Tak Development, and require that the hospital must benefit the residents in Wong Tai Sin District; (i) to reinstate emergency obstetric services at North District Hospital; (j) for facilitating the integration and comprehensive development of public medical services on Lantau Island, to relocate the existing Tung Chung Health Centre to North Lantau Hospital under construction, and develop an integrated Chinese medicine services centre in the existing site vacated by the health centre; (k) focusing on the impact of mainland pregnant women giving birth in Hong Kong on the medical system in Hong Kong, including the impact on obstetrics and gynaecology, neonatal intensive care as well as maternal and child health centre services, to conduct a comprehensive assessment and proceed with planning of manpower and resources, so as to avoid affecting the quality of overall medical services; and (l) to expeditiously establish the remaining three public Chinese medicine out-patient clinics for honouring the undertaking of establishing public Chinese medicine out-patient clinics in all 18 districts, and proactively introduce Chinese medicine in-patient services and conjoint Chinese medicine and Western medicine consultations in the various clusters" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr CHAN Hak-kan's amendment to Mr Fred LI's motion as amended by Mr Frederick FUNG be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Dr PAN Pey-chyou, as the amendments by Mr Frederick FUNG and Mr CHAN Hak-kan have been passed, you may now move your revised amendment.

**DR PAN PEY-CHYOU** (in Cantonese): President, I move that Mr Fred LI's motion as amended by Mr Frederick FUNG and Mr CHAN Hak-kan be further amended by my revised amendment.

President, I wish to declare that my family members and I are employees of the Hospital Authority.

**Dr PAN Pey-chyou moved the following further amendment to the motion as amended by Mr Frederick FUNG and Mr CHAN Hak-kan: (Translation)**

"To add "; (m) to expeditiously introduce men's medical check-up and specialist services; (n) apart from the Centre of Excellence in Paediatrics and the Centre of Excellence in Neuroscience, to expeditiously implement the establishment of an acute general hospital at the Kai Tak site, so as to share the burden of meeting Kowloon East residents' demand for public medical services; (o) to expedite the completion of Tin Shui Wai Hospital, and before the commencement of the Hospital's services, to expeditiously launch the integrated clinic building in Tin Shui Wai Area 109, so as to cope with the demand of Tin Shui Wai's residents for medical services; (p) to honour the undertaking of reinstating the provision of urology services at Yan Chai Hospital after its redevelopment; (q) to introduce obstetrics and gynaecology hospitalization and delivery care services at

North District Hospital; (r) before the completion of North Lantau Hospital, to maintain and improve the holiday and evening clinic services in Tung Chung; and (s) to implement the provision of general out-patient and family medicine clinic services in Siu Sai Wan" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr PAN Pey-chyou's amendment to Mr Fred LI's motion as amended by Mr Frederick FUNG and Mr CHAN Hak-kan be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG, as the amendments by Mr Frederick FUNG, Mr CHAN Hak-kan and Dr PAN Pey-chyou have been passed, you may now move your revised amendment.

**MR TOMMY CHEUNG** (in Cantonese): President, I move that Mr Fred LI's motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan and Dr PAN Pey-chyou be further amended by my revised amendment.

**Mr Tommy CHEUNG moved the following further amendment to the motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan and Dr PAN Pey-chyou: (Translation)**

"To add "; and (t) to conduct studies on separately handling Hong Kong people's pregnant wives on the Mainland and other Mainland pregnant women under the quota system for admission of non-local pregnant women giving birth in public hospitals, and provide the former with opportunities of waiting for quota places of giving birth in Hong Kong on a priority basis" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Tommy CHEUNG's amendment to Mr Fred LI's motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan and Dr PAN Pey-chyou be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hand)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Mr Ronny TONG, as the amendments by Mr Frederick FUNG, Mr CHAN Hak-kan, Dr PAN Pey-chyou and Mr Tommy CHEUNG have been passed, you may now move your revised amendment.

**MR RONNY TONG** (in Cantonese): President, I move that Mr Fred LI's motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan, Dr PAN Pey-chyou and Mr Tommy CHEUNG be further amended by my revised amendment.

**Mr Ronny TONG moved the following further amendment to the motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan, Dr PAN Pey-chyou and Mr Tommy CHEUNG: (Translation)**

"To add "; (u) to increase the resources allocated for New Territories West Cluster and improve the services of Tuen Mun Hospital; and (v) to strengthen mental health services in the various clusters and shorten waiting time" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Ronny TONG's amendment to Mr Fred LI's motion as amended by Mr Frederick FUNG, Mr CHAN Hak-kan, Dr PAN Pey-chyou and Mr Tommy CHEUNG be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Mr Fred LI, you may now reply and you have 52 seconds.

**MR FRED LI** (in Cantonese): President, how much time did you just said that I may reply?

**PRESIDENT** (in Cantonese): 52 seconds.

**MR FRED LI** (in Cantonese): First of all, I wish to thank the six Members who have moved amendments and the 15 Members who have spoken. I am very disappointed in the sense that the Under Secretary, who is such an outstanding Under Secretary, has read from the script, with no more and no less. I wonder if he has to do so when speaking as the Bureau Director. Besides, he has completely ignored some of the questions which our colleagues asked him just now. For example, are patients allowed to use another address or move to a residence under another hospital cluster in order to shorten their waiting time? It is a very simple question. Besides, Mr Albert HO's question on hospital beds, asking why the ratios in the New Territories West Cluster (also in the Kowloon East Cluster) are so low ..... we certainly hope that the granting of funding for the expansion of the United Christian Hospital can be expedited ..... but the Secretary has not responded to these questions at all. He has read from the script from beginning to end. This is so unlike the usual style of the Under Secretary Gabriel Matthew LEUNG. I hope that Secretary Dr York CHOW will find an opportunity to come here to tell us more information and really answer our questions. Indeed, President, he has not responded to the questioned asked today. I thank Members for their support.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI, as amended by Mr Frederick FUNG, Mr CHAN Hak-kan, Dr PAN Pey-chyou, Mr Tommy CHEUNG and Mr Ronny TONG, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

**PRESIDENT** (in Cantonese): Fourth motion: Perfecting harbourfront planning and management in all districts of Hong Kong.

