

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 November 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

THE HONOURABLE LI FUNG-YING, S.B.S., J.P.

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.
THE SECRETARY FOR JUSTICE

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

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

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

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

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

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

MR YAU SHING-MU, J.P. (Third Motion under Agenda Item V)
SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

- No. 24 — Hong Kong Science and Technology Parks Corporation Annual Report 2009/2010
- No. 25 — Hong Kong Productivity Council Annual Report 2009/10
- No. 26 — Report by the Director of Immigration Incorporated on the administration of the Immigration Service Welfare Fund together with the Report of the Director of Audit and audited financial statements for the year ended 31 March 2010
- No. 27 — Report of changes made to the approved Estimates of Expenditure during the second quarter of 2010-11
Public Finance Ordinance: Section 8
- No. 28 — Independent Police Complaints Council Report 2009/10
- Report No. 3/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
- Report of the Bills Committee on Arbitration Bill

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Dr Joseph LEE will address the Council on the Independent Police Complaints Council Report 2009/10.

INDEPENDENT POLICE COMPLAINTS COUNCIL REPORT 2009/10

DR JOSEPH LEE (in Cantonese): President, I would like to present, on behalf of the Independent Police Complaints Council (IPCC), its first Report after incorporation. To tie in with the IPCC Ordinance, the Council's reporting cycle

has been changed from calendar year basis to financial year ending 31 March. As a transitional arrangement, this Report therefore covers 15 months, from January 2009 to March 2010.

In 2009, the IPCC scrutinized and endorsed the findings of 3 025 complaint cases involving 5 055 allegations, an increase of 17.6% and 11.8% respectively over the previous year. In the first quarter of 2010, the findings of 1 218 cases involving 2 225 allegations were endorsed. During these 15 months, the three most common allegations were "Neglect of Duty" (with 1 997 counts in 2009 and 963 counts in the first quarter of 2010), "Misconduct/Improper Manner/Offensive Language" (with 1 935 counts in 2009 and 808 counts in the first quarter of 2010), and "Assault" (with 436 counts in 2009 and 182 counts in the first quarter of 2010). These three types of allegations accounted for 86.4% and 87.8% of all allegations made in 2009 and in the first quarter of 2010 respectively.

President, in 2009, 1 194 allegations were fully investigated; and in the first quarter of 2010, 672 allegations were fully investigated. Taking the 15 months together, 125 allegations were classified as "Substantiated", 119 "Substantiated Other Than Reported", 34 "Not Fully Substantiated", 940 "Unsubstantiated", 277 "False", and 371 "No Fault". These figures also include 234 allegations which classification was changed from that earlier concluded by the police following queries raised by the IPCC.

Under the Observers Scheme, over 1 800 observations were conducted in 2009, more than tripled that of the previous year. Another 426 observations were conducted in the first quarter of 2010 (as of now). During the 15 months, the IPCC also interviewed five persons to seek clarification from them on the content of the investigation reports with the concerned persons.

Shortly after the commencement of the IPCC Ordinance, the IPCC saw a sudden increase in the number of complaint cases which has presented challenges to the newly established statutory body. Notwithstanding this, we have not, and will not compromise the rigour of our scrutiny work. We will continue to ensure thoroughness and fairness in the investigation, to both complainants and complainees. We will also continue to look for ways to speed up the processing time and strengthen our work in reducing complaints through identifying any fault or deficiency in police practices or procedures which has led to or might lead to complaints.

President, on behalf of the IPCC, I wish to take the opportunity of tabling this Report in the Council to thank this Council and other stakeholders for their support of the IPCC's work.

President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Provision of Parapets

1. **MS MIRIAM LAU** (in Cantonese): *President, last month, a frightening traffic accident occurred at the Hong Kong International Airport in which a tourist coach travelling along the flyover next to the air passenger terminal building and heading for the carriageway at grade ran out of control and crashed through a parapet; it then fell off the 16-metre-tall bridge and crushed two taxis, and fortunately no severe casualty was caused. An engineer has described that the structure of the parapets at the incident spot is very frail and can merely withstand the impact by private cars. The incident has thus roused public concern about the safety of parapets of vehicular bridges and freeways in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the containment level of the parapets at the road section at which the aforesaid accident occurred, including information such as the height and material of the parapets, as well as the energy of impact by different types of vehicles, such as private cars and buses, that they can withstand;*
- (b) *of the major vehicular bridges and freeways in Hong Kong which use the aforesaid type of parapet at present, as well as the total length of such road sections; and*
- (c) *given that following the 2003 tragic incident at Tuen Mun Road where a double-decked bus plunged into a valley, the Tuen Mun Road Traffic Incident Independent Expert Panel (the Expert Panel)*

listed 39 spots which are in priority need for upgrading the containment level of parapets, of the progress of such improvement works to date; given that the Expert Panel's report has also recommended that the authorities should continue to monitor in the international scene the development of multiple containment parapet, which is capable of retaining both light and heavy vehicles, and develop workable parapet designs for the Hong Kong situation, whether the authorities have developed new models of parapet in this connection, and whether such parapets will be put to use throughout Hong Kong; if they have, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):

President, the purpose of installing parapets along highways is to reduce the severity of accidents. In line with international standards, parapets and barriers are generally designed for a containment level pertaining to the vehicle type most commonly involved in traffic accidents along the road sections concerned. A stronger parapet can withstand penetration of a heavy vehicle by stopping it or deflecting it away, but a light vehicle may suffer severe damage after hitting strong parapets as the body of a light vehicle is not as strong as that of a heavy vehicle. It is therefore important for the works departments to strike a balance between the risk of vehicle penetration and the containment level of parapets in the course of working out the design.

The existing containment levels and parapet standards were formulated in end 2005 by the Highways Department (HyD) after a comprehensive study of the recommendations put forward in 2003 by the Expert Panel in the Report on Enhancement of Highway Safety (IEP's Report). The study was jointly conducted by the HyD and The Hong Kong University of Science and Technology. Having examined similar standards adopted elsewhere around the world and conducted actual impact tests and computer simulation, the HyD changed the classification of containment capacity of parapets from three levels to four levels, namely L1, L2, L3 and L4, and developed new design standards for each level. A scoring system was also introduced to determine whether parapets of higher containment levels should be installed.

Containment levels L1 to L4 refer to the different strengths of parapets in withstanding the impact force of errant vehicles impacting at various speeds and 20-degree angle. Containment levels L1 and L2 are designed for withstanding the impact force equivalent to a small vehicle at 1.5 tonnes or below impacting at 80 kilometres/hour (kph) and 113 kph respectively; containment level L3 is designed for withstanding the impact force equivalent to a double-decked bus impacting at 50 kph; while containment level L4 is designed for withstanding the impact force equivalent to a heavy goods vehicle impacting at 64 kph.

I now respond to Ms Miriam LAU's question, as follows:

- (a) The road section where the accident occurred (including its parapet), which was completed in 1998, was designed, constructed and managed by the Hong Kong Airport Authority (AA), and was approved by relevant government departments. The design of the parapet was based on the appropriate standards of the HyD at the time, which is equivalent to the existing containment level L2. The 1-metre high parapet is capable of withstanding the impact force equivalent to a 1.5-tonne vehicle impacting at 113 kph and 20-degree angle. The road section in question is not a sharp bend nor is its gradient steep; the maximum travelling speed allowed is 50 kph and vehicles are not running at a high speed; and the proportion of heavy vehicles (that is, buses and tourist coaches) using the road section is not high. According to the HyD's current standards, the containment level is appropriate to the road and traffic conditions of the road section concerned.

The police are still investigating into the traffic accident, and the AA has provided the Force with the necessary assistance and information. Moreover, the AA completed the repair works to the parapet along the road section concerned on 1 November subsequent to completion of evidence taking by the police.

- (b) and (c)

According to the IEP's Report released in 2003 mentioned above, it was recommended that a detailed study be conducted on 39 priority locations along 16 road sections where vehicle penetration of the

parapet might result in catastrophic consequences, with a view to formulating road safety improvement measures. The HyD completed the works to strengthen bridge parapets and roadside barriers at these locations in 2006.

Other than the 39 locations mentioned above, over the years, the HyD has also been carrying out necessary parapet replacement works during routine maintenance for the flyovers and highways within its purview, adopting the latest design as the construction standards. Replacement works have been completed for parapets at all major flyovers and expressways.

In addition, the HyD conducts annual review on the containment levels of parapets at flyovers and highways, and installs suitable parapets at road sections requiring higher containment levels.

In accordance with the recommendation of the IEP's Report, the HyD has also been monitoring the latest development of multiple containment parapets in the international scene. The HyD agrees that apart from withstanding the impact of heavy vehicles, such parapets can also reduce the impact force of light vehicles to an appropriate extent such that excessive damage could be avoided. In this connection, the HyD has completed the literature review and data collection on the containment levels of such parapets, and commissioned a consultant in 2008 to undertake the design and testing of parapets with a view to completing the design and formulating relevant guidelines by early 2011. Meanwhile, the HyD has installed an additional row of three-beam barrier, which can provide cushioning effect, in front of the parapet at relevant road sections, which is also effective in reducing the damage to impacting light vehicles.

MS MIRIAM LAU (in Cantonese): *President, the flyover on which the accident occurred is actually the only route for the numerous vehicles returning to the ground level after setting down passengers at the Air Passenger Terminal. Every day, apart from such light vehicles as private cars, many medium tourist coaches (such as the tourist coach involved in the accident) weighing 6 tonnes to*

7 tonnes or large tourist coaches weighing 13 tonnes to 14 tonnes also use this section of the flyover frequently. However, the parapets installed at this road section have a containment level of L2 only. This kind of parapet is only 1 m high and only capable of withstanding the impact of vehicles at 1.5 tonnes or below, so it cannot withstand the impact of an errant medium vehicle (such as the tourist coach involved in the accident) or a heavy vehicle, or prevent this kind of vehicles from penetrating the parapet and falling off the flyover. May I ask the Secretary if she would consider raising the level of the parapet at this road section or similar ones on hillsides or flyovers to L3, and whether or not multiple containment parapets will be installed at this road section or similar road sections after the design of multiple containment parapets is completed early next year; if not, what are the reasons?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, we have devised a system for considering whether or not to install L3 parapets, that is, stronger parapets. We have also put in place an objective scoring system to award scores according to a range of factors, including the speed limit of a road section, its distance from the ground, traffic flow, the proportion of heavy vehicles using it and whether or not there are residential areas or such facilities as schools and hospitals below. In addition, we also have experts to make assessments. I wish to point out that it is not true that a containment level of L2 is not safe or provides less protection. This kind of parapets can also withstand the impact force of a double-decker bus impacting at 35 kph to 40 kph and 20-degree angle.

We must strike a balance carefully. When deciding what kind of parapet to use, consideration has to be given to its strength and whether or not many light vehicles will use a particular road section. If very strong parapets are used, in the event of light vehicles impacting on it, the vehicles may suffer severe damage and may also be deflected away at enormous rebound. Therefore, we have to consider a range of factors. Concerning the road section at which the accident happened, according to the existing mechanism and considerations, the containment level of L2 is appropriate. After inspections by the HyD, it was also confirmed that the containment level of the parapets concerned is appropriate after comparing it to the present system of parapet levels. Moreover, the independent consultant commissioned by the AA also considers the installation of L2 parapets suitable after reviewing the conditions of the road section at which the accident occurred.

As the Honourable Member said just now, the road section at which the accident happened is the only route for vehicles leaving the airport. Concerning the traffic flow at this road section, light vehicles account for 80% and the medium and heavy vehicles using this road section are mainly tourist coaches and public buses. Trucks are prohibited from using this road section. Since the traffic flow consists mainly of light vehicles, at present, it is appropriate to install L2 parapets at this road section.

MR ANDREW CHENG (in Cantonese): *President, I understand that the entire reply of the Government is based on the IEP's Report. Not that we do not believe in those experts, even though they have made many assessments, they are only theoretical after all. The government department concerned believed that the parapet at the road section in question should be able to withstand the impact of this kind of tourist coaches but after the accident, it realized that actually there were problems. The Secretary pointed out in paragraph two of parts (b) and (c) in his main reply that the HyD had been carrying out necessary parapet replacement works. May I ask the Secretary if, in view of this incident, she will adopt the standard of "better being strict than lax" in the installation of parapets on flyovers, in particular, very tall flyovers? Even though according to the standards of the authorities themselves or the recommendations of the IEP's Report, the parapets at certain road sections are in order, can the authorities slightly raise the standard to offer better protection? Secretary, apart from completing the works to strengthen parapets on bridges and roadside barriers at the aforesaid 39 locations, will the authorities further raise the standard when necessary to ensure road safety?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, we are now studying whether or not multiple containment parapets can be introduced. Recently, experts in various parts of the world have also formed the view that this kind of parapets can be used when appropriate. The kind of parapets are stronger and taller, with a row of the so-called three-beam barrier in front to withstand the impact from light vehicles. When light vehicles impact on the parapet, they will be contained first and will not impact on the very strong and tall parapet at the back. As I explained just now, there is no material that is both soft and hard at the same time. If very strong material is used, light vehicles*

may be severely damaged on impacting on this kind of material and other vehicles may be affected when they are deflected. Therefore, we have to strike a balance. At present, this kind of multiple containment parapets are being introduced into various parts of the world and we will also introduce them in due course. We will survey the major flyovers and roads to ascertain if there are suitable spaces to install this kind of parapets. Members have to understand that sometimes, there may not be room to install parapets with three-beam barriers. If there is room, the authorities will surely introduce the safest new designs considered by international literature and studies as being able to enhance safety.

MR WONG KWOK-HING (in Cantonese): *President, the accident in which that big tourist coach fell off the flyover was really a great shock to the public. Concerning the response in the main reply that the HyD conducts annual reviews of the containment levels of parapets on flyovers and highways, and installs suitable parapets at road sections requiring higher containment levels, through the President, may I ask the Secretary whether or not the HyD carries out comprehensive inspections before the annual reviews? If we want reliable results from the review, it is necessary to carry out inspections first. May I ask the Secretary what the results of the latest review conducted by the HyD are? Since the HyD carries out annual reviews, will the authorities submit the results to the Panel on Transport of the Legislative Council and give it a briefing and an account? Doing so can let the public know that the Government is constantly making improvements to road parapets and will also enable the Legislative Council to monitor the safety of parapets.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, each year, the HyD carries out maintenance, repairs and inspections on every road section. Concerning parapets, the HyD is responsible for the maintenance and repairs of the parapets of about 1 000 flyovers and 360 road sections. Each year, the HyD conducts reviews of the containment levels of the parapets at these flyovers and highways according to the scoring system to determine the containment level of parapets and ensure that the containment levels of these parapets as well as the general maintenance and repairs condition is up to standard. As I explained just now, the scoring system takes into account various factors, for example, whether or not serious consequences will be caused

if the parapets are penetrated by vehicles, the speed limit, the height of the bridge or slope, whether or not there are residential buildings or schools below the bridges, and so on. We will continuedly examine these factors to ensure that the parapets used are suited to the conditions of the road concerned at that time.

As regards the Member's comment that the Panel on Transport may be interested in the developments in this regard, for example, the implementation of the recommendations in the IEP's Report published in 2003, the progress of the improvement works at the 39 priority locations, the joint study conducted together with The Hong Kong University of Science and Technology to change the containment levels of parapets from three to four and the introduction of multiple containment parapets in the future, and so on, we will be happy to give a briefing to the Panel on Transport.

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

MR WONG KWOK-HING (in Cantonese): *No, President, she did not explain the results of the latest review.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I said just now, the HyD conducts annual reviews of the containment levels of parapets on the 1 000 flyovers.

MR CHEUNG HOK-MING (in Cantonese): *President, in paragraph two in parts (b) and (c) of the main reply, it is said that "Other than the 39 locations mentioned above, over the years, the HyD has also been carrying out necessary parapet replacement works during routine maintenance for the flyovers and highways within its purview, adopting the latest design as the construction standards.". When talking about the latest design, does the Secretary mean the multiple containment parapet recommended in the IEP's Report of 2003 and mentioned by the Secretary just now? Is this kind of design adopted for new highways so long as the site permits?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Expert Panel recommended that we should monitor the latest development of multiple containment parapets in the international scene. Of course, we will introduce this kind of parapets as appropriate in view of the various factors set out in the existing scoring system. As I explained earlier, this kind of parapets may not be suitable for all locations and it depends on whether the locations concerned have the space, their constraints and whether or not it is really necessary to install L3 parapets and adopt this kind of multiple containment design. As I said earlier, we will follow the existing mechanism and consider a range of factors relating to the roads, including the speed limit, distance from the ground and the height of the slope, traffic volume, alignment, curvature, gradient, traffic flow, the proportion of heavy vehicles, and so on, when deciding whether or not to introduce the latest design.

MS MIRIAM LAU (in Cantonese): *President, the parapet at the road section in which the accident happened has been repaired but the containment level of the parapet is still L2. Just now, the Secretary said in her reply that the containment level of L2 was safe, which was also confirmed by the experts. However, we can see from the Secretary's reply that she has all along focused on the traffic flow at this road section, saying that light vehicles account for 80% and heavy ones for 20% only. However, an accident really happened and the vehicle involved in the accident was a medium tourist coach and a certain number of heavy tourist coaches also use this section of the road. I have consulted members of the sector and although the parapet at this road section has been repaired, they still consider it very unsafe. In that case, will the Secretary consider installing some additional safety facilities at this road section immediately, for example, the three-beam barrier mentioned in the last paragraph of the main reply? In addition, the sector also hopes very much that the Government can install multiple containment parapets at this road section. Can the Secretary undertake to do so after the design work has been completed?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I explained, using parapets of which containment level and whether multiple containment parapets can be used are dependent on the practical constraints. Insofar as multiple containment parapets are concerned, there is a strong parapet at the back and a three-beam barrier can be used before it, so that

light vehicles impacting on it will not be severely damaged. The vehicle involved in this accident was a tourist coach and the speed limit at the road section in question is 50 kph, so judging from the gradient and the curvature, there is no need to use parapets of too high a level at this road section. However, we can discuss with the AA to see if other improvements can be made, for example, by placing road signs to remind motorists to be more careful. In sum, after examination, we believe the design and overall operation comply with the existing system and can protect the great majority of motorists.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Second question.

Development of Integrated Waste Management Facilities

2. **MR JEFFREY LAM** (in Cantonese): *President, as recommended in "A Policy Framework for the Management of Municipal Solid Waste (2005-2014)", the Government will develop Integrated Waste Management Facilities (IWMF) with advanced incineration as the core technology for the treatment of unavoidable waste. It has been learnt that the Government is finalizing the environmental impact assessment (EIA) studies for the two potential sites identified (that is, Tsang Tsui in Tuen Mun and Shek Kwu Chau to the south of Lantau Island) for the IWMF, and will release the EIA reports by the end of this year. In this connection, will the Government inform this Council:*

- (a) *whether the authorities will adopt other principles, standards or new technologies, apart from the Government's EIA reports, in determining the final choice of the site; if they will, of the details; if not, the reasons for that; whether the authorities have considered adding more potential sites on top of the above two sites to prepare for tackling the problem of solid waste;*
- (b) *in view of the concern of local residents arising from the Government's proposal to extend the landfill in Tseung Kwan O, whether the authorities have planned how to consult the local*

residents after the site for the IWMF has been selected; if so, of the scope and the timetable of consultation; and

- (c) *given that it has been reported that Tokyo, Taipei and Singapore all dispose more than 50% of their solid waste by incineration, whether the Government will make reference to such ratio and plan to dispose a certain ratio of solid waste by incineration; if it will, of the proposed ratio and the timetable for implementing such a plan?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I would like to thank Mr Jeffrey LAM for his question.

- (a) As set out in the "A Policy Framework for the Management of Municipal Solid Waste (2005-2014)", we have clearly indicated that we would take concerted efforts in waste reduction, recycling and implementation of modern waste management facilities to tackle the solid waste problem. In recent years, the Environmental Protection Department (EPD) has been promoting domestic waste recovery to encourage source separation of domestic waste, and launched the producer responsibility scheme as well as various related public education and publicity programmes. As a result, the overall municipal solid waste (MSW) recovery rate in Hong Kong has been raised to 49% in 2009, and there is a tendency for waste disposal in our landfills for decrease. Although we have been active in promoting waste reduction and recycling, our present practice of disposing almost all the non-recyclable waste at landfills is indeed not sustainable. Therefore, we need to develop the IWMF, which will adopt incineration as the core technology and incorporate waste sorting and recycling facility. The IWMF will adopt the most advanced management practices and the emissions so discharged would comply with the most stringent European emission standards.

In 2007-2008, we conducted a detailed site selection study to identify potential sites throughout Hong Kong for developing the IWMF. Among the initial selected list of eight potential sites, we have recommended two, namely Tsang Tsui, Tuen Mun and Shek Kwu Chau, as mentioned by Mr Jeffrey LAM just now, for detailed

study. At present, we are conducting detailed Engineering Investigation and EIA Studies on these two potential sites. The assessment covers environmental impacts (such as noise, air quality, water quality, ecology and landscape), engineering works (such as site formation and reclamation, geology and wastewater treatment), transportation of waste and ash, construction period, costs, expenditure, and so on. At the present stage we do not have other proposed sites for constructing the IWMF. That said, with the advance in technology and new development in waste management, we will actively examine other potential sites and facilities if necessary. However, we should proceed the planning of the IWMF with these two initially selected sites, as soon as possible so as not to cause any delay to the development of the IWMF.

- (b) In the recent discussions arising from the proposed extension of the Tseung Kwan O Landfill, we have noted that in general the public agree that we should change our current mode of waste treatment which relies solely on landfilling, and that we should through adopting advanced incineration technology and other effective, advanced technologies to treat non-recyclable waste. We have been in touch with the relevant District Councils (DCs), local communities and political parties on the construction of the IWMF. For instance, from February to May 2008, we briefed Tuen Mun and Islands DCs on the Site Selection Report and elaborated the proposed treatment technologies and emission standards. In 2009, we made a study visit to Tokyo and Osaka with Tuen Mun and Islands DC members to see how waste and sludge were treated with advanced incineration technologies in Japan.

The proposed IWMF will meet the most stringent international emission standards for the protection of public health and the environment. The facilities will also create job opportunities for the community. We will include in the project environmental education and leisure facilities as well as other facilities which will benefit the community. Moreover, it would have pleasant design so that it will blend in with the environment of the surrounding areas. The development of the sludge treatment facility in Tuen Mun (the project contract has been finalized) has followed these principles.

Following the completion of the EIA study of the proposed IWMF, we will engage the relevant DC with deeper discussion so as to reach an acceptable plan for taking forward the IWMF development. Then we will seek funding from the Legislative Council to commence the development work. We sincerely hope that the Legislative Council will render support to our funding application.

- (c) In 2009, on average about 17 700 tonnes of MSW were generated in Hong Kong per day, of which about 49% were recovered and recycled, and the remaining 51%, that is, about 9 000 tonnes of MSW per day, were disposed of at the three landfills in Hong Kong. The treatment capacity of the proposed IWMF is 3 000 tonnes per day. Subject to the smooth progress of the planning and funding procedures, we expect that the first IWMF will be commissioned by mid-2010s. Regarding whether we need to develop more IWMF, it would hinge on the effectiveness of the community's effort in reducing and recycling waste, and the amount of the waste so remains. In addition, we need to discuss this issue with the political parties, Legislative Council Members, and the public. Separately, the Administration has started planning for the Organic Waste Treatment Facilities (OWTF) which will adopt anaerobic digestion and composting technologies. The first phase of the OWTF, which will handle about 200 tonnes of food waste per day, is expected to commence operation in 2014. We hope to submit this proposal to the Environmental Affairs Panel for discussion before the end of this year, and hope to receive the Legislative Council's support for this proposal.

In response to the recent public concern on the waste treatment issues, we are reviewing our overall strategic work, as mentioned by me on previous occasions. We will also discuss this issue with Members from different political parties and groupings, with a view to achieving consensus on the strategy, including how to enhance waste reduction and recycling, and applying modern technologies to further enhance the whole package of measures. We plan to submit the entire package to the Legislative Council Panel for further discussion by the end of this year or early next year.

MR JEFFREY LAM (in Cantonese): *President, regarding parts (b) and (c) of the main reply, I would like to put a question through you to the Secretary. Recently, we have seen many different opinions expressed by local residents in response to some obnoxious issues, such as drug rehabilitation schools, columbaria, landfills, and so on. Their concerns and opinions are worthy reference for us. However, some members of the community feel that some issues relating to people's livelihood have been politicized. We can see that even the construction of incinerators will probably be opposed by members of the community, DCs and political parties. May I ask the Secretary if he feels concerned that the progress of the entire plan will be affected if the plan is thwarted by members of the community, or what concern he will have? Will he defer the target date of completing the construction of the refuse incinerators in 2016 or 2017?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I would like to thank Mr Jeffrey LAM for his question. I believe we all must face the issue of disposal of MSW. In fact, this issue concerns not only the environment, but also people's livelihood because the facilities are essential. Of course, I hope all stakeholders, including government departments, various political parties and groupings and district representatives, can understand these facilities in a pragmatic manner. In fact, these disposal methods are justifiable policy-wise. For instance, some recovery or waste-reduction policies actually share the same objective of reducing the production of municipal waste. If some facilities have to be developed, we hope a modern approach can be adopted. During the process, we will also strive to take on board the opinions of the DC members of the relevant districts on the provision of facilities for the benefit of the community. We do have some successful cases in the past. But I also agree with Mr Jeffrey LAM that if we look at this issue solely from the political perspective, that is, solely from the perspective of securing votes, I believe even members of the public can see this clearly. After all, this issue must be tackled by joint efforts; it is not just the business of a single constituency.

PRESIDENT (in Cantonese): We have 13 Members waiting for their turn to raise questions. Would Members please be as concise as possible when asking questions.

MR ANDREW LEUNG (in Cantonese): *The Secretary mentioned in part (c) of the main reply that 49% of the waste in Hong Kong were already recycled. May I ask whether this percentage is high or low, compared to other parts of the world? Some green groups have suggested that if waste reduction is carried out in Hong Kong, such methods as incineration and land filling will become unnecessary. In fact, is there any country in the world or experience showing that people can live more at ease without resorting to these obnoxious measures while managing to achieve waste disposal?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Thanks to Mr LEUNG for the question. At present, the ratio of waste production and recovery in Hong Kong is roughly two to one, as stated in the main reply just now. The relevant ratios in cities or countries where recovery is done better, such as Germany and the Netherlands, are higher than 60%. They are among the top in the world. The ratios of waste disposal by incineration in these countries are approximately 30%, with the remaining small amount of waste being disposed of by land filling. In other words, apart from recovery, 30% of the waste in these places is disposed of by incineration.

Insofar as neighbouring Asian regions are concerned, we can see that South Korea fares better than Hong Kong does, with more than 50% of its waste being recovered, and the remaining 20% and 24% of waste disposed of by incineration and land filling respectively. Furthermore, in some regions which are closer to us, such as Singapore, the recovery rate is 44%, and the remaining waste is disposed of mainly by incineration. The recovery and incineration rates in Taiwan, a place frequently mentioned by us, are approximately 42% and 55% respectively, with the remaining percentage of waste being treated by land filling. In Japan, the recovery rate is 20%, as 78% of the waste there is disposed of by incineration.

Therefore, we can see that Hong Kong is actually a rare example where land filling is adopted as the only method of waste disposal, as most regions have already moved towards modern incineration technologies. As for waste treatment by recovery, if a comparison is made with the ratios cited by me just now, Hong Kong is currently in the middle ranks, with approximately half of its waste being recovered. In terms of proportion, Hong Kong fares better than

some neighbouring Asian regions. Of course, if Hong Kong is compared with regions with the best recovery rates, such as European countries, there is still a gap of 10%.

Answering Mr LEUNG's question, if one expects using only one method, such as land filling, to resolve the problem completely, or relying solely on recovery to dispose of all waste, I believe there will still be a gap from the reality.

MR CHAN HAK-KAN (in Cantonese): *President, in addition to their concern about the site selection of incinerators, members of the public are actually gravely concerned about the impact of exhausts from incinerators on their living and health. Over the past decade or so, incinerators were no longer used in Hong Kong. Although the Government is now saying that it will adopt modern management approaches and meet the highest European emission standards, all these descriptions are nothing but an abstract concept to members of the public. May I ask what specific methods the Government will use to explain to the people of Hong Kong that the incinerators proposed to be built will meet the highest emission standards? Furthermore, apart from explaining to DC members, how will the Government explain these profound concepts to the public in simple terms?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr CHAN Hak-kan for his supplementary question. In the past, the public concern about the construction of incinerators was often attributed to the unsatisfactory incineration technologies at that time, and as a result, waste was not completely burned in the incineration process, thereby producing a lot of pollutants. However, the emission standards of all incinerators are now regulated, and the European emission standards are among the highest in the world. For instance, dioxin, the greatest concern of the public, can actually be reduced to an extremely low level under complete incineration. I have this figure at hand. I wonder if it can answer the question raised by Mr CHAN Hak-kan, and that is, the current European emission standard for dioxin generated by incinerators is 0.000000001 g/m³. This is an extremely small amount. It will become our standard, too. At present, there is an incineration facility on

Tsing Yi here in Hong Kong. Its current emission is even dozens of times smaller than this figure.

During our visit with DC members to the incineration facilities in Japan, DC members raised a similar question about dioxin emission standards. Normally, the level of dioxin emitted by incinerators is far lower than the standards set by them. As for other kinds of pollutants, many incineration facilities can actually allow members of the public to immediately see their emission volumes to demonstrate their compliance with the standards. If such facilities are built in Hong Kong in the future, we will definitely manage to do this. In fact, similar facilities have been built in our neighbouring regions, such as Macao, Shenzhen and Guangzhou.

DR PHILIP WONG (in Cantonese): *President, I believe the Secretary is also aware that refuse can sometimes bring economic benefits. May I ask the Secretary if he will take the initiative to lobby some private organizations to gain economic benefits in the disposal of refuse?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): *President, I agree with Dr Philip WONG's view. At present, a lot of refuse will indeed yield economic benefits after recycling. This is not confined merely to waste paper or scrap metal. In the paving of pavements in recent years, government departments will specify that priority be accorded to using paving blocks made from recycled glass. It is evident that the Government will complement some local glass recycling and block manufacturing industries during procurement. During the consultation completed just recently on recovery of waste electrical and electronic equipment, we noted that many recovered electrical equipment and computer products still carried residual value. While some of them are still usable, we can also recover worthy metals from electrical equipment and computer products which are no longer usable.*

We will continue to make efforts on this front. We also see that about half of the refuse in Hong Kong can be recovered. Actually, I am talking about waste, not refuse. As pointed out by Dr Philip WONG earlier, it is still useful. This explains why the recovery rate of trade waste in Hong Kong stands at a relatively high percentage of 65%. We will continue to make efforts in this

direction. If the provision of financial incentives can induce the recycling and recovery of certain materials in Hong Kong to serve economic purposes, we will continue to do so.

DR SAMSON TAM (in Cantonese): *President, the Secretary mentioned in the main reply the Government's intention of developing technologies and making study visits to the incineration facilities abroad. I believe it is important for the Government to do so. However, many people are more concerned or similarly concerned about the pollution or stench generated by refuse or ash in transit. May I ask the Secretary whether he is satisfied with the existing transportation facilities and whether the Government will introduce in future better technologies or facilities from abroad?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): *President, according to our plan, we hope to adopt mass transit on a relatively large scale if incineration facilities are to be constructed. For instance, wherever the incinerators will be built in future, we will rely mainly on water transport. We will dispose of waste from Hong Kong Island and Kowloon in a centralized manner and then ship it directly to the incineration facilities by vessel so as to reduce the reliance on land transport.*

In fact, the volume of residual ash generated by incineration facilities at present is only 5% to 10% of its original volume. Yet, we might still find useful materials in it, such as recyclable metal or ash which can be used as construction material, before shipping the remaining ash to landfills. After complete burning, the waste will become harmless and odourless, thereby ameliorating the problem of smell produced by domestic refuse or sludge in landfills at present.

MR TAM YIU-CHUNG (in Cantonese): *President, the Government is considering to build incinerators in two places, namely Tsang Tsui in Tuen Mun and Shek Kwu Chau. There is at present strong reaction from Tuen Mun residents because many obnoxious facilities have been built in Tuen Mun. For instance, a sludge treatment plant has already been built there. The residents were already strongly resistant to the construction of the sludge treatment plant*

in Tuen Mun. Should the Government again consider the construction of an incinerator in Tuen Mun, their reaction will definitely be stronger. Furthermore, some residents living in Shek Kwu Chau or Cheung Chau have also expressed grave concern about the possible impact of the construction of incinerators on air quality.

May I ask the Government whether it has considered if deserted islands which are relatively far from residential areas can be found within the territory for the construction of such facilities and, at the same time, using only marine transport, thereby reducing impacts on the environment and residents, including psychological impact? Has the Government identified such potential sites and carried out studies?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr TAM for raising the supplementary question. Actually, the two potential sites identified by the Government now are very far away from residential areas. One of them is Shek Kwu Chau, which is situated to the south of Lantau Island. The other one is Tsang Tsui in Tuen Mun, which is located at the back of Castle Peak in Tuen Mun town centre, and it can be reached only by traversing a hill. In fact, residential areas can rarely be found in the surrounding areas of these two potential sites. This is because, during our site selection, we also hoped to minimize the impact on the residents living in the surrounding areas.

However, we should also understand clearly if such facilities will definitely cause impact on public health or the environment. It has been proven by facts that such facilities have already reached an acceptable level in some overseas cities, and they are even built in some of these cities.

Of course, we hope Hong Kong can also find this acceptable and allow the construction of such facilities in the districts where possible. But we also hope to take care of various aspects. First, during site selection, we will identify places relatively far away from residential areas. In fact, we have managed to do this. Second, we will continue to explain to the public and, at the same time, we hope Members from various political parties and groupings can help our efforts on this front by explaining to the public that their concern about such facilities can actually be addressed by technology. Third, psychologically, we

hope to incorporate amenities which can benefit the community into such facilities. However, we hope members of the public can adopt a pragmatic approach in examining clearly if the impact caused by such facilities can actually be addressed through technology and equipment.

PRESIDENT (in Cantonese): Eight Members are still waiting for their turn to ask questions. However, we have spent 23 minutes on this question. Therefore, Members can follow up this question only through other channels. Third question.

Progress of Investigation into Affairs of CITIC Pacific Limited

3. **MR JAMES TO** (in Cantonese): *President, the various investigations into the leveraged foreign exchange transactions of CITIC Pacific Limited (CITIC) and related affairs have hitherto been conducted for two years. In this connection, will the Government inform this Council:*

- (a) *whether it knows how the Listing Division of the Stock Exchange of Hong Kong has followed up its disciplinary investigations on the CITIC since the Securities and Futures Commission (SFC) completed its investigation and submitted its report to the Department of Justice (DoJ), so as to make it clear to the public whether the practice in relation to the disclosure of price-sensitive information in the incident has contravened the Listing Rules;*
- (b) *of the progress of the investigation conducted by the police, the difficulties encountered, and the estimated time required for completing the investigation; and*
- (c) *given that under the existing mechanism, the SFC has to wait for the DoJ's legal advice before it can decide whether the case should be referred to the Financial Secretary for considering if the case should further be referred to the Market Misconduct Tribunal (MMT) for instituting proceedings, and the DoJ has to wait for the police to complete their investigation before it can decide whether criminal prosecution should be instituted and provide legal advice to the SFC,*

whether there are time limits for waiting on the part of the DoJ or the SFC, and what factors the DoJ will take into account when considering whether criminal or civil standards should be adopted for handling individual cases involving market misconduct, so as to respond effectively to activities which may have significant impact on the market?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, in response to Mr James TO's question, we have consulted the SFC, the Stock Exchange of Hong Kong Limited (SEHK), the police and the DoJ for comments and our reply is as follows:

- (a) To minimize duplication in investigatory efforts and to avoid possible prejudice to any follow-up action by the SFC, the SEHK suspended its consideration of whether the CITIC might have breached the Listing Rules when the SFC began its enquiries. The SEHK will take further action only if it has been so advised by the SFC or any other relevant law-enforcement agencies.
- (b) The police seized a large volume of documents and computer exhibits during the course of its investigation. The legal representatives of the CITIC lodged an application to the High Court in April 2010 claiming legal professional privilege in respect of some of the exhibits. After several court hearings, the case is set down for a hearing scheduled for 9 to 11 March 2011. Since the police investigation is ongoing, it is inappropriate to comment further on the case.
- (c) According to the DoJ, the factors the DoJ considers in deciding to lay criminal charges are the same for any case. They include:
 - (i) whether there is evidence sufficient to justify institution of proceedings; and
 - (ii) if so, whether the public interest requires a prosecution.

As to part (i) above, there has to be enough evidence to prove all the ingredients of an offence. Even where there is sufficient evidence, if it is only sufficient to meet a *prima facie* case only, this will not justify a prosecution. What is required is evidence which indicates there is a reasonable prospect of securing a conviction before charges will be laid.

As to part (ii) above, the DoJ considers a number of matters on the question of whether it is in the public interest to pursue charges. They include:

- how serious is the offence;
- what were the effects;
- how serious a view a Court would take of the conduct;
- would the consequences of a prosecution be out of all proportion to the seriousness of the offence; and
- the penalty a Court would likely impose.

Any decision to prosecute involves a balancing act weighing up the abovementioned factors. If a decision is made that there is insufficient evidence to point to a reasonable prospect of securing a conviction, no charges will be brought.

In the case of the CITIC, the SFC has already forwarded a report to the DoJ dealing with issues under the Securities and Futures Ordinance (SFO). The DoJ will advise the SFC in accordance with the above factors. If criminal prosecution is not to be pursued, the SFC may consider reporting the matter to the Financial Secretary and the Civil Division of the DoJ will advise the Financial Secretary as to whether or not the matter should be referred to the MMT. The sequence is important since the SFO makes clear that a person cannot be prosecuted for a criminal offence under Part XIV at the same time as he is being subjected to civil proceedings for the same

conduct before the MMT, whether or not he has been eventually found culpable of market misconduct by the MMT.

The Commercial Crime Bureau of the police are continuing its investigation into the CITIC matter. At the completion of that investigation, the police will forward a report to the DoJ for consideration on whether or not to lay criminal charges. The DoJ has advised that at this point of time, it will not provide the SFC with legal advice, pending the completion of the police investigation.