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

I now call upon Prof Patrick LAU to speak and move the motion.

## **PERFECTING HARBOURFRONT PLANNING AND MANAGEMENT IN ALL DISTRICTS OF HONG KONG**

**PROF PATRICK LAU** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Perfecting harbourfront planning and management in all districts of Hong Kong has long been an aspiration of the people of Hong Kong. First of all, I very much hope that the Government will expeditiously upgrade the long-established advisory Harbourfront Commission to a statutory Harbourfront Authority so as to co-ordinate harbourfront development in all districts with special emphasis on the use of harbourfronts in urban areas.



In April this year, in the capacity as the Chairman of the Subcommittee on Harbourfront Planning, I conducted an overseas duty visit with nine Members of the Legislative Council to the United States and Canada. Through conducting studies and exchanges during the visit, we hope to learn from other countries, particularly harbourfront cities with similar geographical conditions as Hong Kong, their arrangements for harbourfront planning and management so as to help formulate a set of strategic policies on harbourfront development in Hong Kong.

As a matter of fact, the six points raised in the present motion represent the fruits of this overseas duty visit; the motion has also incorporated suggestions made by Members belonging to other political parties, as well as views of various professionals I represent, in particular architects, planners, landscape architects and surveyors. These six focal points are the culmination of such views. In fact, these six points alone are not enough to ensure proper implementation of harbourfront planning and management. However, due to time constraint, I can only raise several points I consider to be of vital importance for discussion. I also thank four Honourable Members for making other suggestions in their amendments which help to enrich today's motion.

During our duty visit, we visited three major harbourfront cities, namely Boston and New York in the United States and Vancouver in Canada. Similar to Hong Kong, these cities are highly developed; and most importantly, they all place great emphasis on harbourfront planning. Over the years, great efforts have been made by these cities to conserve and revitalize their harbourfronts, and have gained much acclaim by locals and tourists alike.

Similarities can be drawn between Hong Kong and Boston which is surrounded on three sides by water with many dilapidated off-loading piers along its harbourfronts. Instead of demolishing these piers, they have been revitalized to become residential and hotel developments while preserving the characteristics of piers. As a result, many residents have been attracted to relocate back to these areas.

In Boston, development in close proximity to harbourfronts is prohibited and harbourfront space must be preserved for public use. In this connection, a 76-km HarborWalk has been built to link up the six harbourfronts. Similarly,

the HarborWay in New York also links up its nine harbourfront development areas.

As we are aware, New York is a densely developed city. Like Boston, many dilapidated piers have been re-developed into urban leisure areas, mainly to provide outdoor community facilities such as sports grounds for public use. We were surprised to find a pier being turned into a large football stadium entirely covered with turf. The football stadium is located inside a pier. More importantly, cycling paths are provided to link up the harbourfronts. At the same time, areas for other sports and parks for children have been provided to cater for both active and leisure pursuits. The use of harbourfront land is hence optimized to tie in with sustainable urban development.

Recently, the construction of the Sun Yat Sen Memorial Park in Sai Yin Pun on Hong Kong Island has been completed. Of course, we know that all along, there is inadequate provision of open space in Sheung Wan, given its development density. In this connection, parks have to be constructed in order to comply with urban planning guidelines. However, unlike the waterfront park in New York that is served by a good connection network to facilitate access by members of the public including elders and children, there is no proper and convenient transport connection for the Western Park.

Many people have heard about the Battery Park City in New York. This waterfront development was built on land created by reclamation — a method also commonly used in Hong Kong previously. As we all know, the Battery Park City is located in front of the World Trade Centre (before its rebuilding). This waterfront site has now become an area for commercial and residential uses. Most importantly, the harbourfront has been extensively conserved in the course of the Battery Park City's development to provide open areas.

Like Hong Kong, Vancouver is also flanked by harbourfront on both sides. I think many Hong Kong immigrants settled in Vancouver because it reminds them of Hong Kong. While there used to be many workshops and warehouses in the harbourfronts of Vancouver, they have now been redeveloped into all sorts of new developments. For example, the local authorities in North Vancouver have converted the wharf area into a promenade park with special historic characteristics by retaining old factory buildings and construction materials. The most unique feature of Vancouver is that harbourfront promenades

throughout the city are inter-connected. For example, in the famous Stanley Park in North America, open space along the promenade has been reserved for pedestrians. Most importantly, the harbourfront promenade serves to link up all the districts in the city.

Regarding the high density area of Coal Harbour which attracts the interest of many Hong Kong real estate developers, a lot of open space has been earmarked for the development of a promenade park. In Vancouver, there is also a bay area with developments converted from the Winter Olympic Village, allowing different kinds of water sports, such as yachting. Moreover, many beautifully-decorated floating platforms are provided for the landing of light airplanes. In comparison, Hong Kong lags behind in these areas. I am aware that Hong Kong's actual environment is different from Vancouver and we are bounded by the Protection of the Harbour Ordinance; but what is the use of protecting the harbour if it is devoid of vitality? Therefore, during my previous exchanges with Mr Winston CHU, Advisor of the Society for the Protection of the Harbour, I was very glad to learn that he also shared my view that water sports should not be prohibited in the harbour. Therefore, he was not against the practice adopted by the three cities mentioned above of providing some water sports rafts in the harbour.

President, I emphasize on formulating a comprehensive strategic harbourfront development policy with the objective of harbourfront beautification. By beautification, I of course also mean greening which improves the aesthetics. I have said previously that a beautiful city should not simply be gauged against its greening coverage ratio, but more importantly, its aesthetic landscape design. Therefore, there must be a strategic plan for greening in order to achieve the ultimate objective of harbourfront beautification.

Strategic harbourfront development must tie in with urban design. While the planning within and without individual districts must be co-ordinated, the harbourfront design of each district should have its own characteristics, rather than following a standardized design. At present, three strategic areas in Hong Kong will be developed into featured harbourfronts. We should closely monitor and keep in view of their development. The first area is of course the West Kowloon Cultural District — a district with comprehensive harbourfront development. The second one is Central. With the relevant works approaching

completion, I think Central is ready for a new facelift. Lastly, there is the Kai Tak New Development Area which serves to link up the harbourfronts.

We hope that by then, all districts will dovetail with the harbourfront development. In this connection, harbourfront development master plans, similar to the Greening Master Plans, for all districts of Hong Kong should be drawn up to ensure that a district-based approach is adopted to bring out the unique characteristics of harbourfronts in different districts. It would be a good idea if open architectural design competitions would be organized by District Councils so that people familiar with the local districts will have the opportunity to contribute their ideas on harbourfront design.

In respect of the comprehensive planning for the provision of three-dimensional harbourfront connective networks, it will serve no purpose at all to construct beautiful harbourfronts if no convenient and easily accessible connective networks are provided for locals and tourists. Of course, the ultimate objective is that fragmented harbourfronts in Hong Kong will be linked up gradually.

Some people may query that as some parts of the harbourfront have already been occupied by private individuals or the Government, they cannot be made open for public use. In my view, the problem can be resolved technically. Apart from providing connections in the harbour through floating platforms, consideration can also be given to constructing flyovers or tunnels to link up all the harbourfront connective networks.

By making reference to the experience of the United States and Canada, I am aware that with a regulatory framework by legislation, the harbourfronts can be managed through the public-private partnership (PPP) approach. That is a sound and sustainable approach. I understand that there are many forms of PPP, and the most important thing is to allow for openness and transparency in terms of public participation. Throughout the process from strategy formulation and design concept to operational management, there should be continuous monitoring. Particularly when it comes to the planning for harbourfront community construction, the views of local residents on their actual needs must be consulted properly.

I think another practice adopted by overseas countries is also worth noting, that is, to allow public participation in law-making. Even for PPP projects or private development projects, harbourfront space must be provided for public use, and adequate public space must also be provided to construct harbourfront community facilities for local residents so as to prevent the harbourfronts from being privatized.

I would also like to mention that the harbourfronts also have an important function of supporting local tourism by serving as a tourists' attraction. If high quality tourism facilities such as various forms of water transport, as well as diversified leisure water sports can be provided, they will not only become good leisure activities for both locals and tourists, but also provide a sustainable source of operational funds for the management of harbourfronts.

In respect of decommissioned old piers, I think reference can be made to the practice and experience of overseas countries such that they can be revitalized and developed afresh while preserving the original characteristics of the piers. In this way, it can help preserve our collective memory, optimize the use of precious harbourfront resources and improve harbourfront management continuously.

Thank you, President.

**Prof Patrick LAU moved the following motion: (Translation)**

"That this Council urges the Government to adopt the following measures to perfect harbourfront planning and management in all districts of Hong Kong:

- (a) to make reference to appropriate overseas experience to formulate a comprehensive strategic harbourfront development policy with the objective of harbourfront beatification;
- (b) to establish a statutory body and recruit professionals to co-ordinate and implement strategic harbourfront development; formulate harbourfront development master plans for all districts of Hong Kong; organize open competitions on harbourfront design; construct harbourfronts of different styles by integrating the special

features of various districts and dovetailing with community characteristics, and undertake a comprehensive planning for the provision of convenient, easily accessible and three-dimensional harbourfront connective networks, so as to link up fragmented harbourfronts and connect them to the communities in the vicinity;

- (c) through the public-private partnership approach, to proceed with continuous monitoring, public engagement and private development throughout the process from strategy formulation and design concept to operational management; encourage public engagement in the planning consultation for harbourfront community construction, and provide public space in private development projects, with a view to providing local community residents with harbourfront community facilities that suit their needs;
- (d) to support tourism-based harbourfront development, provide high quality tourism facilities that are convenient and attract visitors, including various forms of water transport, and promote diversified leisure water sports, for example, the provision of vessel berthing spaces, water sports rafts, hydroplane and seafood restaurants, etc.;
- (e) through harbourfront improvement plans, to revitalize and develop afresh decommissioned old piers and support the development of the local community economy; and
- (f) to manage harbourfronts with sustainable modes of financial operations."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Prof Patrick LAU be passed.

**PRESIDENT** (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will call upon Members who intend to move amendments to speak one by one; but no amendments are to be moved at this stage.

**MR WONG KWOK-HING** (in Cantonese): President, I am very grateful to Prof Patrick LAU for moving this excellent motion. My amendment is intended to perfect and supplement Prof LAU's motion.