MR JAMES TO (in Cantonese): *President, why does the concern group of the small shareholders of the CITIC follow up the incident persistently? This is because the incident has affected a major blue chip listed company, resulting in the loss of almost one third of its assets within a short time.*

President, in part (b) of the main reply, the Government seems to be telling us that the police have encountered some difficulties in carrying out investigations. They are related to the claim made by the other party that certain documents are under the protection of legal professional privilege. President, the lawyers from the CITIC said that one and a half years would be required to determine whether or not the documents seized were protected by legal professional privilege. President, it would be extremely worrying if the case were further delayed. After such delays and when consideration is being made on whether a prosecution is justified, the Government has now raised the problem of whether or not the consequence of a prosecution would be out of all proportion to the seriousness of the offence. This shows that a large amount of manpower and resources are involved in the case.

May I ask the Government how the public can rest assured that every reasonable and prudent means will be exhausted to expedite the progress of the investigations and consideration given to the commencement of prosecution proceedings so as to achieve a fair conclusion?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, what I can give as a reply is that the police are examining

the documents seized in the raid. Some of the exhibits are related to an application made to the Court for legal professional privilege. As for other areas, the police are proactively carrying out investigations according to established procedures. After the issue of an application for legal professional privilege is resolved, the police will take follow-up action on the exhibits and interview the related parties.

MR ALBERT HO (in Cantonese): *President, it has been two years since the CITIC incident happened, but it is still under police investigation and the result of an application to the Court is pending until next year when determination is made of whether the documents seized can be used for further investigation. The progress in this incident is extremely unsatisfactory. It gives people an impression that provided that the big consortia or businessmen have the money and can hire a large group of lawyers and if they can set a barrier everywhere along the legal course, the authorities will be made unable to carry on the investigations and that the judicial proceedings will be barred from progressing in their normal course. This is how many members of the public would look at the case. Certainly, I appreciate the technical problems involved, but there is something which I fail to understand and that is, the criminal detection undertaken by the police or other investigations or other possible sanctions have all stopped. For example, the case cannot be brought before the MMT, or the SEHK is barred from conducting an independent investigation or imposing any sanction according to the Listing Rules.*

Against such a background, I have this supplementary question. I am not referring to this particular case but to any case in general. Can the party concerned cause a delay to the authorities provided that it has money, thus rendering the authorities having to spend three to five years in the investigation while the party can carry on its market misconduct and exploit the small shareholders, blatantly doing whatever it likes so that no enforcement agency can step in? Does the Government want to see such a situation? Or are we trying to make this happen? With respect to this policy, can he further elaborate whether or not such undesirable consequences mentioned by me will be caused?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I have in fact mentioned in the main reply that the priorities of criminal prosecution and handling by the MMT are very important. I can add that under the Basic Law, the DoJ is in charge of criminal prosecution in Hong Kong and so the SFC must refer this case of alleged market misconduct to the DoJ in the first place. In order to maintain the priority in instituting criminal prosecution, before obtaining an opinion from the DoJ, the SFC will not refer the case to the Financial Secretary for his considering whether or not proceedings will be instituted in the MMT.

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

MR ALBERT HO (in Cantonese): *I think the Secretary does not understand my supplementary question, so he has not answered it at all.*

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

MR ALBERT HO (in Cantonese): *I was asking why under all circumstances — that is, under all circumstances — all the criminal investigations must be completed and as for other investigations, including the proceedings under the MMT which are non-criminal in nature, they cannot commence and so delays are caused? Why does it have to be like that? He has not answered this supplementary question raised by me just now.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, please allow me to add a point here. I have talked about priorities and the other thing is that the DoJ has advised that in this particular case, as the investigations conducted by the SFC and the police are on the same matters, the DoJ has to consider the results of the investigation carried out by the police and all the related factors before making a decision and to give legal advice to both parties including whether or not prosecution can be instituted pursuant to the SFO or other ordinances, as well as the charges to be laid.

MR PAUL TSE (in Cantonese): *My supplementary question is, the Secretary has actually mentioned it in the main reply our common understanding is if investigations may overlap, we will certainly not want to spend too much time doing the same work. But I wish to know whether the two agencies conducting the investigations does the investigation conducted by the police, in terms of the subjects under investigation, the nature of the incident or the adduction of evidence, differ in any way from the other investigation which is on the breach of Listing Rules? For example, a possibility may be a criminal prosecution in which certain individuals are prosecuted, and of course, certain companies can also be prosecuted. But a contravention of the Listing Rules would involve technicalities, such as the failure of disclosure or untruthful disclosure and such like technical issues. The authorities can indeed boldly determine whether or not certain things have been done or if any misleading is involved. This will speed up the handling of the matter. Why do we have to go through the whole loop and after going round and round for so many times before coming back to take some enforcement action which is simple and technical in nature?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I think I can talk about priorities once again.

First, on the question of whether the case should be pursued, the SFC will ask the Financial Secretary to consider whether the case should be referred to the MMT, and the factor to be considered is whether or not there is a possibility for criminal prosecution. So the prosecution procedures must be dealt with first. This is because if the case is handled by the MMT, as I have mentioned in the main reply, there can be no criminal once the matter is handled by the MMT, no proceedings of a similar nature can be undertaken in criminal prosecution. This is why the order of priorities is very important.

Before the DoJ decides whether or not any prosecution is to be instigated, it has to consider all the evidence available, including the evidence collected by the police and the evidence provided by the SFC, before a decision can be made as to whether the case complies with the principles of prosecution in law.

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

MR PAUL TSE (in Cantonese): *President, I think we might have been at cross purposes, that is, there is a problem with the question and answer*

PRESIDENT (in Cantonese): Mr TSE, please repeat the part which you think the Secretary has not answered.

MR PAUL TSE (in Cantonese): *The question is: Is there anything which does not have to go through criminal prosecution first and can be pursued through other proceedings? An example is an individual or a company, which are very different entities. Why can we not pursue certain technical issues such as disclosure? It may not be related to any police investigation and is concerned only with the nature of the incident, the parties and the requirements on adducing evidence. The Secretary has not answered this point.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): When the SFC acts in accordance with the SFO and refers the matter to the MMT for hearing, it has to consider whether or not the misconduct concerned constitutes any criminality. It is only when the SFC has taken this into account that the case can be referred to the MMT. Of course, when the DoJ determines whether or not there is any possibility for criminal prosecution in the matter, it has to take other factors into consideration, as well as the information provided by the police and all other information available. Once the matter is referred to the MMT, the same act in question cannot be heard in a Court of law.

MR RONNY TONG (in Cantonese): *I do not know if the Secretary still remembers that I raised a question on this matter in this Council 11 months ago. President, the situation 11 months ago and today is entirely the same and nothing has changed at all.*

According to the main reply given by the Secretary, it is only in March next year that the first hearing on the documents seized will be held in the High Court. It is very likely that an appeal will be lodged with the Court of Final Appeal. So the case will definitely not be concluded within next year. Does the Secretary think that this matter should be delayed repeatedly and may be dealt with four or five years later?

President, what we are most concerned about, and what the investors are most concerned about too is that how they can get the due compensation and how the truth of the matter can be found. What they are most concerned about is not who will be jailed. So I had asked the Secretary 11 months ago — to be fair to the Secretary, he was not present at that time and the Under Secretary was present in his place — I asked the authorities at that time why the Companies Ordinance could not be invoked to enable the Financial Secretary — the Financial Secretary is present today and maybe he can answer this — to launch an independent inquiry into the matter? This is the best way to bypass the cumbersome legal procedures and it is also the reason why the Companies Ordinance vests this power in the Financial Secretary. Why is this approach not taken to find out the truth, instead of putting aside this issue of criminal prosecution?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, thanks to Mr TONG for his supplementary question. Certainly, we want this matter settled, but as I have said in the main reply, there has been no delay in the investigation work as the SFC and the police have begun their investigations into this matter. Hence what is lacking now is not investigation work.

Returning to Mr TONG's supplementary question, even if the Financial Secretary acts in accordance with section 142 of the Companies Ordinance and appoints an inspector, his powers will not be greater than those of the SFC. Now the SFC has done its investigation and the police are conducting an investigation, too. We are waiting for the judicial proceedings to confirm the issue of legal professional privilege which I have mentioned. After this, we can continue to complete the investigation work.

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

MR RONNY TONG (in Cantonese): *The Secretary fails to understand my question at all.*

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

MR RONNY TONG (in Cantonese): *President, I was not saying that they had not conducted any investigation.*

President, the Companies Ordinance vests power in the Financial Secretary and this will not be made null and void because of any criminal investigation. I hope he can adopt another method and find out the answer as soon as possible. President, I hope he can deal with this issue.

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I think that if an inspector is appointed by the Financial Secretary, his powers will not be greater than the powers we have in conducting an investigation.

PRESIDENT (in Cantonese): Mr James TO, this is your second supplementary question.

MR JAMES TO (in Cantonese): *President, why did I get 100 small shareholders together to put their signatures on a request made to the Financial Secretary, that he should consider invoking the Companies Ordinance? The point is not about whether the powers are great or small. Rather, after he has completed his investigation, he can release the findings of the investigation pursuant to the*

Companies Ordinance and to clarify the facts of the case. In addition, compared to the SFC which only investigates whether or not there is any contravention of the rules or regulations concerned, the scope of his investigation would be wider and so the small shareholders can learn about the truth of the matter.

President, it is very important that the truth of the matter be made known. President, I wish to ask the Secretary or the Financial Secretary once again whether there are ways to find out the truth and disclose it, without waiting for a prosecution in Court, and so on. Why do we not do it, instead of insisting on using that method? Or is it because you know that the matter will be delayed and so you hope that after five or six years, people will forget it and by that time, the prices of the shares of that company may have risen by several folds and so people will just let go of it? Or is it because grounds like the following will be put forward, such as the consequences of a prosecution is out of all proportion to the seriousness of the offence and public interest does not justify a prosecution, hence there is no need for a prosecution?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, let me reiterate this. Our investigation work will proceed and both the SFC and the police have done a lot of work on the investigations concerned. I do not see how the adoption of another method will enable us to get more power or that different findings will come out of such an investigation.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Fourth question.

MR LEUNG KWOK-HUNG (in Cantonese): *Good morning, President. I was really happy for the students when I heard this reply from Secretary Prof K C CHAN. It would be tragic if the teachers are like him.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please raise your main question.

MR LEUNG KWOK-HUNG (in Cantonese): *This is really awesome. I have never seen*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please raise your main question at once.

MR LEUNG KWOK-HUNG (in Cantonese): *..... I am really happy for the students in Hong Kong, for they do not have to hear such nonsense all the time. Well, I will not talk any more nonsense, I will raise my main question.*

Operation of Hong Kong Girl Guides Association

4. **MR LEUNG KWOK-HUNG** (in Cantonese): *President, I have received complaints that the appointment of the incumbent Chief Commissioner (CC) of the Hong Kong Girl Guides Association (the Association) is not in compliance with the age limit of the Association, but she could still be appointed by the wife of the Chief Executive in her capacity as the President of the Association. The complaints also allege that after voting against the proposal to confirm the CC election in 2007 at its Extraordinary General Meeting on 13 October this year, the International Commissioner and the Assistant CC (New Territories Operation) have been subjected to reprisal by the incumbent CC and their service will cease in December this year. There are also complaints that the Association pointed out mistakenly through the media on 15 September this year that the percentage of raffle refund to its units had never been in the region of 50%, and it also issued an open letter to all Unit Guiders and parents in Hong Kong as an attempt to cover up and deny "fattening the top and thinning the bottom" and cut the raffle refund, resulting in insufficient funding for its units. In this connection, will the Government inform this Council:*

- (a) *given that it is stipulated in the provisions of the "Constitution" or "Policy, Organization and Rules" (internal rules) of the Association that the CC should not be above the age of 65, whether it knows why the incumbent CC could stand in the election and be elected and appointed in 2007 even though she had exceeded the age limit; given that the "Constitution" of the Association was formulated in*

accordance with the law, whether it has assessed if the Association's continuous appointment of the overage CC constitutes a blatant challenge to and violation of the laws of Hong Kong; whether the Association will terminate the appointment of the CC immediately and make a public apology; and whether the Secretary for Home Affairs will follow up the aforesaid incident of reprisal and step down for having failed to monitor the Association all along;

- (b) whether it knows if the Association will make a public apology for pointing out mistakenly that the percentage of raffle refund to its units had never been in the region of 50%, and revert the percentage of raffle refund to 50% immediately; if it will increase the percentage of refund, when it will do so; if not, the reasons for that; and*
- (c) given that there have been complaints that the Association has all along internally predetermined some celebrities and rich people and even people who will not participate in the patrol assemblies or training each week as the CC or Deputy Chief Commissioners (DCCs), whether the Association will promote those DCCs who are from the grassroots and participate in the weekly assemblies and possess training experience as the CC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Association is incorporated under the Hong Kong Girl Guides Association Ordinance (Cap. 1020). The Association is an independent statutory non-governmental organization (NGO). According to its Constitution, the Association shall be a "non-political, self-governing body". The Government of the Hong Kong Special Administrative Region respects the independence of the Association. The Home Affairs Bureau provides funding for the youth development activities of the Association. My reply to the three parts of Mr LEUNG Kwok-hung's question is as follows:

- (a) The Hong Kong Girl Guides Association Ordinance and the Constitution of the Association have not provided for the age of the CC. However, it is mentioned in the internal rules that the CC should be aged between 21 and 65. It is understood that the

Association has become the subject of High Court civil proceedings instituted by two members of the public concerning the issue of age limit and the validity of the appointment of the CC. The relevant proceedings are now in progress. Separately, it is understood that the Association passed a resolution at an Extraordinary General Meeting (EGM) on 13 October 2010 to confirm the election and appointment of its CC in 2007 as well as all actions taken by her during her term of office.

The International Commissioner and Assistant Chief Commissioner (New Territories Operation) have a fixed term of office, which will end in November this year when an Annual General Meeting (AGM) will be held. On 27 October 2010, the Executive Committee comprising of 20 members had, in accordance with the Constitution, passed the nomination of new appointees upon consultation. The nominations will be submitted at the AGM for approval and then for appointment by the President of the Association. According to the Constitution of the Association, the appointment of the Association's officers is purely an internal matter of the Association. The Home Affairs Bureau respects the independence and autonomy in internal governance of the Association, and there is no question of failure to monitor the Association.

- (b) The sale of raffles tickets is the Association's internal management issue. The Association stated in its press release on 14 September 2010 that "the sale of raffles tickets had been conducted for more than 20 years and the percentage of refund to its units had never been in the region of 50%". We have sought information from the Association about the raffle refunds and that has been relayed in our reply to Mr LEUNG Kwok-hung's written question last week. According to the information provided by the Association, the percentage of refund of raffles tickets sale in recent years were lower than 50%. Each raffle ticket was sold at \$2 before 1992, and it was only from the sale of the 1 001st ticket onwards that \$1 was refunded to the units per ticket. The refund was less than \$1 when the sale was below 1 000. Hence, the average percentage of refund did not exceed 50% at that time.

- (c) According to the Constitution of the Association, the CC is elected by the Council by secret ballot and returned by a majority of votes. Some 80 ex-officio members of the Council (that is, the CC, DCCs, Assistant Chief Commissioners, International Commissioner, Division Commissioners, Assistant Division Commissioners and District Commissioners) have the right to nominate candidates. Both Frontline Unit Guiders who are responsible for patrol assemblies and direct training to Girl Guides, and leaders who are tasked with planning and guidance work may be nominated as candidates for the post.

MR LEUNG KWOK-HUNG (in Cantonese): *President, that is a totally irrelevant answer indicative of a mentality of doing things in one's own way. Secretary, I am not referring to you. You did give a reply. I am referring to Prof K C CHAN.*

Why is this problem serious? This is reflected in part (a) of the Secretary's reply. It said that the Association has its internal rules and according to the Secretary's reply, the age of the CC actually constitutes a contravention of the internal rules, right? Because she is over 65 years of age.

What I see now is that these people were sued in court and they rushed to pass a resolution at the EGM on 13 October to confirm this appointment. It means openly mobilizing those people to vote for this contravention of the internal rules. This is a very serious problem.

President, please allow me to say this. The Government has not only provided funding to the Association for organizing activities, but also granted a lot of sites to it. These sites are all valuable. The Government has ploughed in considerable public money to sponsor the charity activities of the Association, but this NGO has openly acted against the internal rules. This is like me defying your orders and shouting in this Chamber. That they have continued to contravene the internal rules through mobilization is making a last-ditch attempt, staking everything on winning the case in court.

President, I cannot but ask the Secretary whether you have asked them to consider this problem and cease doing it. If you have, then you have discharged your responsibility; otherwise, a problem is set to arise and that is, the entire Association will be in tatters. This

PRESIDENT (in Cantonese): Mr LEUNG, please sit down after you have asked your supplementary, so that the Secretary can answer it.

MR LEUNG KWOK-HUNG (in Cantonese): *..... have you talked to the CC telling her not to do it? In the Legislative Council, we also have to abide by rules or else, we would be driven out of the Chamber.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Council of the Association decided to hold an EGM to confirm the previous election results as well as all the actions taken since the making and taking up of the appointment. That was a decision made by them at the EGM.

The internal rules mentioned by Mr LEUNG earlier are actually formulated at the general meeting, and the actions confirmed or endorsed by its Council are also valid. As for the term of office of individual persons, as court proceedings are involved, I will not comment on it.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has not answered my supplementary question.*

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

MR LEUNG KWOK-HUNG (in Cantonese): *Secretary, you really have to answer*

PRESIDENT (in Cantonese): Please repeat your supplementary.

MR LEUNG KWOK-HUNG (in Cantonese): *If a statutory NGO has openly contravened its rules and then mustered some people to rubber-stamp the contravention of these rules*

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

MR LEUNG KWOK-HUNG (in Cantonese): *In this respect, the Secretary should have a view, for he is responsible for monitoring such organizations as the Association.*

PRESIDENT (in Cantonese): Mr LEUNG, please repeat your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I asked the Secretary whether or not he had talked to her about the possible consequences, but the Secretary has not given me an answer. He was implying that this is not his business. I think* *I think if the Secretary has not talked to her, it would be a serious dereliction of duty on his part.*

PRESIDENT (in Cantonese): Are you asking whether the Secretary has discussed this with the person-in-charge of the Association? Secretary, please.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Home Affairs Bureau sends its representative at the invitation of the Association. We did accept its invitation and send our representative to attend the EGM of the Association on 13 October. We also voted against the Association's motion on revising the requirement concerning the age limit.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has given a very good answer. He should keep this up.*

MR LEE CHEUK-YAN (in Cantonese): *Earlier on, in the draft of his main reply the Secretary added "there is no question of failure to monitor the Association". I actually have no idea of what the Government monitors. Secretary, I heard you say just now that you had cast an opposition vote but even though you did cast an opposition vote, the Association still ignored you. So, basically you have not exercised any monitoring over it, for you had only cast a vote through an appointed representative. Such being the case, I would like to know two points: First, in respect of age, although everyone knows that the Association has contravened the rules, it seems that you can do nothing or have done nothing at all; second, I am more concerned about the question of reprisal. President, two commissioners have been subjected to reprisal and their service would be discontinued. But as far as I know, from the staff complaints I have received, they are subjected to reprisal every day at work. The Association wants to hunt the witches who provided such information to the reporters. They now live in a white terror every day*

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

MR LEE CHEUK-YAN (in Cantonese): *Secretary, I would like to know*

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

MR LEE CHEUK-YAN (in Cantonese): *Yes, my supplementary question is simple: What is there for the Secretary to monitor? Can you monitor cases of reprisal? Can you monitor contravention of rules? Or are you telling me that you are not in a position to exercise monitoring in both situations? If so, this is not a failure in monitoring, but incompetence in monitoring. Can the Secretary please explain this more clearly?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we all know that the Association has been a long-established organization in Hong Kong, and it is also part of the international girl guiding activities. It is an independent organization, funded by the Government through the Home Affairs Bureau. Subsidies are provided mainly for the Association to promote youth activities.