President, harbourfront sites are the most precious natural resources in Hong Kong. From the use and management of these natural resources, we can understand what the Government's policies on land and planning are, and whether they can meet the need of Hong Kong's development to catch up with the times.

As Members are aware, after the Second World War and until the 1980s of the last century, Hong Kong's prosperity and urban development were largely a result of the development of industries and the formation of land through reclamation. In respect of Hong Kong's harbourfronts, there was a need for reclamation to increase land supply in order to cater for the need of urbanization and industrial development. In respect of urban development, many environmental hygiene facilities such as sewerage facilities were provided near the harbourfront. Separately, in respect of industrial development, many industrial areas were located in close proximity to the harbourfront to tie in with the need for loading and unloading of cargoes as well as transportation, particularly sea transport. Therefore, pier and tunnel facilities were often provided near to the harbourfront.

This is the case before the 1980s of the last century. However, with the society of Hong Kong entering the post-industrial era, the financial industry and tourism, particularly the service industry of tourism, have gradually become the main pillars of Hong Kong's economy. Nowadays, how can precious harbourfront sites tie in with the development needs of the times? How can Hong Kong people get reconnected to the harbour which has become so distant from them with the myriad of public and private facilities in between? I think the SAR Government must adopt a strategic mindset with foresight in order to meet the development needs of the times. As the society of Hong Kong is entering into the post-industrial era with major emphasis on service industries such as the financial industry, how can the important natural resources of

harbourfront perform the additional function of improving the quality of life for the people? That is the first point I want to raise.

Regarding the second point, President, I would like to share with Members some history, that is, my experience during the fight for constructing a harbourfront promenade and for giving the people a chance to embrace the harbourfront which can hopefully improve their quality of life. I became a member of the Eastern District Council (EDC) in 1991. I was also elected the Deputy Chairman of the EDC. In the 1990s of the last century, I had proposed the relevant item for discussion at the EDC time and again. I had also proposed a formal motion to fight for the construction of a promenade along the harbourfront stretching from Chai Wan to Kennedy Town. That was our dream. Apart from gaining widespread support in the EDC, that dream also met with active response from the relevant departments including the former Territory Development Department and the Planning Department. During their meetings with the EDC, the relevant departments also praised our proposal. At that time, there was competition between the Hong Kong Islands Development Office (together with other departments concerned) and the Kowloon Development Office (together with other departments concerned) for the early construction of a harbourfront promenade on Hong Kong Island and in Kowloon under their respective purviews. That subject had been discussed by the relevant departments in the last century. Although I had not taken part in the work of the previous term of the District Council, I knew that the EDC had continued to pursue the matter. Unfortunately, the matter was met with a lot of opposition and obstacles. These opposition and obstacles are something which the Government must consider carefully.

President, I am going to talk about my third point. What kind of opposition can cause such massive setback to this proposal despite active competition among relevant departments for its early completion? Why is it so difficult to put into implementation a proposal that we put forth several years ago? There are a number of reasons. Firstly, the SAR Government as the central body for policy co-ordination lacks a strategic mindset with foresight. Of course, Secretary Carrie LAM may have such a mindset, but I was talking about the situation back then; she may give some new perspectives when she gives her response later. Anyway, I am not talking about her. It is yet her turn to respond, but this point is very clear. That is the first reason. Whether senior leaders in the Government have such a strategic mindset is of great significance.



If they do not have such a strategic mindset, things cannot be done even with proactive efforts from the community and government departments.

Secondly, various government departments follow different policies on the use of the precious harbourfront land, and they compete with each other for the usage of the land, for example as sewerage outfall, sea water inlet, and so on. Needless to say even the Independent Commission Against Corruption fought to have its headquarters built along the harbourfront. That is the second reason. Various government departments are going their own ways to compete for the use of the "prime" sites.

Thirdly, there is lack of communication and co-ordination among government departments. Sometimes, there is a lack of consensus even within the department. President, have you heard about the case involving two parks under the management of the Leisure and Cultural Services Department (LCSD)? Because a wall between these two parks could not be torn down, the connection network of the promenade park was broken. Have you heard about this incident? If Members have not heard about it, let me tell you this is a real case. I learnt about this case when I was a District Council member in North Point, and I was also the former chairman of the owners' corporation (OC) of Provident Centre.

When Provident Centre was constructed, the developer was required by the Administration to build the Provident Garden. Upon completion, the garden would be managed by the LCSD. Thereafter, we successfully fought for the construction of the Tong Shui Road Garden by the Government in Tong Shui Road which was adjacent to Provident Centre. Hence, these two parks were beside each other. Originally, there was a wall separating the two parks, and we hoped that the Administration could tear down the wall. While the OC supported the proposal, a consensus could not be reached within the LCSD. What a strange case! It was not even a matter between two different departments. If no decision could be made within a department to tear down just a wall, how could a complete connection network be provided? Just like the deceptively hollow water spinach, the connection network is partly but not totally complete.

Lastly, I would like to say, as many harbourfront sites are private lots which have already been occupied by developers or existing occupiers, how can

such a problem be resolved? How can a connection network be provided? If the SAR Government lacks foresight, how can the problem be resolved? For example, how can the issue concerning the harbourfront of City Garden be resolved? If the problem is not resolved, how can a connection network be provided? Another example is about the ferry pier. Notwithstanding the need to provide for the Vehicular Ferry Pier at North Point for dangerous goods, how can a connection network be provided?*(The buzzer sounded)*

**PRESIDENT** (in Cantonese): Mr WONG, your speaking time is up.

**MR WONG KWOK-HING** (in Cantonese): All these questions have to be resolved. Thank you, President.

**MR KAM NAI-WAI** (in Cantonese): President, thanks to Prof Patrick LAU for moving this motion debate on "Perfecting Harbourfront Planning and Management in All Districts of Hong Kong" today. The Democratic Party's amendment to the motion mainly involves two points, and I will briefly explain the reasons for our two amendments.

As we all know, early planning development for Hong Kong was mainly concentrated on two sides of the Victoria Harbour. As a result, the harbourfront was turned into a forest of tall buildings. We did not take good care of the harbourfront as no proper harbourfront planning was made. Just now, Mr WONG Kwok-hing talked about the Eastern District. I think Hong Kong is the only place in this world to do such a bizarre thing of constructing the Island Eastern Corridor along such a beautiful shoreline. While nobody thought it was wrong at that time, we find this very bizarre today. Mr WONG Kwok-hing just said that if current guidelines for the construction of buildings were applied, the large walls of Provident Centre should not have been erected in the harbourfront. We call these buildings "screen-like buildings".

As the early development of Hong Kong was not properly planned, it has become quite a headache now as to how we can perfect harbourfront planning to link up the fragmented harbourfronts. Regarding the public-private partnership (PPP) approach mentioned by Prof Patrick LAU in his motion, I would like to

give Members some background. Under the former Harbour-front Enhancement Committee, a task group was set up in 2007 to provide recommendations on harbourfront planning and management. One of the recommendations made by the task group is to foster and encourage the development, management and maintenance of the harbourfront through wider application of PPP. Models of PPP include donation, entrustment or other forms of PPP. Examples include the model of private sector involvement (such as in the case of Avenue of Stars), or the private sector design-build-operate models with planning control either through development plans approved by Town Planning Board or a "Design and Tender" model (such as in the case of Whampoa Garden and the Peak Galleria).

At that time, the task group had provided a list of eight basic characteristics for a good PPP model. Focusing on four of them in particular, the Democratic Party urges the Government to pay attention to these points. Firstly, the ultimate ownership of the harbourfront should remain vested in the Government, that is, the owner of the harbourfront is the Government. Secondly, there should be community involvement throughout the different stages of the PPP process, from planning, design, development to management and operations of the harbourfront. Thirdly, it should ensure that the public purpose is achieved, that is, to allow for public use. Fourthly, the Government should timely review the relevant arrangements in response to public aspirations and needs. At that time, the task group had drawn up eight basic characteristics to be considered in a PPP model; the above four points are some of the characteristics.

Our harbourfronts are precious public resources. If the Government unknowingly hands over the harbourfronts to private organizations through PPPs without paying heed to the public's views and right of enjoyment, then its policies are not people-based. It has always been our grave concern that PPPs will become "collusion between the Government and business" as commonly perceived. People are invariably worried when they touch on the subject of "collusion between the Government and business". But how can we prevent "collusion between the Government and business" and achieve "co-operation between the Government, the business and the people"? It really needs immense skills to accomplish this task. Just now, we have talked about the principles of PPPs. Of course, there were many bad experiences in the past. Examples such as Times Square and Metro Harbourview are still vivid in our minds as public access is denied for facilities provided through PPPs.

How should PPPs be implemented then? I am more familiar with the situation on Hong Kong Island. Just now, Mr WONG Kwok-hing also mentioned the harbourfronts in the Eastern District. In fact, when I first became a Member of the Legislative Council a few years ago, I had already heard Mrs Carrie LAM say that the harbourfronts in the district would be developed through PPPs. However, I do not understand why no new progress was made after all these years. Although planning has been made in a number of areas, the worst thing is that no implementation timetable is set. I think the Government should adopt a bolder and more original approach by selecting certain locations for conducting trials because the actual effect will not be known otherwise. Regarding the areas for conducting trials, I hope the Government will make an announcement as soon as possible.

The amendment of the Democratic Party urges the Government to ensure that when adopting the PPP approach for harbourfront development — regardless of whether the same is effected through agreement, management contract or subsidiary legislation — harbourfronts should be accessible both in terms of design and management, and the public can freely enjoy harbourfronts without unreasonable restrictions. This is very important.

Regarding the Sun Yat Sen Memorial Park just mentioned by Prof LAU, although it was not a PPP project, the question of accessibility is involved. Recently, we have discussed the issue of access for persons with disabilities and the Government's proposal to install lifts for a number of flyovers. As a ramp has been provided at the flyover outside the Sun Yat Sen Memorial Park, no lift would be provided under the Government's present proposal to facilitate public access. The Government merely calls on members of the public to continue using the ramp. However, repeated requests have been made by the District Council and people in the community to install a lift in that location. In reply, the Government said that as barrier-free access for the Sun Yat Sen Memorial Park had already been provided, no lift would be installed. However, people in the community consider that accessibility is very important. By installing a lift there, it can help improve the accessibility of the Sun Yat Sen Memorial Park. Yet the Government is unwilling to do so. I hope the Government would conduct a comprehensive review and formulate a holistic plan when embarking on harbourfront planning so as to ensure accessibility of the harbourfronts.

In addition, our amendment also stresses the importance of connectivity and linkage of the harbourfronts. Recently, I joined the overseas duty visit led by Prof LAU. We visited three to four places in nine days. It was indeed an arduous trip with such a tight programme, but it was really rewarding. I have never taken so many flights within such a short span of time. During this visit, I was very impressed by the long-term planning made by the local authorities in North Vancouver to construct a pedestrian walkway along the harbourfront, which is similar to our harbourfront promenade. Instead of aiming at completion within one or two years, that project represents a vision to be achieved over one or two decades. Consideration is even given by the local authorities to build flyovers for spanning across some completed facilities to truly realize the concept of a promenade.