On the one hand, we respect its independence and autonomy in governance. On the other hand, we monitor the effectiveness of its use of public coffers. A balance needs to be struck between the two. Its internal affairs, such as election and personnel management, are within the scope of its autonomy. What we monitor is mainly whether the use of public coffers can achieve our objective of promoting youth-related work.

MR LEE CHEUK-YAN (in Cantonese): *President.*

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

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary did not tell us whether he is unable to monitor cases of reprisal. He mentioned the use of public coffers earlier, stating that he has the power to monitor the use of public coffers, but he should also have the power to monitor the governance of the Association, for its governance and use of public coffers are inseparable. So, what I think the Secretary has failed to tell us clearly is this: Since he has the power to monitor the use of public coffers, why does he not have the power to monitor its governance and why does he not have the power to monitor cases of reprisal?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the use of public coffers by an organization and its internal governance are certainly related to some extent. But matters relating to its governance are not fully under the direct control of the Government, and a balance must be struck.

It has been a fact that for many years the Government has been providing funding to girl guiding activities. Similar to the way that we fund other organizations, we are currently discussing with the Association the drawing up of a funding agreement, or more precisely, a Funding and Service Agreement. We are discussing such work with the Association at the moment.

MR PAUL TSE (in Cantonese): *For organizations in general, we certainly have to refer to their constitutions and even by-laws which set out the standards for their management. However, the Scout Association of Hong Kong or the Girl Guides Association is special in law in that they are governed by legislation and backed up by legislation. Particularly, if we refer to the relevant ordinance, namely, Cap. 1020, section 12 provides that all matters of management shall be carried out in accordance with the Constitution, meaning that it is against the law to act against the Constitution. Section 6 provides that wrongful exercise of authority is subject to criminal liability. In this regard, my understanding is this: It is not the case that there would be no problem so long as its members asserted so at an AGM convened by the Association because it actually involves a huge amount of public money and the question of privilege. Although the Association has done a lot of charity work for Hong Kong over the years, which is beyond doubt, the law is, after all, the law. In this connection, I would like to know if the Secretary has, in accordance with the relevant ordinance, referred the relevant complaint to the police for criminal investigation?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, there is actually no mention of the age of the CC in the relevant ordinance governing the Association or the Constitution of the Association. However, the Association has further drawn up internal rules under its Constitution, and matters relating to age are mentioned therein. In this regard, civil proceedings are in progress and so far, we do not see a need to refer it to the police for investigation into whether criminal liabilities are involved.

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

MR PAUL TSE (in Cantonese): *President, my supplementary question is about whether or not the case has been referred to the police, not the Secretary's personal view on this case or his judgment as to whether or not the rules or the Constitution is involved. There is a difference here.*

PRESIDENT (in Cantonese): You were asking the Secretary whether

MR PAUL TSE (in Cantonese): *I asked whether the case has been and will be referred to the police for criminal investigation.*

PRESIDENT (in Cantonese): Secretary, the Member asked whether the case has been and will be referred to the police.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, it has not been, and will not be referred to the police.

PRESIDENT (in Cantonese): Fifth question.

Increase in Use of Nuclear Energy

5. **MR KAM NAI-WAI** (in Cantonese): *President, the Environment Bureau in its public consultation document on "Hong Kong's Climate Change Strategy and Action Agenda" released in September this year and the Chief Executive in his Policy Address delivered on 13 October this year have both proposed that the share of nuclear power in the fuel mix for power generation in Hong Kong be substantially increased from 23% in 2009 to an estimated 50% in 2020. In this connection, will the Government inform this Council:*

- (a) *whether the authorities had, in the past two years, studied and assessed the risks and the safety hazards that nuclear power generation projects and an increase in the imported nuclear power will pose for Hong Kong; if they had, of the details; if not, the*

reasons for that; given that it was reported that the Central Government had identified a number of sites in Guangdong Province for developing nuclear power generation projects, and one of the seismic fracture zones in Shenzhen had extended to Hong Kong, whether they know if the Mainland authorities have included extension of the seismic zone to Hong Kong as one of the factors for consideration in identifying sites for developing new nuclear power generation projects; if they have, of the details; if not, the reasons for that; of the seismic resistance of the Daya Bay Nuclear Power Station and the selected sites for new nuclear power generation projects at present;

- (b) whether the authorities have assessed the impact of the aforesaid increase in imported nuclear power to 50% in 2020 on the overall costs of power generation; if they have, of the details; if not, the reasons for that; whether the authorities have, given the technology currently available, assessed how long the supply of Uranium, which at present is essential for the production of nuclear power, will last; whether they have looked into the cost of imported nuclear power of power companies and its overall impact on electricity tariff; and*
- (c) whether the authorities have assessed the amount of nuclear wastes that will be produced as a result of the aforesaid increase in the share of nuclear power in the fuel mix for power generation in Hong Kong; whether they need to, in accordance with the prevailing standards for handling radioactive wastes in Hong Kong, formulate a plan for handling the nuclear wastes produced due to the increase in the imported nuclear power, and the costs involved; whether they have made reference to the approaches taken by various places in the world and their experiences in handling nuclear wastes; if they have, of the details; if not, the reasons for that; whether it knows the location for storing the nuclear wastes produced by Daya Bay Nuclear Power Station at present, and the conditions for handling these nuclear wastes in Daya Bay?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, to combat global climate change, we launched a public consultation on "Hong

Kong's Climate Change Strategy and Action Agenda" in September this year. Power generation is the largest source of greenhouse gas (GHG) emissions in Hong Kong. It accounted for about 67% of our total emissions in 2008. Reducing carbon emissions relating to power generation is, therefore, an indispensable element in our strategy for combating climate change. Revamping the fuel mix of local power generation is the key to the reduction of GHG emissions in Hong Kong. In seeking to improve the fuel mix, our policy target is to continue to uphold our energy policy objectives to ensure reliable, safe and efficient energy supplies at reasonable prices, while minimizing the environmental impact caused by the production and use of energy.

In 2009, coal accounted for about 54% of the fuel mix for power generation in Hong Kong, followed by natural gas which accounted for about 23%, and imported nuclear power which accounted for another 23%. We propose to reduce the use of coal to account for no more than 10% of the fuel mix in 2020. To make full use of the increase in supply of natural gas from the Mainland to Hong Kong, we propose to increase the share of natural gas in the fuel mix to around 40%. We also propose to increase the share of non-fossil, low carbon fuel, such that renewable energy would make up about 3% to 4% of the fuel mix, and the balance of about 50% would be met by imported nuclear power.

Nuclear power does not cause air pollution or emit GHG during the power generation process, and provides reliable and stable power supply over a long period of time. With more nuclear power generation projects being developed in the Mainland, we may consider taking the opportunity to improve the fuel mix in Hong Kong and increase the import of nuclear power to replace coal-fired electricity. Subject to views received in the consultation, we would closely liaise with the Central Authorities and power companies in Hong Kong and the Mainland to take forward related initiatives.

As regards part (a) of Mr KAM's main question, the nuclear fission technology adopted by the Daya Bay Nuclear Power Station and other nuclear power stations in the Mainland was first developed in the 1940s and 1950s. At present, nuclear power accounts for about 14% of global electricity supply. Around 30 countries are now operating over 440 nuclear power generating units. Nuclear power technology is relatively mature and widely used.

In fact, the construction and operation of nuclear power stations in the Mainland are regulated by relevant national safety regulations for civilian nuclear facilities, and have to comply with national regulatory requirements before the plants could obtain the construction and safety operation approval. The Ministry of Environmental Protection (MEP) is responsible for the environmental monitoring of the nuclear power stations. The National Nuclear Safety Administration (NNSA) is a regulatory body under MEP responsible for the safety operation and inspection of the nuclear power plants. The requirements for the construction and operation of nuclear power stations as well as handling of nuclear wastes are in line with the international standards. The International Atomic Energy Agency (IAEA) also sends inspectors to inspect the operation of nuclear power stations.

Under the Mainland's Regulation on Management of Seismic Safety Assessment, a seismic safety assessment (SSA) must be conducted for any nuclear power station and nuclear facilities construction project. The report includes the technical requirements of the SSA and will be submitted to the relevant authority of the State Council in charge of seismicity for approval. The authority will set the seismic resistance requirements of the construction works and the responsible construction works unit will carry out the seismic design based on those requirements.

As for the Daya Bay Nuclear Power Station, one of the site selection criteria is that within 20 km of the Power Station, there is no dividing boundary between plates of the earth's crust which has experienced significant seismic activities over a long period of time. This notwithstanding, to protect the Power Station from impacts of earthquakes, its main building, structure, systems and facilities have been specially designed to withstand an earthquake of certain intensity.

As regards part (b) of the main question, as I said before, the impact of increased import of nuclear power on electricity tariff can only be assessed in detail upon finalization of the construction proposal of the infrastructure and relevant details, subject to further studies and discussion.

As a reference, we have set out in the consultation document that the current unit price of nuclear electricity imported from the Mainland is about 50 cents/kWh, which covers the costs of handling spent fuel, insurance and the

charges for future decommissioning of the nuclear power plants. Comparatively, the power companies' current unit generation costs of coal-fired electricity are in the range of about 40-60 cents/kWh, and gas-fired electricity in the range of about 70-90 cents/kWh. Fuel costs are subject to market fluctuation, and future imported nuclear power prices will be subject to commercial negotiation. In fact, as the price of fossil fuels was very unstable over the past few years, it may not be viable to provide accurate projection now on the price of natural gas over the next 10 years. However, comparatively, the unit price of nuclear power is expected to be more stable and lower than the unit generation cost of gas-fired electricity.

According to the information from the IAEA, while nuclear power stations are more capital intensive than power generation by fossil fuels, yet the operating cost of the former after commissioning is lower than that of the latter. Also, as the fuel costs for nuclear power generation are more stable, it is expected these factors would contribute to a lower average tariff for nuclear electricity.

On the supply of uranium as fuel source for nuclear power, information from the IAEA indicates that at the nuclear power utilization level in 2007, total identified uranium resources are sufficient for global use for about 100 years. However, the utilization period of the uranium resources can be extended significantly if more advanced technology, such as fuel reuse, is adopted.

As regards part (c) of the main question, currently the spent fuel and other nuclear wastes produced by the Daya Bay Nuclear Power Station are handled in the Mainland. The NNSA is the monitoring body overseeing nuclear power stations and their handling of nuclear wastes. It monitors and regulates the handling of radioactive wastes according to existing regulations. It also vets, monitors and inspects related work, in particular radioactive waste handling activities in nuclear facilities. The national regulations on the construction of nuclear power plants, the licensing arrangement for their operation, as well as the handling of nuclear waste are in line with the international standards.

Around 50 tonnes of spent fuel are produced in Daya Bay Nuclear Power Station every year and stored in a dedicated pool for cooling and radiation shielding. They will be removed from the Power Station as their radioactivity and heat drops over time.

According to the Mainland's policy, spent fuel is treated in compliance with national regulation and internationally recognized practices, and will be reprocessed to extract useful materials for further use. The NNSA is responsible for overseeing relevant operation and safety issues, while the MEP monitors its environmental safety.

In addition, the Daya Bay Nuclear Power Station produces less than 200 cu m of radioactive waste every year, including packaging materials. The sources of radioactive waste at the Power Station include radioactive substances extracted in the daily operation of the Power Station, radiological spare parts replaced during maintenance, and tools or protective clothing contaminated by radioactivity. In line with international practice, the Power Station packs the waste in concrete drums or metal drums depending on the nature of the waste to prevent it from coming into contact with the environment. The waste will be temporarily stored in the Power Station, and will eventually be transported to repositories for storage.

MR KAM NAI-WAI (in Cantonese): *President, in the last few sentences of his reply just now, the Secretary mentioned the methods of disposing of nuclear wastes. As Members may have noted, nuclear waste disposal methods have led to heated debates among local residents in different parts of the world. However, the Secretary pointed out in the last sentence that the wastes produced by the relevant nuclear power station, that is, the Daya Bay Nuclear Power Station, is temporarily stored in the nuclear power station and will eventually be "transported to repositories for storage". Where exactly are they? Do the relevant authorities in Hong Kong know how the State disposes of such nuclear wastes? Regarding previous incidents that happened in the relevant nuclear power plant, was Hong Kong properly notified and allowed to participate in looking into the actual circumstances? Will the Secretary give a response in this respect?*

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, thanks to Mr KAM Nai-wai for his question. Currently, the spent fuel, that is,

the used fuel, and other nuclear wastes produced by the Daya Bay Nuclear Power Station are initially stored in an enclosed plant in accordance with the relevant requirements. This storage method is also adopted by other nuclear power stations to cool down the spent fuel and nuclear wastes or reduce their radioactivity before they are reprocessed to extract useful materials for further use or permanently packed. The State has put in place a standard practice for handling wastes produced by all nuclear power stations across the country.

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

MR KAM NAI-WAI (in Cantonese): *Deputy President, the Secretary pointed out in the last sentence that they will eventually be "transported to repositories for storage". The questions I put to the Secretary just now were: Do the relevant authorities in Hong Kong know where such nuclear wastes will ultimately be stored? Was Hong Kong consulted on the relevant locations? Was Hong Kong notified of the relevant safety incidents?*

DEPUTY PRESIDENT (in Cantonese): Very well, please be seated. Secretary, please provide additional information.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, to my understanding, the State will identify some sites in remote areas within the national territory with suitable geological conditions as permanent storage. These sites will be used for disposal of the wastes produced not only by the Daya Bay Nuclear Power Station but also by other nuclear power stations.

MR KAM NAI-WAI (in Cantonese): *Deputy President, my question was whether the relevant authorities in Hong Kong know where the nuclear wastes would be stored. Does the Secretary really know the answer?*

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

(The Secretary for the Environment indicated that he had nothing to add)

DEPUTY PRESIDENT (in Cantonese): If not, please be seated.

DR JOSEPH LEE (in Cantonese): *Deputy President, the Secretary said in the main reply that the authorities plan to increase the share of imported nuclear power in the fuel mix to almost 50%, but there is no need for Hong Kong to construct any nuclear power station specifically for this purpose. May I ask the Secretary how the large amount of additional imported nuclear power supply will be transmitted to Hong Kong? How will the cables be laid? Will this lead to an increase in the number of feeder stations? Has he assessed the radioactivity of these facilities and the health impact of these transmission arrangements on nearby residents? What are his views?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Under the existing power supply arrangements of Hong Kong, 23% of our electricity supply is imported, that is, transmitted from Daya Bay to Hong Kong, through transmission networks and then distributed under our existing electricity distribution mechanism. If arrangements in this direction are to be pursued, we only have to increase the share of imported nuclear power from the existing 23% to about 50% using the same method of transmission. Upon transmission to Hong Kong, the electricity will be distributed under our existing distribution network. The existing facilities in Hong Kong have been effective in ensuring safe transmission. I hope Members will appreciate this.

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

DR JOSEPH LEE (in Cantonese): *Deputy President, he has not answered the part on whether the transmission network will be expanded. Will the transmission network not be expanded? Will there be no adverse impact on health?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, as imported electricity supply will be increased, the particular network for transmitting electricity from the relevant power generation units, that is, the nuclear power generation units, to Hong Kong will certainly be expanded. However, the electricity imported into Hong Kong will still be transmitted to individual customers using the existing distribution network. This is a long-established practice.

MS AUDREY EU (in Cantonese): *Deputy President, the Government has already announced in the Policy Address the proposal to increase the share of imported nuclear power in the fuel mix to 50%. It means we will not build any nuclear power plant in Hong Kong. May I ask the Secretary whether he can tell us where the nuclear power plant that will supply electricity to Hong Kong will be located? Will Hong Kong people be allowed to participate in the site selection process, or do we have the opportunity to participate in the discussion on siting? When will we know it?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, thanks to Ms Audrey EU for her question. In the present consultation document, we have pointed out that fuel mix is one of the important elements with regard to climate change. If we proceed in this direction, we will find out, together with the Mainland, whether there are any planned nuclear power facilities in Guangdong Province which can meet the demand of electricity supply to Hong Kong.

We noticed from the 11th Five-Year Plan that there is planning for these facilities in such places as Yangjiang, Taishan or Lufeng in Guangdong Province. After the consultation exercise, we will continue to discuss the issue of site selection with the Mainland, subject to the confirmation of this direction. I believe the public will be informed of the site selection details.

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

MS AUDREY EU (in Cantonese): *Deputy President, he has not answered the other part of my question, which is whether Hong Kong people will have the opportunity to participate in the relevant discussion. He only said that we would be informed of it.*

DEPUTY PRESIDENT (in Cantonese): The Secretary said he would participate in it, but Hong Kong people Secretary, do you have anything to add?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, we conducted the consultation exercise precisely to discuss a host of issues with the public. As for site selection, once the relevant direction is confirmed, we will discuss this with the public again, subject to the availability of suitable sites in the Mainland.

MR FRED LI (in Cantonese): *Deputy President, it is proposed that the use of nuclear power will be doubled in nine years' time. As Members may be aware, nuclear power is not used on Hong Kong Island and it is only supplied to residents in the New Territories and Kowloon through the network of the China Light and Power Company Limited (CLP). On Hong Kong Island, only coal and natural gas are used.*

My question is: If the use of nuclear power is to be increased so significantly, I believe the authorities may also need to instruct the Hongkong Electric Co. Ltd (HEC) to introduce the use of nuclear power on Hong Kong Island for environmental reasons. In that case, is there any mechanism in the existing Schemes of Control Agreement under which the Government can instruct the HEC to supply electricity which is not generated by the company itself? As the profit calculated on the basis of asset value is considerable, is it possible to allow the HEC to import electricity from outside Hong Kong? What will be the implication on electricity tariff?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Actually, coal accounts for a considerable proportion in the existing fuel mix of the two power companies, and the coal-fired generation units, whether those of the CLP or those

of the HEC, have to be phased out or retire in 10 to 20 years' time. Therefore, it is a good opportunity, when these coal-fired generation units have to be phased out, to examine whether the existing fuel mix can be replaced by a low-carbon and cleaner one. It is precisely because the two power companies have such generation units that we will pursue this direction together.

Specifically, we will have to discuss the details of this approach with the two power companies. For example, we may increase the use of natural gas on the one hand, and use other types of renewable energy or even nuclear power on the other. As for the implication on electricity tariff, as it is already covered in the main reply, I will not repeat it here.

MS CYD HO (in Cantonese): *Deputy President, as China is a developing country, it is in an advantageous position to learn from others' mistakes. Even the German Government has recently announced that all nuclear power plants in the country will be closed by 2030. This is the latest international trend.*

The Secretary kept saying that we would follow the latest international trend, but did he try to understand why Germany decided to close all of its nuclear power plants and how it will address its demand for electricity supply, to enable Hong Kong and even the whole country to avoid repeating others' mistakes and identify a truly clean and safe fuel mix?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, thanks to Ms Cyd HO for her question. Actually, there are a few clear trends in the international community. A trend which is agreed by all is that power generation mainly using coal or fossil fuels is not sustainable, and therefore various places in the world are reducing the relevant proportions in their fuel mix.

The second trend is that renewable energy will be used when possible. However, nuclear power is also widely used in the fuel mix. Ms HO mentioned the practice adopted in Germany, but in such neighbouring places of Germany as France, nuclear power actually accounts for 77% of its overall fuel mix.

I think, in deciding the future fuel mix of Hong Kong, it is most imperative to give consideration to the existing four energy objectives: the first one is stability, which is to ensure that there is adequate power supply; the second one is safety, for which there must be no compromise; and the next one is whether the fuel mix is cost-effective; and finally, whether it is environmentally-friendly, including whether it will gradually lead to a low-carbon future. I believe whichever fuel mix is adopted, Members may try to conduct discussions and express their views with reference to these aspects.

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

MS CYD HO (in Cantonese): *Well, the Secretary has not given any reply. I asked him whether he had tried to understand why Germany had decided to close all the nuclear power plants in the country, and how it would cater for its energy demand after closing the nuclear power plants. Because if one looks only at*

DEPUTY PRESIDENT (in Cantonese): There is no need to give any explanation. You need only state which part of your question has not been answered.

MS CYD HO (in Cantonese): *..... because if one looks only at practices adopted by some countries without understanding their actual circumstances is tenacity rather than real consultation.*

DEPUTY PRESIDENT (in Cantonese): I understand your question. Secretary, can you give a focused reply on whether you know the circumstances of Germany?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, I am aware that in some places where renewable energy, such as wind energy and solar energy, can be widely used

DEPUTY PRESIDENT (in Cantonese): Secretary, the Member specifically asked about the German case.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Germany, for example, has a tendency to do so. However, as I said in my reply just now, I find that different measures are also adopted in its neighbouring places, and we will examine all these examples.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Last oral question.

Actions Taken by Police Against Protestors in the March on 1 October

6. **MR WONG YUK-MAN** (in Cantonese): *Deputy President, it was reported that when the League of Social Democrats and more than one hundred members of the public marched to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office) on 1 October this year to stage a demonstration and shouted slogans such as "without vindicating the 4 June incident, there remain only sorrows of our country" and "without letting the people be their own masters, there be no National Day", and so on, demanding that political power be returned to the people and patriotic dissidents such as LIU Xiaobo be released, the police suppressed their freedom of expression and abused the use of pepper spray on the demonstrators. Moreover, it was also reported that the demonstrators carried a coffin with the words "the people's heroes will remain immortal, the butcher regime will be cursed forever" written on it on the day of the demonstration, the size of the coffin was only one foot by four and a half feet after removal of the supporting bamboo beam, and the police stopped the demonstrators from carrying the coffin to pass by the Liaison Office on grounds that the coffin was a*

"bulky item" and "may affect public safety", and so on. In this connection, will the Government inform this Council:

- (a) of the justifications for the police to state that the aforesaid coffin was a "bulky item" and "may affect public safety"; why the police still refused to allow the demonstrators to carry the coffin and pass by the Liaison Office after they had removed the bamboo beam which supported the coffin; whether it was because of the slogan of "the people's heroes will remain immortal, the butcher regime will be cursed forever" on the coffin that the police stopped the demonstrators from carrying the coffin to pass by the Liaison Office;*
- (b) given that it was reported that after the coffin was forcefully taken away by the police, the demonstrators had indicated that they would peacefully disperse if they could protest at the front gate of the Liaison Office as planned, but the police indicated that "the demonstration items have to be put down before the demonstrators can pass by the front gate of the Liaison Office", on which legislation the police have based in giving the aforesaid direction; whether it has assessed if the actions taken by the police were contrary to the provisions relating to protection of freedom of expression under the Basic Law and the Hong Kong Bill of Rights Ordinance; if an assessment has been conducted, of the outcome; and*
- (c) given that it was reported that the police abused the use of pepper spray on the aforesaid demonstrators right after raising for only one minute a warning notice without content, and had injured one cameraman from a television station, several police officers and demonstrators, of the justifications for the police to use pepper spray?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, the SAR Government respects the rights of the public to peaceful assemblies and processions and to express their views. The police have to strike a balance to reduce the impact of large-scale public assemblies and processions on other people or road users, and at the same time to ensure public safety and public

order. In other words, while the police would facilitate the expression of views by participants of processions, they also have the responsibility to maintain public order and ensure the rights and safety of other people in using public places or roads. Participants of public meetings or processions, in exercising their freedom of expression, should, under the premise of observing the Hong Kong law and without affecting public order, proceed in a peaceful and orderly manner. As the event referred to in the question involves a criminal case which is under investigation, I will not comment on the case in detail.

My consolidated reply to the three parts of the question is as follows.

Under the Public Order Ordinance (Cap. 245), the Commissioner of Police (CP) will carefully examine each case. The CP may impose condition(s) on a notified public meeting or procession as reasonably necessary to ensure public order and public safety. Conditions imposed on a public meeting or procession may include restrictions on demonstration objects. The police will communicate with the organizer prior to the event on the detailed arrangements including any demonstration objects the organizer intends to bring during the event. Based on the principle of facilitating the expression of views by participants of processions, the police will try to accommodate requests from event organizers concerning the use of demonstration objects as far as practicable. At the same time, subject to the arrangements proposed by the organizer as well as physical restrictions of the venue or the demonstration objects, the police will discuss with the organizer the arrangements of the objects concerned and set them out as conditions in the "letter of no objection" if necessary. The organizer may lodge an appeal to the statutory Appeal Board on Public Meetings and Processions (the Appeal Board) if he/she considers that the conditions imposed by the police are unreasonable. The Appeal Board will consider and rule on the appeal independently and objectively. Otherwise, the organizer should conduct the public meeting or procession in accordance with the conditions or requirements set out in the "letter of no objection".

During the course of public events, the police will, in accordance with the "letter of no objection", facilitate the events to be conducted under peaceful and orderly circumstances on one hand, and ensure that such events will not jeopardize public order and the safety of people at scene as well as the general public. The Field Commander will make assessment according to the circumstances under which the protests are taking place. If any demonstration

objects carried along or used by protestors are found to be without prior notification, or not in compliance with the conditions set out in the "letter of no objection", and the progression of the event may pose a potential risk to the safety of the persons at scene due to the on-site conditions (for example, a narrow road with many pedestrians or vehicles), the police will liaise directly with the organizer/persons concerned and make suitable suggestions and arrangements.

As mentioned above, if any participant carries along demonstration objects without advance notification, or not in compliance with the conditions set out in the "letter of no objection", the Field Commander will make a professional assessment taking into account the objects, the number of people at scene, as well as the traffic and pedestrian conditions nearby, and decide whether to intervene or to liaise with the person concerned for an acceptable arrangement. In making the decision, the police have to strike a balance between facilitating expression of views by participants and safeguarding public safety.

According to my understanding, the police had set out the restriction on demonstration objects clearly in the "letter of no objection" which was issued to the organizer prior to the event referred to in the main question, and communicated with the organizer on the conditions set out in the "letter of no objection". During the event, the police requested the organizer to conduct the public event in a safe and orderly manner in accordance with the conditions set out in the "letter of no objection".

The main question also touches on the justifications for the discharge of Oleoresin Capsicum (OC) Foam by the police. The police respect all peaceful and lawful forms of self-expression. However, no violence and disorder at public assembly and procession which constitute criminal acts or threaten public safety and public order will be tolerated. The police will deal with such situations in a professional and resolute manner in order to protect the wider interests of society. When participants of public meetings or processions start crushing the police defence line by using violence, and after exhausting practicable options to stop the use of violence, police officers are still unable to control the protestors' active aggression, the police may resort to the use of OC Foam to defend attack from protestors, and to prevent protestors from charging the police cordon line. On each of the occasions when OC Foam is used, the relevant officers shall give verbal warning first if circumstances permit.

According to my understanding, in the operation referred to in the main question, police officers had given multiple verbal warnings before OC Form was used.

MR WONG YUK-MAN (in Cantonese): *If I want to know the Secretary's reply, why don't we read it on the Internet, right? In other words, all the requirements on you people in the Security Bureau in handling these so-called peaceful demonstrations, or the "letter of no objection" application are available on the Internet, we can simply read them online, without him spending five minutes on this answer to me, right? There are several important questions that the Secretary has not answered, right? First, does the size of that coffin make it a bulky item? I was on the scene at the time, but not when the pepper spray was discharged because I must not be hit by the spray. If hit by the spray, I might become blind, right? I was co-ordinating with the police officer-in-charge on the scene. I said, "This object, given its size, can pass there. So, it is not a 'bulky item'". Then he emphasized that it was a bulky item. Well, we argued for a long time. Then he said he had to talk to his superior, but after talking to his superior he still insisted that it was a bulky item. Then I said to him, "Do you dare tell me in one sentence, 'The coffin cannot pass because today is 1 October, and here is the Liaison Office'". Does Ambrose LEE dare reply in this way? The crux lies here: It is because he is scared, right? Usually objects bulkier than this one are allowed, Secretary! I just need this answer. Second, regarding the issue of pepper spray*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, you can ask one question only.

MR WONG YUK-MAN (in Cantonese): *This is the same as my original main question, about the pepper spray. Several of my people were hit by the spray, right? Long Hair was also hit that day, and so were the Secretary's staff. There was a shot clearly taken of us: They climbed up to discharge the spray. No way was there any act so "violent" that the police could do nothing about it except using pepper spray as described in the Secretary's main reply now. So much police strength was on the scene at the time, while our people heading for the Liaison Office could hardly amount to a hundred in total. There were hundreds of police officers there and rows after rows of mills barriers. Worse*

still, they even climbed up to some height to discharge the pepper spray. They climbed up to some height to discharge the spray, Secretary!

DEPUTY PRESIDENT (in Cantonese): Please be seated.

MR WONG YUK-MAN (in Cantonese): *That was violence. Such act of the police is violence.*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, please be seated. Secretary, please reply.

MR WONG YUK-MAN (in Cantonese): *I simply asked the Secretary to answer me whether it is not alright to carry a coffin to pass by the Liaison Office on 1 October? If so, we will not use the coffin next year, okay? This is political censorship. The security authority of the SAR Government is afraid of the Communist Party*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, we are not conducting a debate now. Please be seated. Secretary, please reply.

MR WONG YUK-MAN (in Cantonese): *Why was the pepper spray discharged from a height, in disregard of public safety, and even doing harm to the journalists?*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, please sit down.

MR WONG YUK-MAN (in Cantonese): *..... While uncorking a champagne constitutes cause for arrest, you are free to indiscriminately discharge pepper spray. For the police, it is might that makes right*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, please let the Secretary reply.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, as I said in the main reply, as the event on that day is now a criminal case under investigation, I am not in a position to comment on it in detail here. However, I would also like to repeat once more here the criteria for assessing individual objects. Firstly, we have to examine whether the demonstration object is in compliance with the conditions set out in our "letter of no objection", and the Field Commander has to evaluate the situation on the scene. Mr WONG Yuk-man said just now that it was because the demonstrators wanted to pass by the Liaison Office that we did not let them carry the paper coffin along. In fact, it has nothing to do with the place of demonstration. As regards the use of pepper spray, I also mentioned just now in my main reply that the police respect very much the rights of the public to express their views in a peaceful and orderly manner. However, we do not want to see the public use force, ignore police warnings, or charge the police cordon line. Under such circumstances, after repeated warnings, the police would use reasonable force to maintain social order.

MR LEUNG YIU-CHUNG (in Cantonese): *Deputy President, in fact, the so-called "commotion" triggered every time by the public who was marching to the Liaison Office for demonstration was actually caused by the police obstructing the demonstrators from passing by the front gate of the Liaison Office, particularly when bulky objects were carried. In fact, I really hope that the Secretary can tell us what is meant by "bulky" and what is meant by "small"? Otherwise, the demonstration object would be considered as bulky every time, which is most unfair to the demonstrators. For example, it is permissible to hold up a placard which is a bit large. Then why is it not permissible to carry a coffin which is a bit bulky? What is meant by "bulky"? For example, the banners hoisted in procession are also long. Why are they allowed, but not other objects? He has no criteria at all. Today he has repeatedly said here that it is for the sake of public safety. May I ask the Secretary what is public safety? There was nobody at all other than demonstrators on that day. And as the police had even totally blocked off the area, no one could walk through.*

Therefore, I hope the Secretary can talk about what is meant by "bulky" and "affecting public safety". Can he explain and give an account in detail?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, to assess what objects can be used in demonstrations, the police have to base on their professional assessment to communicate with the organizers of these demonstrations or processions every time. If, after communication, the police consider it necessary to impose some conditions on the procession or demonstration, or to impose restrictions on what is allowed to be brought along or not, they will communicate with the organizer. If the police consider it necessary to impose some conditions for the sake of safety of other people and to maintain order, they will set out the conditions in the "letter of no objection". Such conditions are not decided by the Security Bureau. If the demonstrators are dissatisfied with the conditions set out in the "of no objection", they can lodge a complaint with the Appeal Board on Public Meetings and Processions. Then the Board, rather than the Security Bureau, will decide, after an independent assessment, which are "bulky" and which are "small". So, we have a mechanism. Nor do I know as the places, spots and venues passed by the processions and demonstrations vary from time to time, and they are subject to the police's professional assessment, it is not up to the Security Bureau to set a so-called standard as to which objects should be considered large or small, and how.

(Mr LEUNG Yiu-chung stood up)

DEPUTY PRESIDENT (in Cantonese): The Secretary has already given an answer.

MR LEUNG YIU-CHUNG (in Cantonese): *Deputy President, he has not answered my supplementary question.*

DEPUTY PRESIDENT (in Cantonese): You may not be satisfied with his reply, but

MR LEUNG YIU-CHUNG (in Cantonese): *No, it is not that I am dissatisfied.*

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

MR LEUNG YIU-CHUNG (in Cantonese): *He has not answered what is meant by "bulky item" and "affecting public safety"? Deputy President, the issue he talked about just now is very important. He said that if the demonstrators are dissatisfied, they can lodge an appeal, but given the fact that the "letter of no objection" had neither forbidden coffins nor indicated how bulky a coffin should not be carried, and that the demonstrators were stopped while the procession was underway, how could the appeal be lodged? Therefore, he has not given a detailed account on the question of "affecting public safety". I hope he will give an account once again.*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have already given an account. In other words, what can be brought along, or how bulky an object can be carried, and so on, are issues subject to the professional assessment by the police, instead of the Security Bureau's decision, having regard to the size and limitations of the venue of the event on that day.

MR ALBERT CHAN (in Cantonese): *Deputy President, I am sure that these two consecutive incidents, namely that many years ago Dick Lee played Beethoven music, and that this time a small coffin was forbidden and pepper spray was discharged at frail girls and skinny young people, will become an international laughing stock. In his reply to Mr WONG Yuk-man just now, the Secretary described the police discharge of pepper spray as if they were dealing with some heinous criminals and bandits, treating demonstrators like YIP Kai-foon and CHEUNG Chi-keung. But if the Secretary cares to review the video tapes it is always available on the Internet those are just very skinny young people, many of them being girls probably weighing not even 100 lb. Now that you and your police officers were in hundreds, outnumbering the demonstrators. Can the Secretary tell us whether the Police Force of Hong Kong — the valiant police officers of Hong Kong weighing 150 lb*

to 160 lb — are not able to deal with girls weighing less than 100 lb, and need to discharge pepper spray at them? Does it not show that the commanding officers of the police have no confidence in our police officers and they are insulting our police officers? It is an international laughing stock that the police officers of Hong Kong are unable to put a girl weighing less than 100 lb under control. Do you not find it shameful? Do you not think that this is a huge insult and disrespect to the police officers of Hong Kong?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I believe it is Mr Albert CHAN who is insulting our police officers. I stress again here that the police's action

MR ALBERT CHAN (in Cantonese): *Can the Secretary explain which of my remarks has insulted the police officers? Which remark of mine has insulted the police officers? Secretary, would you explain?*

DEPUTY PRESIDENT (in Cantonese): Secretary, please continue with your reply.

MR ALBERT CHAN (in Cantonese): *Deputy President, you have to be fair, because he is accusing me*

DEPUTY PRESIDENT (in Cantonese): Would you let the Secretary reply first, please?

MR ALBERT CHAN (in Cantonese): *Deputy President, you have to ask him to clarify, because he accused me of insulting the police officers. He is misleading. Which of my remarks*

MR WONG YUK-MAN (in Cantonese): *We were sprayed.*

DEPUTY PRESIDENT (in Cantonese): Mr WONG Yuk-man, please keep quiet.

MR ALBERT CHAN (in Cantonese): *I strongly condemn the Secretary for distorting the truth. Which of my remarks Secretary, you have to clearly explain which sentence in the question I asked you just now has insulted the police officers. If you cannot tell, please withdraw your remark If you cannot tell, please withdraw your remark. You are not qualified to be the Secretary.*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down. Secretary, please reply.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I stress again here that the police action

MR ALBERT CHAN (in Cantonese): *You have not answered my question*

DEPUTY PRESIDENT (in Cantonese): The Secretary has not yet replied.

MR ALBERT CHAN (in Cantonese): *Which of my remarks has insulted the police officers? If you cannot tell, you have to withdraw the accusation made just now.*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down. The Secretary has not yet started to reply.

MR ALBERT CHAN (in Cantonese): *Deputy President, he has not answered.*

DEPUTY PRESIDENT (in Cantonese): The Secretary has not yet started to reply. Secretary, please reply.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I stress once again that the police action was done with the minimal force which was reasonably necessary to stop the violent acts of some demonstrators and prevent further deterioration of the situation in order to protect public safety

MR WONG YUK-MAN (in Cantonese): *No, have you received at that time Have you received at that time any report on the situation as you have described just now? You said that you would not comment on the case, but now you are talking about it.*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, if you continue to disrupt the conduct of questioning and answering, I have to ask you to leave.

MR WONG YUK-MAN (in Cantonese): *Deputy President, many things are interactive, okay?*

DEPUTY PRESIDENT (in Cantonese): Question answering is not interactive. What is interacting is the person who raises questions. If you want to raise a question, please press the button. I will jot down your name. When it is your turn, I will call out your name, alright? If it is not yet your turn, please be quiet. Secretary, please reply.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, why did I say that Mr Albert CHAN had vilified our Police Force? In fact, the Hong Kong Police Force is very well known in the world. Ours is a police force that enforces law in a civilized manner. If you watch daily world news on the television, you can see how the police in other free and democratic countries deal with demonstrators. Our police have always facilitated demonstrators in exercising their right to peaceful expression, provided that

(Mr LEUNG Kwok-hung stood up)

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *I want him to clarify*

DEPUTY PRESIDENT (in Cantonese): Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Can he cite other civilized countries as examples?*

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, you cannot behave that way. Please sit down. I will jot down your name. If you want to raise a question

MR LEUNG KWOK-HUNG (in Cantonese): *It is a false statement.*

DEPUTY PRESIDENT (in Cantonese): Press the button, and there will be your turn to raise a question later. Secretary, please continue with your reply.