As the local authorities in North Vancouver are determined to implement this project, they are not seeking instant completion. Instead, they have draw up a timetable, a vision statement and work targets for the project. I think the Government should make reference to this approach. Earlier, I have raised a question in the Legislative Council about the accessibility of the harbourfronts in the northern shore of Hong Kong Island. Judging from the Government's reply, it did have a vision. But I was disappointed that the Government had yet to formulate an actual implementation timetable. For example, under the Government's vision, the bus terminus at Shing Sai Road would be reprovisioned if a suitable site can be identified. As regards when such a site can be identified, the Government has no timetable at all. Without a timetable, it is but empty talk. Nobody knows when the harbourfronts will be linked up and that is very disappointing.

Therefore, the Democratic Party urges the Government to eliminate the barriers and make proper planning for the development of a harbourfront promenade so that the harbourfronts in the Hong Kong Island can be linked up. Just now, Mr WONG Kwok-hing said that the subject of linking up the harbourfronts between Chai Wan and the Western District has been discussed since the last century. Now, we are demanding the provision of a harbourfront promenade linking up the entire Hong Kong Island. That is the demand of the people in this new century. We hope that the Government will make plans for its early completion. It is very important to ensure the connectivity of the harbourfronts. Thank you, President.

**MR IP KWOK-HIM** (in Cantonese): President, according to earlier press reports, the Hong Kong Amateur Swimming Association will re-introduce in this October the Cross Harbour Swim which has been suspended for 32 years. The event will be almost the same as it was held some 30 year ago, except for certain adjustments in the course and eligibility criteria.

The Cross Harbour Swim was once a major annual event in Hong Kong. However, due to deteriorating water quality in the Victoria Harbour, the event was regrettably suspended. Now with the news of re-introduction of the event, I think the people's first reaction is likely to be "half-believe, half-doubt" as they are still skeptical about the water quality in the Victoria Harbour. Also, their interest for participating in a major event at the harbourfronts is not as keen as before.

The underlying reason is closely related to major changes in the usual modes of transport for the travelling public in Hong Kong. Firstly, the number of cross-harbour ferry routes has been reducing. Within the past decade or so, the people's interest for taking a ferry ride to enjoy the scenery at both sides of the Victoria Harbour has been diminishing. The pace of life in Hong Kong is just so frenetic that people always forget to take a good look at things around them. More importantly, harbourfront development in Hong Kong over the years is uninspiring. The sites in West Kowloon and Kai Tak have been left vacant for 10-odd years. It is even more depressing that harbourfront developments in Hong Kong are "truncated" and without any connectivity. Therefore, the scenery at the harbourfront is very disappointing.

Given the unsatisfactory condition, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) published a report entitled "Harbourfront for the People" last month. I have a copy of the report with me. I will also present a copy to the Secretary later for her reference. A series of recommendations are set out in the report. We consider the Government's overall planning for the development of both sides of the Victoria Harbour (including the northern shore of Hong Kong Island) far from comprehensive. Developments in the harbourfronts stretching from the Central & Western District to the Eastern District are piecemeal, with neither cohesion nor vision. They are arrested developments that halt, segment and interrupt the energy of our harbour. They are obstacles that prevent the people's full enjoyment of our ravishing harbour. Hence, under the vision of "Harbourfront for the People", the DAB

suggests that a world-class harbourfront promenade be built along the entire northern shore of Hong Kong Island, and a "new harbourfront promenade in Kowloon" which links up the West Kowloon Cultural District to be constructed in southern Kowloon, so as to showcase the distinctive charms of our ravishing Victoria Harbour.

It is our hope that the Government can change the present situation where harbourfront areas are being occupied by public facilities so that more harbourfront sites can be linked up to form a continuous harbourfront promenade to achieve the objectives of "Harbourfront for the People" and connecting local community networks. In this way, both the harbourfront promenade project and community development can be revitalized. For example, in the Western District which I am more familiar with, Belcher Bay Park and Kennedy Town Praya is separated by Shing Sai Road. Pedestrians are required to cross a four-lane expressway in order to access one from another. Therefore, the DAB suggests that an elevated garden platform be built across Shing Sai Road and extended to Western Wholesale Food Market so as to resolve the problem of fragmentation between the harbourfront and the local community.

In addition, we suggest that land-water interconnectivity should be improved in order to link up the harbourfronts. At present, no decent cycling path has been provided on Hong Kong Island. We suggest that the opportunity of perfecting the harbourfront be taken to provide a cycling path as well as a pedestrian walkway connecting the harbourfronts along the long shoreline between Kennedy Town and Chai Wan. Bicycle rental facilities can be provided in various locations along the harbourfronts so that the people can enjoy the scenery on the two sides of the Victoria Harbour leisurely. Separately, in terms of sea transport, we suggest that water-taxi services should be provided with stops at China Merchants Wharf in the Central & Western District, Fenwick Pier in Wan Chai, Causeway Bay Typhoon Shelter, North Point Ferry Pier, Shau Kei Wan Typhoon Shelter and Chai Wan Typhoon Shelter, so as to connect various points of the harbourfront promenade.