SECRETARY FOR SECURITY (in Cantonese): Only when under

I mean, only when seeing someone break the law or use force would the police use the minimum force to prevent the situation from worsening. Therefore, it is unacceptable to me that just now Mr Albert CHAN accused us of bullying frail girls.

MR ALBERT CHAN (in Cantonese): *Deputy President, which of my remarks is an insult? He said just now that it is an insult, and then he said that it is a vilification. Would you withdraw your accusation of insult? Which of the remarks I made just now has vilified the police officers? He has not answered my question. The question I put to him is whether a valiant police officer weighing 150 lb to 160 lb is unable to put a girl weighing less than 100 lb under*

control and needs to use pepper spray, and whether he has no confidence in the police officers? This is the question I put to him, but he is beating around the bush.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have nothing to add.

DEPUTY PRESIDENT (in Cantonese): This Council has spent 21 minutes on this question. I can allow one more Member to ask a supplementary question.

MR JEFFREY LAM (in Cantonese): *Deputy President, the Secretary said just now that it is difficult to draw an objective definition on bulky demonstration objects. In other words, it depends on the situation on the scene. May I ask the Secretary, given that those applicants for demonstration might have communicated with the Security Bureau or the police, whether the communication was not sufficient? What can the authorities do in the future in terms of communication so that both sides can reach an agreement and consensus in advance instead of engaging in disputes at the moment when those bulky objects have been carried to a certain place of demonstration? Can the authorities do better in communication?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I fully agree that advance communication between the police and the event organizer is very important. The police will communicate with the organizer prior to the event on the detailed arrangements including any demonstration objects the demonstrators intend to bring during the event, and will clearly set out in the "letter of no objection" the necessary conditions or restrictions that are imposed for the sake of public safety or public order. During the event, the police will also, in accordance with the arrangement set out in the "letter of no objection", facilitate the running of the event in a peaceful and orderly manner on the one hand, and ensure that the event does not affect the people on the scene and the overall public safety and order on the other. I believe we will step up our efforts in this regard in future.

DEPUTY PRESIDENT (in Cantonese): We have spent 23 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Replacement of Printed Publications by Electronic Copies

7. **MR LAU WONG-FAT** (in Chinese): *President, regarding the annual reports and internal publications published by various government departments, will the Government inform this Council:*

- (a) *of the current number of government departments which produce annual reports and internal publications;*
- (b) *of the total number of copies of the aforesaid publications printed last year;*
- (c) *of the total expenditure on producing and distributing the publications in part (b); and*
- (d) *on the premise of protecting the environment, whether the Government will set a target date and require that various government departments may only provide electronic copies of annual reports and other publications after that date for interested readers to read them through emails and on the Internet?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, my reply to the four parts of the question is as follows:

- (a) Currently, 36 government bureaux/departments publish annual reports and other publications for information of the general public.
- (b) and (c)

In 2009, a total of about 4.38 million copies of the aforesaid publications have been printed and the total expenditure for their production and distribution was around \$8.81 million.

- (d) The Government recognizes the importance of waste reduction and good management of resources with a view to protecting the environment. To reduce paper consumption, we have been encouraging bureaux/departments to provide annual reports and other publications on the Internet or in CD-ROMs, instead of hard copies, as far as possible. In addition, the Office of the Government Chief Information Officer issued guidelines in 2008 to require all bureaux/departments to provide public service online as far as possible as an alternative for the general public. While the publication of paper annual reports or publications is still necessary at present to meet public demand and bureaux/departments' operational needs, the bureaux/departments concerned will continue to review the need for paper publications and keep them to a minimum as far as possible.

Code of Marketing of Breastmilk Substitutes

8. **MR FRED LI** (in Chinese): *President, the World Health Organization (WHO) adopted the International Code of Marketing of Breastmilk Substitutes (WHO Code) as early as 1981, and recently the Department of Health (DH) has indicated that it has set up a multi-disciplinary taskforce to draw up a Hong Kong Code of Marketing of Breastmilk Substitutes (local code). In this connection, will the Government inform this Council:*

- (a) *of the terms of reference of the aforesaid taskforce;*
- (b) *how the local code to be drawn up will implement the WHO Code in Hong Kong;*
- (c) *given that the WHO Code stipulates that milk powder dealers should not directly or indirectly provide samples of milk products to pregnant women, mothers or members of their families when marketing breast milk substitutes, whether the Government had reminded local hospitals and private medical practitioners in the past five years that they should not promote or provide samples of milk products to these people on behalf of milk powder dealers; if it had, of the details; if not, the reasons for that; and*

- (d) *whether the Government will enforce the local code on a mandatory basis; if not, how the Government will make milk powder dealers comply with the local code on a voluntary basis?*

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

- (a) The DH has set up a Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes at the end of June 2010 comprising representatives from relevant government departments (including Food and Health Bureau, Food and Environmental Hygiene Department, Television and Entertainment Licensing Authority), Hospital Authority (HA), Consumer Council, specialist groups, non-governmental organizations (NGOs), and other major local partners. The terms of reference of the Taskforce are as follows:
- To develop and promulgate the Hong Kong Code of Marketing of Breastmilk substitutes according to the International Code of Marketing of Breastmilk Substitutes (the Code) of the WHO and subsequent World Health Assembly resolutions;
 - To develop a system for monitoring the compliance with the Hong Kong Code; and
 - To monitor the compliance with the Hong Kong Code by the trade.
- (b) The WHO Code stipulates a number of basic requirements for regulation of undesirable marketing practices in the sale of milk powder, and in particular, emphasizes the responsibility of milk powder manufacturers and distributors in complying with the aim and principles of the Code. At present, we rely on milk powder manufacturers and distributors in Hong Kong to exercise self-discipline in compliance with the Code in the monitoring of their marketing practices. Where non-compliance of the WHO Code was noted, DH would issue warning letters to the manufacturers involved. To enhance our monitoring, the

Government is now drafting a set of local Code that is applicable in Hong Kong, in accordance with the WHO Code.

- (c) The DH has produced publicity leaflets on breastfeeding and distributed them to private hospitals and clinics. Besides, public hospitals have banned promotional activities on breastmilk substitutes within their premises. Starting from 1 April 2010, the HA purchases milk powder from contract suppliers by tender and no longer accepts free samples of breastmilk substitutes. It is also stipulated in the tender contracts that the suppliers must comply with the WHO Code. Specific requirements set out in the contract include: promotion of breastmilk substitutes in hospitals is prohibited; suppliers are not allowed to distribute free samples to mothers; company representatives are not allowed to contact mothers; suppliers are not allowed to present gifts or personal samples to health workers; words or images idealizing consumption of milk powder are banned; information provided to health workers must be scientific and factual, and so on. These requirements aimed at ensuring that the sale and advertising of breastmilk substitutes will not discourage breastfeeding so as to achieve more effective implementation of the breastfeeding policy in hospitals and to further enhance the ever-breastfeeding rate in new born babies. Over the past 10 years, the percentage of babies discharged from public hospitals who had been breastfed has risen from 53% in 2000 to 73% in 2009.
- (d) At present, many countries like Australia, New Zealand, Singapore and Malaysia, and so on, have formulated voluntary guidelines applicable in their own countries for compliance by the trade with reference to the WHO Code. In light of the experience of other countries, it would be more effective in the control of undesirable marketing practices if appropriate monitoring and sanction mechanisms are put in place in tandem with implementation of the Code. We expected the drafting of the Hong Kong Code will be completed by the end of 2011 for implementation in 2012. The DH will monitor the situation and canvass the views of various parties to consider if there is a need to step up enforcement and regulation through the local Code.

Levy of Profits Tax on Profits Arising from Property Speculation

9. **MR PAUL CHAN** (in Chinese): *President, since 1 April this year, the Government has increased the rate of stamp duty on transactions of properties valued at more than \$20 million to 4.25%. On 21 April this year, the Financial Secretary also told this Council that the Inland Revenue Department (IRD) would closely follow up all cases involving speculators profiting from property speculation, and profits tax would be levied on the persons or companies earning profits arising from such transactions. The Financial Secretary also indicated that in 2008-2009, some 4 000 suspected speculation cases required further follow-up action by IRD officers. In this connection, will the Government inform this Council:*

- (a) of the number of the relevant property transactions recorded and the amount of stamp duty collected by the Government since the aforesaid new rate of stamp duty on property transactions was levied six months ago, and how such figures compare with those of the same period last year;*
- (b) among the some 4 000 aforesaid suspected speculation cases which the IRD has followed up, of the numbers of cases substantiated to be speculation cases, cases pending decision and cases proved not involving speculation; in respect of the substantiated speculation cases, of the amount of tax involved, the amount of tax collected, and the number of cases in which tax was not successfully recovered as well as the Government's follow-up actions; and*
- (c) in cases where the seller is not a Hong Kong resident or a company registered in Hong Kong, whether the Government will consider requiring the lawyer, when processing the transaction for the seller, to withhold a certain percentage of the seller's proceeds until the seller has paid the profits tax or the IRD has issued a certificate confirming that the seller does not need to pay tax?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

- (a) From 1 April to 31 October 2010, the total number of property transactions valued more than \$20 million as recorded by the Stamp

Office of the IRD was 3 223, representing an increase of 86% over the same period of last year. The amount of stamp duty involved was \$6.16 billion, representing an increase of 127% over the same period of last year.

- (b) In 2008-2009, 4 300 cases of suspected property speculation were identified through IRD's computer programme and initial review by IRD officers. As at end-October 2010, the IRD completed the examination of 3 600 cases with the remaining 700 cases still being processed. Of those 3 600 examined cases, 1 600 cases were considered not taxable. Of the other 2 000 cases found to be chargeable to tax for profits derived from property transactions, 350 cases were already reported in the tax returns filed by the taxpayers. The IRD has issued tax assessments for the remaining 1 650 taxable cases, and the amount of profits tax involved is \$410 million. However, the IRD does not keep statistics on the amount of profits tax collected in this regard.

For overdue tax, the IRD would take various recovery actions immediately, including imposing a surcharge; issuing recovery notices to the third parties (such as the defaulting taxpayer's banker, employer or debtor) requesting them to transfer money held on account of the defaulting taxpayer to the IRD for payment of the outstanding tax; and applying to the District Court to institute civil proceedings. If the judgment debt remains unsettled, the IRD will issue a writ of *fiери facias* to levy execution against the movable properties of the defaulting taxpayer; or apply for a charging order on the immovable properties belonging to the defaulting taxpayer. The IRD may also initiate bankruptcy or liquidation proceedings for the default cases, and may apply to the District Court for a direction to prevent the defaulting taxpayer from departing Hong Kong.

- (c) Hong Kong adopts all along a territorial source principle of taxation, and strives to maintain a fair taxation system. Any persons, irrespective of whether they are residents of Hong Kong or companies incorporated in Hong Kong, carrying on a trade, profession or business in Hong Kong are chargeable to profits tax on their profits arising in or derived from Hong Kong. Imposing withholding tax arrangement only on non-Hong Kong residents and companies incorporated outside Hong Kong for their purchase/sale

of Hong Kong properties would violate the fairness principle of Hong Kong's tax regime.

Payment of Severance Payments and Long Service Payments from Accrued Benefits of MPF Schemes

10. **MR WONG KWOK-KIN** (in Chinese): *President, under section 12A of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), an employer may make an application to a trustee of a Mandatory Provident Fund (MPF) scheme for using the accrued benefits derived from his contributions made for his employees under the MPF scheme to offset severance payments or long service payments. In this connection, will the Government inform this Council:*

- (a) *whether it knows since the MPF system came into operation in December 2000:*
 - (i) *the annual total number of MPF accounts from which the accrued benefits derived from employers' contributions had been used to offset severance payments or long service payments, the total amount of such payments and their percentages; if it does not have the relevant data, of the reasons for that;*
 - (ii) *the total number of MPF accounts from which the accrued benefits derived from employers' contributions had been used to offset severance payments or long service payments more than once, and the largest number of withdrawals made; and*
 - (iii) *if there are MPF accounts in which, as a result of the aforesaid accrued benefits being used to offset severance payments or long service payments, the balances of such benefits had become less than 50%, 30% or 10% respectively of their original amounts, or even become as low as zero; if so, of the details; and*
- (b) *whether the authorities will review afresh the aforesaid mechanism, including considering the abolition of the arrangement whereby the accrued benefits derived from employers' contributions can be used for offsetting severance payments or long service payments; if not, how the authorities protect employees from being affected by the aforesaid arrangement upon retirement?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the MPF system is one of the retirement protection arrangements. Before the MPF System came into operation in 2000, the Employment Ordinance already allowed employers to use their contributions to retirement schemes for offsetting severance payments or long service payments ("the offsetting arrangement"). This long-established offsetting arrangement was extended to cover MPF schemes after extensive consultations and balancing all relevant considerations. This also ties in with the established practices under the Employment Ordinance. The offsetting arrangement involves considerations pertaining to the overall employer-employee relationship. The Government has no plan to review the arrangements at this stage.

It is an existing requirement of the Mandatory Provident Fund Schemes Authority (MPFA) that approved trustees should submit information on MPF schemes regularly, including the amount of accrued benefits withdrawn from a registered scheme due to different reasons. The MPFA collects such information for the purpose of monitoring the withdrawal of benefits from MPF schemes from an overall perspective. The MPFA does not have the withdrawal record of individual accounts. According to the information provided by the approved trustees, the total amount of MPF accrued benefits used to offset severance payments or long service payments pursuant to section 12A of the Mandatory Provident Fund Schemes Ordinance from July 2001 to June 2010, and their percentages over the total asset value of MPF schemes in the relevant years are as follows:

<i>Year</i>	<i>Total amount of MPF accrued benefits used to offset severance payments or long service payments (\$ million)</i>	<i>As a percentage of the total asset value of MPF schemes⁽¹⁾</i>
2001 (from 1 July)	166	0.46%
2002	50	1.36%
2003	1,174	1.31%
2004	1,268	1.06%
2005	1,429	0.94%
2006	1,634	0.81%
2007	1,743	0.66%

- (e) *given that the authorities have considered initially that the eligibility criteria for the MHP Plan include the income and asset limits for singleton applicants which are \$23,000 per month and \$300,000 respectively and those for household applicants which are \$39,000 per month and \$600,000 respectively, of the numbers of eligible households for the MHP Plan estimated by the authorities in the first and second quarters in 2010 respectively?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, we provide as requested the statistical information as supplied by the Census and Statistics Department in accordance with the findings of its General Household Survey (GHS):

- (a) The respective numbers of non-owner occupied households in Hong Kong in the first and second quarters of 2010, with a breakdown by income range are presented in Tables 1 and 2 below:

Table 1: First quarter, 2010

Household size	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
	Monthly household income more than WL Income Limits but less than \$13,500	Monthly household income more than WL Income Limits but less than \$23,000	Monthly household income more than WL Income Limits but less than \$27,000	Monthly household income more than WL Income Limits but less than \$39,000	Monthly household income more than WL Income Limits but less than the 25th percentile [#]	Monthly household income more than WL Income Limits but less than the median [#]	Monthly household income more than WL Income Limits but less than the 75th percentile [#]	Overall (regardless of income)
1-person	19 700	35 100	37 800	46 400	-	16 200	38 400	90 000
2-person	2 000	21 800	30 200	44 500	-	23 800	50 700	104 700
3-person	-	16 400	21 500	36 000	-	18 300	36 400	76 400
4-person	-	8 200	13 400	24 400	1 400	18 100	33 800	67 600
5-person	-	900	2 100	6 800	2 300	9 000	15 500	26 600
6-person or more	-	-	*	2 500	1 300	4 500	8 600	14 700
Total ^{##}	21 700	82 400	105 400	160 700	5 100	89 900	183 400	380 000

Notes:

* Figures are not released owing to large sampling errors.

Compiled based on non owner-occupier households in private housing of the corresponding household size.

Owing to rounding, there may be a slight discrepancy between the sum of individual items and the total as shown in the table.

Table 2: Second quarter, 2010

Household size	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
	Monthly household income more than WL Income Limits but less than \$13,500	Monthly household income more than WL Income Limits but less than \$23,000	Monthly household income more than WL Income Limits but less than \$27,000	Monthly household income more than WL Income Limits but less than \$39,000	Monthly household income more than WL Income Limits but less than the 25th percentile [#]	Monthly household income more than WL Income Limits but less than the median [#]	Monthly household income more than WL Income Limits but less than the 75th percentile [#]	Overall (regardless of income)
1-person	21 500	36 900	40 600	50 200	-	16 000	40 600	91 100
2-person	2 200	26 500	36 400	52 500	-	26 400	53 000	114 000
3-person	-	17 200	21 500	33 000	-	13 800	31 700	72 200
4-person	-	6 600	12 100	23 900	-	16 500	33 600	67 900
5-person	-	1 700	3 700	10 100	3 200	10 700	18 200	29 900
6-person or more	-	-	500	3 300	900	4 700	8 500	15 400
Total ^{##}	23 700	88 900	114 800	173 100	4 100	88 100	185 600	390 400

Notes:

Compiled based on non owner-occupier households in private housing of the corresponding household size.

Owing to rounding, there may be a slight discrepancy between the sum of individual items and the total as shown in the table.

- (b) The respective percentages of the numbers of non-owner occupied households of various income ranges in the total numbers of non-owner occupied households by household size in the first and second quarters in 2010 are presented in Tables 3 and 4 below:

Table 3: First quarter, 2010

Household size	Monthly household income more than WL Income Limits but less than \$13,500	Monthly household income more than WL Income Limits but less than \$23,000	Monthly household income more than WL Income Limits but less than \$27,000	Monthly household income more than WL Income Limits but less than \$39,000	Monthly household income more than WL Income Limits but less than the 25th percentile [#]	Monthly household income more than WL Income Limits but less than the median [#]	Monthly household income more than WL Income Limits but less than the 75th percentile [#]
1-person	21.9	39.0	42.0	51.6	-	18.0	42.6
2-person	1.9	20.8	28.9	42.5	-	22.7	48.4
3-person	-	21.5	28.1	47.1	-	24.0	47.6

<i>Household size</i>	<i>Monthly household income more than WL Income Limits but less than \$13,500</i>	<i>Monthly household income more than WL Income Limits but less than \$23,000</i>	<i>Monthly household income more than WL Income Limits but less than \$27,000</i>	<i>Monthly household income more than WL Income Limits but less than \$39,000</i>	<i>Monthly household income more than WL Income Limits but less than the 25th percentile[#]</i>	<i>Monthly household income more than WL Income Limits but less than median[#]</i>	<i>Monthly household income more than WL Income Limits but less than the 75th percentile[#]</i>
4-person	-	12.2	19.8	36.1	2.1	26.7	50.1
5-person	-	3.2	8.0	25.5	8.8	33.9	58.5
6-person or more	-	-	*	17.3	9.0	30.7	58.8
Overall ^{##}	5.7	21.7	27.7	42.3	1.3	23.7	48.3

Notes:

* Figures are not released owing to large sampling errors.

Compiled based on non owner-occupier households in private housing of the corresponding household size.

For all household sizes.