Separately, the DAB suggests that various major infrastructures should be built along the harbourfront promenade to ensure integrity for the entire promenade as follows:

- (a) To develop the Western Wholesale Food Market as a new tourist landmark by converting the vacant poultry market on the second floor into restaurants, and operating open-air cafes at the pier and the rooftop of the building.
- (b) To preserve the existing structure of Fleet Arcade at the Fenwick Pier — complete with its US Post Office — and relocate the pier at a suitable location so as to keep up the "sailor culture" in Wan Chai.
- (c) To develop the Causeway Bay Typhoon Shelter by connecting it to the Victoria Park and offering floating restaurants in the typhoon shelter so as to create a "Super Victoria Park".
- (d) To develop the North Point Ferry Pier into a cycling park with special characteristics by building an elevated platform and providing bicycle parking facilities, greenery and benches in the upper deck of the elevated platform.
- (e) To create a cultural and recreational district in Quarry Bay by building a major performing arts venue in the area over the Eastern Cross Harbour Tunnel entrance and converting the harbourfront site near Hoi Yu Street into an outdoor man-made beach-cum-swimming-pool.
- (f) To revitalize the Wholesale Fish Market in Shau Kei Wan by operating seafood restaurants that allow customers to instantly prepare and enjoy the seafood they purchase in the market. At the same time, shipyards nearby can be revitalized by converting them into artist studios.
- (g) To build a water sports and recreation centre in Chai Wan. Taking the opportunity of hosting a major international event of dragon boat races at Tuen Ng Festival annually, Chai Wan can become a dynamic new centre for water sports and recreation. All the above suggestions are made after taking into account the existing conditions of various districts so that the harbourfronts along the promenade can be connected organically.



Therefore, focusing on the vision of "Harbourfront for the People", the DAB considers that the harbourfront promenade along the northern shore of Hong Kong Island must be developed around a myriad of elements, including Hong Kong's history, leisure and recreation, greening and special culinary experiences so that people all over the territory can truly enjoy our harbour. It is our hope that the Government will actively incorporate and consider our suggestions when making its planning in future. The DAB has set up dedicated sites for this report both on the Internet and Facebook. The DAB welcomes all views from the public. We will suitably incorporate such views as received and reflect the same to the Administration for consideration as soon as possible.

President, by introducing the participation of private enterprises in respect of management, more creative and flexible modes of management can be implemented to enhance the commercial elements of harbourfront development, so as to attract a greater number of local citizens and tourists to visit various features at the harbourfronts. It will have a positive impact on developing a vibrant waterfront at the Victoria Harbour. Regarding the suggestion in the original motion as well as other amendments to "establish a statutory body" to co-ordinate and implement harbourfront development, the DAB is concerned that this might result in a cumbersome structure. With the newly-established Harbourfront Commission, we suggest that the functions of this advisory body can be strengthened and its co-operation with the Town Planning Board in respect of development planning for the Victoria Harbour enhanced. As such, we propose in our amendment that consideration be first given to explore whether the establishment of a statutory body will truly achieve the best effect in terms of improving harbourfront planning, development and management before a decision is made. Just now, I also heard Prof LAU saying that the matter should be considered along this direction. Therefore, I very much hope that this proposal will be taken forward.

I so submit. Thank you, President.

**MISS TANYA CHAN** (in Cantonese): President, having heard the speeches just made by Honourable Members who intend to propose amendments to this motion, I notice that they all spoke until the last second of their speaking time. It is plain to see how meaningful the motion proposed by Prof Patrick LAU today is as Members have endless things to say about it.

Let me start by saying that I have also proposed an amendment to the motion. Members would notice that in my amendment, I have put the phrase "given that the harbour and coastlines are Hong Kong's important natural endowment" in the preamble of the motion as I consider this to be a highly important objective or principle. President, I think the most important point for implementing, executing or formulating any policy is our perception on the matter, that is, what are the viewpoints and principles we held towards the matter. Once this basis is established, we can come up with all sorts of suggestions about the measures and policies to be formulated. Therefore, I very much hope that the opportunity is taken to establish the following principle, namely, the harbour and coastlines are Hong Kong's important natural endowment — not only natural endowment, but natural endowment of the public.

I will now proceed to explain my amendment point by point. In fact, great emphasis has been placed in harbourfront planning over the years. Earlier, Prof LAU and several Honourable colleagues have conducted an overseas duty visit to the United States and Canada. I have also visited other places, such as Sydney of Australia and Singapore, to study their harbourfront development. Of course, efforts have been made by the Government over the years to explore a new direction for harbourfront planning in Hong Kong. For example, the Harbour-front Enhancement Committee (HEC) was established to provide service from 2004 to 2010. When this committee completed its task, the Harbourfront Commission (HC) was established. In fact, while being a preliminary committee, the HEC has made a lot of achievements, including the formulation of the Harbour Planning Principles and the Harbour Planning Guidelines (the Guidelines). These are ..... President, although these principles and guidelines are not legally-binding, the Government has at least made an effort to encourage their compliance by relevant parties. We will have to wait and see how far such encouragement by the Government would go. Nonetheless, I consider some of these principles and guidelines desirable. Specifically, nine aspects have been listed out in the Guidelines. I think these nine aspects are listed out according to their importance. President, I must point out that public engagement is the first aspect on the list. That is why I think the HEC was genuinely concerned about whether members of the public had the opportunity to get involved in the entire public participation process. In respect of public engagement, it said specifically that, "[p]roject proponents, no matter the type and scale of their development proposals, are always encouraged to carry out public engagement at