Table 4: Second quarter, 2010

<i>Household size</i>	<i>Monthly household income more than WL Income Limits but less than \$13,500</i>	<i>Monthly household income more than WL Income Limits but less than \$23,000</i>	<i>Monthly household income more than WL Income Limits but less than \$27,000</i>	<i>Monthly household income more than WL Income Limits but less than \$39,000</i>	<i>Monthly household income more than WL Income Limits but less than the 25th percentile[#]</i>	<i>Monthly household income more than WL Income Limits but less than median[#]</i>	<i>Monthly household income more than WL Income Limits but less than the 75th percentile[#]</i>
1-person	23.6	40.5	44.6	55.1	-	17.6	44.6
2-person	1.9	23.3	31.9	46.1	-	23.2	46.5
3-person	-	23.9	29.8	45.7	-	19.1	43.9
4-person	-	9.7	17.9	35.2	-	24.3	49.4
5-person	-	5.7	12.3	33.9	10.7	35.8	60.8
6-person or more	-	-	3.4	21.6	5.6	30.5	55.6
Overall ^{##}	6.1	22.8	29.4	44.3	1.0	22.6	47.5

Notes:

Compiled based on non owner-occupier households in private housing of the corresponding household size.

For all household sizes.

- (c) The 25th percentile, the median and the 75th percentile monthly income of non-owner occupied households in Hong Kong by household size in the first and second quarters of 2010 are presented in Tables 5 and 6 below:

Table 5: First Quarter, 2010

<i>Household size</i>	<i>25th percentile (HK\$)</i>	<i>Median (HK\$)</i>	<i>75th percentile (HK\$)</i>
1-person	6,000	12,000	28,000
2-person	12,000	24,000	44,000
3-person	13,000	24,800	40,000
4-person	17,600	31,000	55,000
5-person	28,000	44,600	85,600
6-person or more	31,200	59,100	104,600
All non owner-occupier households in private housing	11,500	24,600	46,000

Table 6: Second Quarter, 2010

<i>Household size</i>	<i>25th percentile (HK\$)</i>	<i>Median (HK\$)</i>	<i>75th percentile (HK\$)</i>
1-person	6,600	12,000	27,000
2-person	11,800	22,800	40,000
3-person	12,000	20,800	37,000
4-person	16,400	31,000	52,500
5-person	26,000	43,200	75,500
6-person or more	28,000	60,000	109,700
All non owner-occupier households in private housing	11,000	23,000	42,000

- (d) Tenth percentiles of monthly incomes of non-owner occupied households in private housing in Hong Kong by households size in the first and second quarters in 2010 are presented in Tables 7 and 8 below:

Table 7: First Quarter, 2010

<i>Household size</i>	<i>10th percentile</i>	<i>20th percentile</i>	<i>30th percentile</i>	<i>40th percentile</i>	<i>50th percentile</i>	<i>60th percentile</i>	<i>70th percentile</i>	<i>80th percentile</i>	<i>90th percentile</i>	<i>100th percentile</i>
1-person	3,400	5,000	7,500	8,800	12,000	17,000	21,300	32,000	50,000	@
2-person	7,200	10,000	14,500	19,500	24,000	30,000	40,000	50,000	76,000	@
3-person	8,800	11,600	15,000	19,500	24,800	30,000	37,000	46,000	65,000	@
4-person	11,000	15,000	20,000	25,300	31,000	40,000	50,600	60,000	83,600	@
5-person	14,500	23,500	31,600	37,600	44,600	54,600	73,600	103,600	133,600	@
6-person or more	17,900	27,000	35,500	47,700	59,100	72,200	99,600	123,600	228,000	@
All non owner-occupier households in private housing	6,500	9,800	13,600	19,000	24,600	30,100	40,000	54,500	80,000	@

Note:

@ Since the 100th percentile refers to the household income of the household with the highest income, relevant figures are not released.

Table 8: Second Quarter, 2010

<i>Household size</i>	<i>10th percentile</i>	<i>20th percentile</i>	<i>30th percentile</i>	<i>40th percentile</i>	<i>50th percentile</i>	<i>60th percentile</i>	<i>70th percentile</i>	<i>80th percentile</i>	<i>90th percentile</i>	<i>100th percentile</i>
1-person	3,800	5,500	7,700	9,800	12,000	16,000	21,500	30,000	48,000	@
2-person	7,300	9,800	14,000	18,300	22,800	28,000	36,000	45,000	70,000	@
3-person	8,300	10,700	13,500	17,000	20,800	26,000	32,000	40,500	57,200	@
4-person	10,000	14,000	19,000	25,000	31,000	38,000	45,000	60,000	83,600	@
5-person	17,500	23,500	28,600	33,800	43,200	53,600	68,500	83,600	133,600	@
6-person or more	15,500	24,900	30,800	35,900	60,000	77,000	95,200	123,600	157,100	@
All non owner-occupier households in private housing	7,000	9,500	13,000	18,000	23,000	30,000	37,000	50,000	77,600	@

Note:

@ Since the 100th percentile refers to the household income of the household with the highest income, relevant figures are not released.

- (e) Among respondents who expressed views on the target group for receiving subsidy during the public consultation exercise on subsidizing home ownership, relatively more suggested subsidizing sandwich class or first-time property purchasers. It is generally considered that the beneficiaries should be those who can afford mortgage payments in the long run. Our proposal for the income and asset limits for White Form applicants under the MHP Plan is premised on this principle, and reflects our initial thinking only. The Hong Kong Housing Society will take into account the then prevailing market conditions when determining the income and asset limits before the commencement of pre-letting of the proposed project at Tsing Luk Street.

Given that the MHP Plan aims to help first-time home buyers, there will be stringent eligibility criteria. Our current thinking is that applicants and other family members on the application forms should not have owned any residential properties for a period of 10 years prior to the closing of the pre-letting application period. Those who have in the past joined any form of government-subsidized home purchase schemes (for example, Home Ownership Scheme/Private Sector Participation Scheme, Tenants Purchase Scheme, Sandwich Class Housing Scheme and the various home purchase loan schemes) are not eligible for the MHP Plan.

It is estimated that in the first quarter of 2010, there were about 174 000 non-owner occupied households in private housing with monthly income exceeding the PRH WL Income Limits and equals to or less than \$23,000 (for one person) or equals to or less than \$39,000 (for two persons or more). In the second quarter of 2010, there were about 178 000 such households. However, the figures could not be construed to represent the number of eligible households.

It should be noted that the above figures only reflect the number of households which meet the income limits as proposed by us initially. Given that apart from income, the eligibility criteria for the MHP Plan will also include other restrictions such as asset limit, previous property ownership and whether the applicant joined any form of

subsidized home purchase schemes in the past, the above figures therefore do not represent the number of eligible households for the MHP Plan. We do not have information on individual households' assets and ownership of properties, and whether they joined any form of subsidized home purchase schemes before. Hence, it is not possible for us to assess precisely the size of the eligible households for the MHP Plan.

Directional Signs Erected During Repair Works on Expressways

12. **MR CHEUNG HOK-MING** (in Chinese): *President, some members of the public have relayed to me that at present, when the relevant government departments are carrying out repair works on expressways, the height of the directional signs erected on works vehicles for traffic diversion is only suitable for viewing by motorists at a far distance, while motorists near the signs for traffic diversion can hardly be aware of the signs, and hence can cause confusion easily and pose danger to both motorists and road repair workers. In this connection, will the Government inform this Council:*

- (a) of the numbers of traffic accidents which occurred on expressways in the past three years, the resultant casualties and, among these accidents, the cases that involved road sections undergoing repair works; and*
- (b) whether it will conduct a review on the height of the said directional signs for traffic diversion, and consider installing additional directional signs of an appropriate height for viewing by motorists from a close distance?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): *President, my reply to the two parts of the question is as follows:*

- (a) From 2007 to 2009, the annual numbers of traffic accidents which occurred on expressways were 1 027, 934 and 908 respectively. The number of casualties resulting from the accidents were 1 724, 1 453 and 1 475 respectively. Separately, according to the records*

of the Highways Department, the numbers of traffic accidents involving works vehicles in the vicinity of works sites on expressways during those three years were 19, 28 and 20 respectively. As regards the resultant casualties, the Department does not maintain such records.

- (b) When road works are being carried out, it is the responsibility of personnel who are in charge of the works to ensure that there are appropriate lighting, signing and guarding, so as to minimize inconvenience and potential hazards to road users. As far as expressways are concerned, owing to the relatively high speed of the traffic, it is of utmost importance that clear advance warning of road works obstructions is given; hence, there is particular need to plan road works on expressways with due care.

In accordance with Road Traffic (Traffic Control) Regulations (Cap. 374G), the Highways Department (HyD) has published a "Code of Practice for the Lighting, Signing and Guarding of Road Works" (Code of Practice) which sets out the requirements for the provision of lighting, signing and guarding for road works. Personnel responsible for the works must provide and install lamps, traffic signs and road-markings in accordance with the Code of Practice. The Code of Practice was drawn up by the HyD with reference to international standards (for example, the United States, European countries, and so on) and local past experience. It provides details (for example, size, colour, material, conditions of use, and the number, spacing and height when installed, and so on) of each facility having regard to the traffic speed of the road and road closure requirement, such that the concerned road users can clearly see the appropriate signs from the expected distance, thereby achieving the anticipated protective effects.

In general, when road works are carried out within the lane(s) of a carriageway already closed to traffic, taking into account the road type, characteristics and traffic speed, the construction site staff must install the required advance warning signs, road hazard warning lanterns and traffic cones of appropriate height, and so on, at a safe distance from the works site so as to provide ample warning to

approaching vehicles. For example, for road works on an expressway, construction site staff must install advance warning signs at 600 m, 400 m and 200 m in front of the works site. The centre of the signs must be at a height of at least 0.9 m from the road surface, and the signs must be made of retro-reflective material. The works site must also be surrounded by traffic cones with road hazard warning lanterns installed at a height of 1.2 m from the road surface, so as to enable approaching motorists to see them clearly.

In the case of carrying out mobile operations (such as road gully clearing, road lighting maintenance or road sweeping and cleansing), construction site staff must plan the works thoroughly beforehand and as far as possible schedule the works for periods when potential hazard and the degree of inconvenience are low. The works vehicles must be escorted by a shadow vehicle equipped with a flashing arrow sign and a truck-mounted attenuator; and in addition to the flashing arrow sign, the rear end of the shadow vehicle must also bear a warning sign in high-contrast colours within a height of 1.5 m from the road surface which would allow motorists to easily spot the works vehicles in front no matter they are near or far from them, so that accidents can be avoided.

As observed by the HyD, the operation of the measures stipulated in the Code of Practice as mentioned above is generally satisfactory and could achieve the expected protective effect. The HyD will however continue to monitor the safety conditions of road works and review the Code of Practice if considered necessary.

Protection of Privacy

13. **MS AUDREY EU** (in Chinese): *President, the Law Reform Commission (LRC) released the Report on Civil Liability for Invasion of Privacy and the Report on Privacy and Media Intrusion in late 2004, recommending that legislation be introduced for the protection of people's civil right of "reasonable expectation of privacy"; the Legislative Council also passed a motion on "introducing legislation to regulate clandestine photo-taking" on 19 October*

2006, yet, there are comments that so far there is no improvement to the problem of intrusion of privacy. In mid-June this year, the incident of clandestine photo-taking of a female artiste and her mother at home once again roused public concern about protection of the privacy of public figures. In this connection, will the Government inform this Council:

- (a) *what measures the Government has taken to enhance protection of the privacy of members of the public since the release of the aforesaid LRC reports;*
- (b) *whether there is any plan to protect the reasonable expectation of privacy of members of the public by means of civil law; if so, of the details; if not, the reasons for that; and*
- (c) *whether there is any plan to, by means of civil law, restrict the unwarranted publicity given by any person to the private life of another person; if so, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, the Government is committed to protecting the privacy of members of the public. In the light of social development and the growing public concern over the protection of personal data privacy, the Government, with the support of the Privacy Commissioner for Personal Data (Privacy Commissioner), has conducted a comprehensive review of the Personal Data (Privacy) Ordinance (PDPO) enacted more than 10 years ago, and issued a consultation document last year to gauge public views on the proposals arising from the review. After considering the public views received, we published a public consultation report (consultation report) in the middle of last month and put forward a number of legislative proposals to strengthen personal data privacy protection, including the introduction of new offences and sanctions as well as proposals to raise the penalty for existing offences.

As regards the LRC's Report on Civil Liability for Invasion of Privacy and Report on Privacy and Media Intrusion, there were mixed responses and divergent views in the community. The proposed recommendations of the two reports were highly contentious and involved a number of complicated legal concepts (for example, the definitions of "reasonable expectation of privacy" and

"unwarranted publicity given to the private life of another person"). When deciding the way forward, we need to reach a consensus in the community and strike a balance between different rights such as rights to personal privacy and freedom of the press.

Among the LRC reports on privacy, the report on "stalking" is comparatively less controversial. Hence, we will first deal with that report. The report proposed the introduction of legislation in order to render the pursuit of a course of conduct causing another person alarm or distress a criminal offence and a civil wrong. We are examining the report and will cautiously consider those proposals which may impact on press freedom. We are also examining latest developments on overseas legislation such as how they regulate collective harassment. As an important step to follow up on the LRC report, we will make practical preparation for conducting public consultation in the coming few months. We plan to launch a consultation exercise in mid-2011.

As regards existing legislation, a data subject who suffers damage by reason of a contravention of a requirement under the PDPO by a data user in relation to his personal data is entitled to compensation from that data user under section 66 of the PDPO. He may also consider seeking an injunction order to halt acts of privacy intrusion.

To provide assistance to aggrieved data subjects, we have proposed in the abovementioned consultation report to empower the Privacy Commissioner to provide legal assistance to an aggrieved data subject who intends to institute legal proceedings against a data user to seek compensation under section 66 of the PDPO. The assistance to be provided includes the provision of legal advice and arranging for legal representation. This will help strengthen the protection of personal data privacy.

Implementation of Green Roof Projects for Government Buildings

14. **MR LAU KONG-WAH** (in Chinese): *President, it has been reported that green buildings have become very prevalent in recent years. Recently, I have also received requests from some residents of the Sha Tin District for greening the rooftops of the Sha Tin Town Hall and the Sha Tin Public Library. They pointed out that greening rooftops could beautify the environment on the one*

hand and provide more leisure open space on the other. Furthermore, they can help lower the room temperature in the buildings concerned, reduce energy consumption and promote environmental protection. The Government once said that the Architectural Services Department (ASD) would implement green roof projects for new government buildings as far as practicable since 2001. In this connection, will the Government inform this Council:

- (a) of the number of green roof projects implemented for government buildings in Hong Kong since 2001; of the number of such projects to be carried out in the next three years;*
- (b) of the percentage of the number of government buildings for which green roof projects have been implemented in the total number of government buildings in Hong Kong at present; whether the ASD will explore the possibility of adding green features to the rooftops of all existing government buildings, so as to benefit more people; and*
- (c) in order to attenuate the urban heat island effect, whether the authorities will consider including roof greening in the standard construction specifications for new government buildings, in particular cultural and recreational facilities, so as to make an extra effort for the cause of environmental protection?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, Hong Kong is a densely populated place. To beautify the environment and attenuate the heat island effect, the Government has been actively promoting greening in recent years. In view of the limited space available for planting in the urban areas, we have been proactively promoting innovative greening techniques, such as roof greening, to enhance the urban environment.

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

- (a) From 2001 onwards, the ASD has, where practicable, incorporated roof greening in the design of new buildings if there is adequate usable rooftop space, after taking into account the actual conditions (such as the rooftop loading capacity, structural safety, the drainage and irrigation arrangements, and the building height). Starting from

2006, the ASD has further encouraged departments which manage existing government buildings to incorporate roof greening works into their roof refurbishment projects if the building structure, availability of rooftop space and waterproof design, and so on, so permit. Other works departments have also implemented roof greening works, where practicable, in appropriate building projects. As at end October 2010, a total of 159 government buildings maintained by the works departments had green roofs. In addition, the works departments are currently undertaking roof greening works at 62 government buildings (including new buildings and buildings under refurbishment). Planning and design of roof greening works for another 32 government buildings are underway for implementation within the next three years.

- (b) At present, the works departments are responsible for the maintenance of some 8 500 government buildings. New buildings completed in recent years account for only a small proportion, while most buildings are at least 10 years old. About 159 of these buildings (about 2%) have green roofs. For buildings already in existence, if they require any roof refurbishment works in future, the departments concerned will consider carrying out roof greening works under the established policy, taking into account the actual circumstances and technical feasibility.
- (c) As explained above, it is the current practice of the works departments concerned (for example, the ASD, Drainage Services Department and Water Supplies Department) to proactively consider incorporating roof greening features into building projects under their purview. Notwithstanding, it would be difficult to impose a mandatory requirement on all building projects to install green roofs since there may be practical and technical constraints from some of the projects. To further promote roof greening in government and private building projects, the Greening and Landscape Office (GLO) under the Development Bureau co-ordinates with the departments concerned in conducting research on roof greening techniques (for example, suitable plant species and plant growth medium) and disseminating the research findings. The GLO also organizes professional seminars to promote these techniques to the landscaping

sector, professionals and government officers, with a view to promoting roof greening technologies by lowering the technical thresholds.

Hong Kong Institute for Monetary Research

15. **MRS REGINA IP** (in Chinese): *President, the Hong Kong Institute for Monetary Research (HKIMR) was established in August 1999 by the Hong Kong Monetary Authority (HKMA) in accordance with the "Policy Objectives" set out in the Chief Executive's 1998 Policy Address, with the objective of conducting research in the fields of monetary policy, banking and finance that are of strategic importance to Hong Kong and the Asian region. The HKIMR is funded by grants from the Exchange Fund. In this connection, will the Government inform this Council:*

- (a) *how is the work of the HKIMR and that of the HKMA's own research department different and how is work divided between the two;*
- (b) *of the existing number of full-time and/or part-time staff in the HKIMR, and whether these staff members are seconded from the HKMA;*
- (c) *of the respective roles played by the Financial Secretary and the Secretary for Financial Services and the Treasury in the HKIMR;*
- (d) *of the total number of research reports compiled by the HKIMR over the past 11 years, and whether any of these reports had been published in international journals in economics/finance;*
- (e) *of the total number of seminars (including workshops, forums and conferences) organized by the HKIMR over the past 11 years; and what insights these seminars had brought to the HKMA or the Hong Kong Government in the aspects of monetary policy, development of the banking and finance industry and consolidation of Hong Kong's position as an international financial centre; and*
- (f) *the total amount of funds granted to the HKIMR since its establishment and the direction of its future development?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the Administration's reply to the questions is as follows:

- (a) The main functions of the Research Department of the HKMA are to analyse macroeconomic developments around the world; assess international and domestic financial market conditions; and monitor international fund flows and the risks as well as the vulnerabilities of Hong Kong's financial system. The Research Department also conducts analyses and provide recommendations to the HKMA on its important policies and operations.

The work of the HKIMR includes the conduct of detailed and rigorous analyses and researches on issues like the medium-to-long-term trends of the monetary and financial markets in Hong Kong, Mainland China, Asia, and so on, through the invitation of international and local experts and scholars; and the establishment of a platform facilitating researches and exchange of ideas to strengthen Hong Kong's capability in analysing the monetary and financial markets in Asia and Hong Kong, and reinforce the link between Hong Kong and renowned academic and research institutions around the world, helping them to learn more about Hong Kong.