an early stage of the project planning process ..... and engage the public throughout the project development stages." President, that is why I have proposed some amendments to point (c) of the original motion. Perhaps I am slightly sensitive about the public-private partnership (PPP) approach, President, although I am also aware that ..... As Mr KAM Nai-wai has mentioned, the Task Group on Management Model for the Harbourfront (Task Group) has in fact been set up under the HEC. Certain recommendations have been made in a report published by the Task Group. However, I still consider that PPP is not the only available option. Therefore, I have inserted the term "diversified modes of co-operation" in point (c) so that a practical, feasible and effective mode can be adopted for each project on a case-by-case basis. Of course, we understand that a greater flexibility or creativity as just mentioned by some Honorable Members would invariably be offered by PPPs. But I think the most important consideration is still sustainability. Honestly speaking, I am afraid that even PPPs cannot provide any absolute guarantee. Hence, there is a need to carefully consider each different case after the public engagement process so that a clear decision can be made to adopt either the PPP model or other more suitable modes of co-operation.

Moreover, regarding tourism-based harbourfront development mentioned in point (d), I think Mr Paul TSE will surely give us his views later on. Nonetheless, I had the opportunity to hold an informal meeting with the HC last Saturday. During the meeting, both the Secretary and other members talked about the special characteristics of the Victoria Harbour as it was not only a "operational" harbour (that is, with vessels sailing through constantly), in fact, the wave conditions in the harbour were also quite rough. Therefore, if recreational or tourism activities were to be introduced, such as water taxis, suitable locations must be chosen in order to ensure safety. We do not want to see a repeat of the Ngong Ping 360 whose operation must be suspended under strong winds. That would cause great disappointment to the tourists. As such, I think the Government should also pay attention to the views of professionals in this regard.

Moreover, regarding point (e) of the motion, why do I specifically mention "heritage conservation" in my amendment? It is mainly because ..... In fact, this point was also mentioned by the HEC. I think the President or the Secretary will recall the huge controversy surrounding the old Star Ferry Pier and Queen's Pier in the community. These episodes are still vividly remembered by the

people and the Government of Hong Kong. Therefore, in relation to heritage conservation, we very much hope that the Government must take this into consideration when planning for harbour and harbourfront developments.

Next, I am going to talk about points (g), (h) and (i) which I add specifically to the motion. I would like to point out that in the course of harbourfront planning and management, the needs of the shipping, cruise and ferry industries must be taken into consideration. That is because we must consider the characteristics and peripheral development planning of each location in the harbour in a comprehensive manner. By doing so, a more holistic overall planning can be achieved.

In fact, as mentioned by Prof LAU just now or through his sharing the other day, community recreational facilities could be provided along the harbourfronts. Of course, we were talking about the provision of a large stadium the other day, and this might not be feasible in Hong Kong. However, we still have many other opportunities in future, and a case in point is the Kai Tak Development Area (KTDA). I still recall that during the previous discussions on the KTDA, some people pointed out that perhaps it was because harbourfront developments were initially not undertaken in an open manner that roads were often built next to harbourfront promenades. In fact, President, it is easy to imagine how off-putting it must be if someone is strolling along the harbourfront promenade and vehicles are driving past with their emissions. In this regard, the Government was still willing to act reasonably. After many meetings between the Civic Party and the Planning Department as well as other departments, the Government subsequently changed its planning so that buildings would, as far as possible, be built next to pedestrian walkway along harbourfront promenades with some open space reserved. In fact, such a planning approach has also been adopted for the harbourfront promenade adjacent to the Sydney Opera House so that pedestrians can stroll along the harbourfront promenade or stop by at restaurants and sitting areas enroute to take in the scenery. Commercial buildings, residential buildings or even hotels were built on the side, and then roads were built further away. As such, visitors can feel more tranquil and relaxed without having to suffer from emissions from passing vehicles. If this approach can be adopted in Hong Kong, we will no longer have to pretend that we are strolling along the harbourfront promenade leisurely while inhaling emissions. It is just meaningless if we have to do so, President. I hope

changes can be made in future so that more space will be provided in the new harbourfront. I hope the Administration will take my views into consideration.

I will talk about point (i) next. As I just said, water quality is an important factor for our enjoyment of the harbourfronts. Mr Paul TSE and I have tried ..... Although we have yet to participate in a dragon boat race in the Victoria Harbour, we have taken part in a "bath tub race", President. Fortunately, we did not fall into the water ..... Or perhaps it was not so fortunate after all because we could not formally test the water quality of the Victoria Harbour for ourselves. As we all know, the Harbour Area Treatment Scheme has already proceeded to the first phase of Stage 2. However, I know that Mr Fred LI of the Democratic Party has tested the water quality of the Victoria Harbour for himself. As far as I can see, he is in a good state of health recently. Therefore, I think the water quality of the Victoria Harbour has greatly improved these days. Nonetheless, President, I think proper planning for the Victoria Harbour, or for that matter other harbourfronts, is very important because some people who suffer from seasickness may not always have the opportunity to go on boat trips. I am also prone to slight seasickness. That is why I always gazed afar when I was on board even when other people were talking beside me as I could not look straight into their faces. Even though it looked as if I was impolite, at least I would not throw up. However, no matter they are prone to seasickness or not, the people can at least enjoy the harbourfronts. I very much hope that the Secretary will continue with her efforts. I know these issues would not be resolved momentarily because it would involve the relocation of many public facilities at the harbourfronts. Nonetheless, if we really treasure the harbour and coastlines that we are endowed with, we must perfect harbourfront planning in the long run.

I so submit.

## **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9 pm tomorrow.

*Suspended accordingly at eight minutes past Ten o'clock.*