- (b) The HKIMR currently employs six full-time employees, five of whom are seconded from the HKMA and the remaining one hired by the HKIMR. The HKIMR has received 26 visiting fellows so far this year to conduct specific research projects for the HKIMR on contract basis. Each visit lasted for about one month on average.
- (c) The HKIMR is a limited company with two shares. The Financial Secretary holds one share of the Institute and the Deputy Chief Executive (Monetary) of the HKMA holds the other. The Secretary for Financial Services and the Treasury has no role to play in the HKIMR.
- (d) In the past 11 years, the HKMIR has completed 252 working papers and reports, of which 134 were published in international professional journals.

- (e) In the past 11 years, the HKIMR has organized 451 conferences, workshops and seminars. These conferences, workshops and seminars have promoted the exchanges between Hong Kong and the global academia, international financial institutions and central banks; strengthened Hong Kong's status as an international financial centre; provided rigorous analyses and policy advice on monetary and financial issues that are of great importance to Hong Kong (such as short-term capital flows, Renminbi exchange rate policy, Renminbi internationalization, and property market developments in Mainland China); and strengthened the links among Hong Kong and international financial institutions (such as the International Monetary Fund, the Bank for International Settlements, the World Bank and the Asian Development Bank), research institutes and think-tanks in Mainland China and relevant agencies of the Central Government.
- (f) In the past 11 years since its establishment, the annual operating expenditure of the HKIMR amounted to about HK\$10.6 million on average and the accumulated capital expenditure was about HK\$5 million.

The HKIMR will continue to strengthen its researches into medium-to-long-term policy analyses on the developments of monetary and financial markets in Hong Kong and Asia. Its main focus in the next two years will include:

- (i) monetary and financial stability in Hong Kong and Mainland China;
- (ii) capital account liberalization in Mainland China (including its implications on Hong Kong);
- (iii) Renminbi market development in Hong Kong; and
- (iv) monetary and financial co-operation in Asia.

Handling of Discarded Single-use Batteries

16. **MR CHAN HAK-KAN** (in Chinese): *President, the Consumer Council had indicated in its test report on single-use batteries published on 15 October of this year that after testing 18 models of single-use zinc carbon batteries, it found that the contents of mercury and cadmium in some of the models had exceeded the limits set in the European Union directive on environmental protection. The report also pointed out that there was neither regulation on heavy metal content for single-use batteries in Hong Kong, nor was there any recovery system. An organization had relayed to me earlier on that it had planned to launch a battery recovery programme in the districts so as to promote environmental education, but since there was no recycler willing to undertake the recovery of batteries, the programme was eventually shelved. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of single-use batteries discarded in Hong Kong in each of the past five years, and among them, the respective numbers of such batteries discarded at landfills and those being shipped overseas for handling, as well as the percentages of zinc carbon batteries in such batteries; how the authorities ensure that such batteries will not cause pollution to the environment after they are discarded;*
- (b) *whether it has ascertained the reasons for the lack of recyclers undertaking battery recovery in Hong Kong at present, and how the authorities will render assistance to promote the development of the aforesaid recycling industry;*
- (c) *whether at present, discarded batteries, before being shipped overseas for handling, are required to go through the relevant government departments for vetting and approval or to meet international standards; if so, of the details;*
- (d) *whether it will request battery manufacturers to list the heavy metal content of zinc carbon batteries for the reference of consumers, and whether it will study introducing a legislation to regulate the heavy metal content of zinc carbon batteries;*

- (e) *of the current recovery rate of rechargeable batteries recovered by the Environmental Protection Department (EPD); whether the EPD will consider extending the scope of recovery to cover single-use batteries; and*
- (f) *since the EPD had indicated in its Policy Framework for the Management of Municipal Waste (2005-2014) that it had planned to include rechargeable batteries in the producer responsibility schemes and would consider banning the disposal of certain specific products at landfills, whether it will study afresh the aforesaid suggestions; if it will, of the specific timetable for implementation?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The quantity of single-use batteries disposed of at landfills over the past five years is as follows:

<i>Year</i>	<i>Quantity of single-use batteries disposed of (tonnes)</i>
2005	5 600
2006	3 400
2007	2 700
2008	2 600
2009	2 300

The shipment of waste batteries for treatment overseas is governed by the Waste Disposal Ordinance and an export permit for this purpose is required. Over the past five years, the EPD has not received any application for export permit involving single-use batteries.

Separately, the percentage of zinc carbon batteries is not available. Based on the information provided by the industry, we estimate that single-use batteries used in Hong Kong are mostly alkaline types which generally do not contain heavy metals. No mercury, cadmium or lead has been detected in all the alkaline battery samples in the recent test by the Consumer Council.

As for the heavy metal content of zinc carbon batteries, we commissioned in mid-2010 an independent laboratory to conduct the Toxicity Characteristic Leaching Procedure for several battery samples with a relatively high lead or cadmium content. The findings reveal that all the models contain very low leachable amounts of lead and cadmium and meet safety standards. This indicates that the strong bonding of lead and cadmium with other substances in the batteries precludes substantial leaching even in a corrosive setting and therefore will not cause pollution to the environment. Moreover, we cover the landfills with impermeable liners, and the leachate of waste is collected and treated before discharge into sewers to ensure that the environment will not be affected;

- (b) Hong Kong and many other places in the world do not arrange for the recovery and treatment of single-use batteries because the costs of recycling these batteries are relatively high, and the value of the small amounts of iron, zinc and manganese that can be recovered is low.

We encourage the public to use rechargeable batteries instead of single-use ones as far as possible. Besides, we launched the Rechargeable Battery Recycling Programme (the Programme) jointly with the industry in 2005. The Programme, being the first voluntary producer responsibility scheme (PRS) in Hong Kong, is supported and funded by 36 manufacturers and importers. The Programme provides 538 public collection points and 1 881 collection points at various housing estates, commercial and industrial buildings and schools to provide the collection service;

- (c) The export of waste batteries (including single-use and rechargeable batteries) are governed by the Waste Disposal Ordinance. In line with the requirements under the international Basel Convention, exporters are required to deliver the batteries in an environmental and safe manner to proper facilities for recycling. The EPD must also have the consent of the competent authority of the place of import before issuing a permit;

- (d) In the light of the Consumer Council's test results, we will write to relevant manufacturers and advise them to refer to the environmental standards and labelling requirements as set out in the European Union directive, and encourage them to use suitable substitutes to replace hazardous heavy metals in the manufacture of zinc carbon batteries.

We do not see the urgent need to regulate single-use batteries as their disposal does not cause serious pollution. Rechargeable batteries, which can be re-used hundreds of times, are more cost-effective to recycle and create less waste. Therefore, we will continue to encourage the public to use them as far as possible as well as to promote their recovery;

- (e) Since the launch of the Programme, 214 tonnes of rechargeable batteries (about 1 million batteries) have been recycled. We have no plan to extend the scope of recovery to single-use batteries for the time being; and
- (f) The Programme implemented since 2005 is the first voluntary PRS in Hong Kong. The Legislative Council passed the Product Eco-responsibility Ordinance in July 2008 to provide legal basis for the implementation of statutory producer responsibility schemes. We have implemented the Environmental Levy Scheme on Plastic Shopping Bags as the first PRS under the Ordinance. We are preparing to implement the next mandatory PRS for waste electrical and electronic equipment. We will continue to look into the waste management problems caused by other products with a view to working out specific action plans for the future.

Influence of Mainland Buyers on Hong Kong Property Market

17. **DR DAVID LI:** *President, it was reported that in respect of properties valued at HK\$12 million or above, Mainland buyers accounted for 35% and 20% of the total transaction value in the primary and secondary markets respectively in the first half of 2010. Regarding Mainland buyers' activities in the Hong Kong property market, will the Government inform this Council:*

- (a) *whether the Government had collected data on Mainland buyers' activities in the Hong Kong property market in the past three years;*
- (b) *whether the projections on supply/demand in housing contained in the 2010-2011 Policy Address have incorporated interest of Mainland individuals in the local property market; and*
- (c) *whether the Government had conducted any study in the past three years to gauge the impact of the investments of Mainland individuals in the local property market; if so, of any conclusion reached?*

SECRETARY FOR TRANSPORT AND HOUSING: President,

- (a) There is no breakdown on the number of transactions by Mainland buyers in the Land Registry's (LR) record on local property transactions. This is because a flat buyer does not have to declare such information when registering the transactions with LR.
- (b) The Government has set out a land provision target in the Policy Address to make available land for on average some 20 000 private residential flats per year in the next 10 years. When coming up with the figure of 20 000, the Government has made reference to the average annual take up rate of first-hand private residential flats of 18 500 units in the past 10 years (from 2000 to 2009). Also, over the same period, there were on average 20 000 first-hand private residential flats completed annually. The figure of 20 000 is only a land provision yardstick and not a fixed target for residential flat provision. The aim of the land provision target is to facilitate the building up of a sufficiently large land reserve over a period of time.
- (c) As the centre for international finance and trade, Hong Kong attracts investments from all over the world. The Administration has not conducted any study on the impact on the property market arising from Mainland people purchasing properties in Hong Kong.

Provisions Concerning Continuous Contract Under Employment Ordinance

18. **MS EMILY LAU** (in Chinese): *President, under the Employment Ordinance (EO) (Cap. 57), an employee shall be entitled to certain employee rights and benefits under the Ordinance only if he or she is employed under a continuous contract, that is, he or she has worked for the same employer continuously for four or more weeks and for 18 hours or more in each week. Besides, the authorities have indicated earlier that a review will be carried out on the provisions concerning continuous contract under the EO. In this connection, will the executive authorities inform this Council:*

- (a) *when they will commence the review on the provisions concerning continuous contract under the EO and when the review is expected to complete;*
- (b) *whether they know that many part-time employees and "casual workers" are not afforded protection due to loopholes in the provisions concerning continuous contract under the EO; and what counter-measures the authorities have to address such situation;*
- (c) *whether they had collected data in the past three years on employees who were not employed under a continuous contract; if they had, of the percentage of female employees among them; if not, whether they will start collecting such information; and*
- (d) *given that the authorities have advised that regardless of whether employees are employed under a continuous contract, as long as they have sustained work-related injuries, they may obtain work injury compensation, whether the Government had collected data in the past three years on work injury compensation received by employees who were not employed under a continuous contract; if so, of the details?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): *President, the EO accords protection to all employees, irrespective of their duration of employment and hours of work per week, in areas such as payment of wages, restriction on deductions from wages, granting of statutory holidays and*

protection against anti-union discrimination, and so on. Employees engaged under a "continuous contract", subject to fulfillment of the respective qualifying requirements as specified in the EO, are further entitled to other employment benefits such as rest days, paid statutory holidays and annual leave, sickness allowance, severance payment and long service payment, and so on.

- (a) The Government reviews from time to time employees' rights and benefits and other requirements under the EO, including the definition of continuous employment. According to the EO, an employee engaged under a "continuous contract" is defined as one who has been employed under a contract of employment by the same employer for four weeks or more and has worked for 18 hours or more each week.

In 2009, the Labour Department (LD) commissioned the Census and Statistics Department (C&SD) to collect further statistical data of employees who are not engaged under a "continuous contract", including their distribution and proportion in the labour market, as well as their occupational characteristics, and so on. The survey commenced in the fourth quarter of 2009. Given the complexity of the subject and the wide variety of industries and occupations involved, the survey is expected to be completed by the end of this year. The LD will, in its review, draw upon the findings of the survey.

- (b) As mentioned in part (a) of this reply, our review on continuous employment is well underway. As any amendment to the definition of "continuous contract" will have far-reaching implications for the labour market and the community as a whole, the Government must conduct in-depth and thorough studies in the first place. We will consult relevant stakeholders in the process.
- (c) According to the findings of a special enquiry on "Benefits of employees under the Employment Ordinance" published by C&SD in December 2007, it was estimated that some 2 732 700 employees worked in the non-government sector in the first quarter of 2006. Among them, around 141 200 employees were not engaged under a "continuous contract" (hereinafter mentioned as non-"4-18" employees), representing 5% of the total number of employees in the non-government sector. Of the 141 200 non-"4-18" employees,

66 300 were female, constituting 47% of the overall number of non-"4-18" employees.

- (d) Under the Employees' Compensation Ordinance (Cap. 282), if an employee sustains an injury or dies as a result of an accident arising out of and in the course of his employment, his employer is in general liable for compensation under the Ordinance. The Ordinance applies to all employees, irrespective of their duration of employment and hours of work per week. Hence, when an employer submits a notification of work accident to the LD in accordance with the Ordinance, he is not required to specify whether the employee was engaged under a "continuous contract" at the time of the accident. For the above reason, the LD does not have statistics regarding non-"4-18" employees who were paid compensation for work injury.

Implementation of Provisions of Copyright Ordinance Concerning Copying and Distribution Offence

19. **MR WONG TING-KWONG** (in Chinese): *President, the provisions of the Copyright Ordinance (Cap. 528) concerning the copying and distribution offence came into effect on 16 July this year. A person commits an offence if he, for the purpose of or in the course of any trade or business and on a regular or frequent basis, without the license of the copyright owner, makes for distribution or distributes an infringing copy of a copyright work in a printed form contained in a book (including a comic book), newspaper, magazine or periodical to an extent in excess of the prescribed numeric limits resulting in a financial loss to the copyright owner. In this connection, will the Government inform this Council:*

- (a) *of the total number of complaints received by the authorities in relation to breaches of the aforesaid new provisions since they came into effect, and of the total number of follow-up actions taken by the authorities, together with a breakdown by the category of the cases;*
- (b) *what publicity and promotional activities have been carried out by the authorities for the aforesaid new provisions and the resources*

involved; whether they will step up the publicity efforts in the coming year; if so, of the details; if not, the reasons for that; and

- (c) *whether the authorities have, in promoting the aforesaid new provisions, ascertained the major issues of concern of the related organizations; if they have, whether they will step up the publicity and education efforts accordingly?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, with regard to parts (a) to (c) of the question, our reply is as follows:

- (a) Since the new provisions came into effect in mid-July 2010, the Administration has not received any complaints involving alleged breaches of the copying and distribution offence under the Copyright Ordinance. Hence we do not have, for the time being, any case which requires prosecution.
- (b) Some six months before the copying and distribution offence came into effect, the Intellectual Property Department (IPD) rolled out a series of publicity and educational activities (targeting in particular the relevant stakeholders, that is, enterprises which may use, copy and distribute information extracted from newspapers, magazines, journals and books in the course of their business) with a view to enhancing public awareness of the new provisions. These activities include large-scale seminars, business forums, advertisements in newspapers and magazines, interviews, featured articles in trade and business journals, promotional leaflet, e-newsletter and webpage, and so on.

In addition, we had revised and released for public consumption since early 2010 the Guidance Note on Prevention of End-User Piracy in Business⁽¹⁾. Copies of the Guidance Note were made available on appropriate occasions (such as forums and seminars) for

(1) The Guidance Note is available at and may be downloaded from <http://www.ipd.gov.hk/eng/intellectual_property/copyright/booklet_piracy_in_business_e.pdf>

distribution to business enterprises (particularly small and medium enterprises) and non-profit-making organizations. The Guidance Note provides relevant information and practical guidelines that help users guard against inadvertent breaches of the relevant offence. The IPD has distributed about 18 000 copies of the Guidance Note so far.

As at end October 2010, the expenditure incurred for organizing the aforesaid public education activities amounted to about \$900,000.

At present, the IPD conducts periodic surveys to gauge public awareness of intellectual property rights (IPR), covering members of the public as well as business enterprises. In the light of the identified needs then prevailing, the IPD will decide the focus of its upcoming publicity efforts, including the incorporation of relevant IPR issues in various promotion and public education programmes.

With regard to the new provisions relating to the copying and distribution offence, the IPD plans to include, in the survey due to be launched in mid-November, questions designed to help us understand the level of awareness amongst business enterprises. As and when the survey results are available, the IPD will consider whether there is a need to step up publicity in this regard.

- (c) When publicizing the new provisions earlier this year, we did take steps to engage stakeholders from different sectors to ascertain major issues of concern to them. We also took heed of relevant representations articulated through the Internet and the media. It is our main observation that the concerns they have are more to do with the technical details, for example, whether it is an offence to scan articles from newspapers or magazines and distribute copies vide a company's intranet; and how the number of infringing pages is to be counted, and so on. Apart from answering these questions as and when they come to light, we have uploaded appropriate reference materials onto the Frequently Asked Questions section of the IPD's webpage <www.copyright.gov.hk/update> for easy reference by the public and business enterprises. The IPD has also made available a hotline (telephone number: 2961 6901) and an email address <enquiry@ipd.gov.hk> for handling public enquiries.

Measures Against Abuse of Public Rental Housing Resources

20. **MR ABRAHAM SHEK:** *President, according to the Government's housing-related initiatives in the 2007-2008 Policy Agenda presented to the Legislative Council Panel on Housing, "The Housing Authority (HA) will step up measures against abuse of public rental housing (PRH) resources. Suspected abuse cases would be identified at an earlier stage through daily tenancy management and regular home visits. The HA will also step up publicity to promote public awareness of the importance of an effective use of public housing resources". Concerning the abuse of PRH resources, the Housing Department (HD) has recently announced that five residents of PRH have been convicted by the courts for making false statement knowingly on income or assets. In this connection, will the Government inform this Council:*

- (a) of the staff establishment for fighting abuse of PRH resources in each of the past three years;*
- (b) of the number of regular home visits performed by HD staff for identifying possible cases of abuse of PRH resources in each of the past three years;*
- (c) of the number of cases of abuse of PRH resources substantiated by the HA in each of the past three years together with details of the cases and the follow-up actions taken (including the number of PRH units recovered, the fine collected, as well as the amount of rent undercharged and recovered);*
- (d) of the work of the HA in promoting public awareness of the importance of the effective use of PRH resources through publicity in the past three years, and whether it had reviewed the effectiveness of such publicity campaigns;*
- (e) given that under the prevailing Housing Subsidy Policy (HSP), households who have been living in PRH for 10 years or more are required to declare household income every two years, whether the Government will review this policy to better reflect the fast-changing social situations, including considering if the existing 10-year period for the first-time declaration and the two-year declaration interval*

thereafter should be shortened; if it will, of the details; if not, the reasons for that; and

- (f) *given that the 2010-2011 Policy Address has mentioned that an additional 5 000 random checks on tenants' household income and assets will be conducted, whether the HD will recruit additional staff to conduct these random checks; if it will, of the details; if not, how it ensures that the additional workload will not affect the work quality of its staff?*

SECRETARY FOR TRANSPORT AND HOUSING: President, the HA is committed to ensuring the rational allocation of limited public housing resources. Tenants who have been living in PRH for 10 years are required to declare their household income biennially under the HSP. Those with household incomes exceeding the prescribed income limits are required to pay 1.5 times or double net rent plus rates. For double rent paying households, they are further required to declare their assets biennially under the Policy on Safeguarding Rational Allocation of Public Housing Resources (SRA) to determine their eligibility to continue to stay in PRH. Currently, around 360 000 households are required to declare their income and/or assets biennially under the HSP/SRA. Under the prevailing mechanism, the HD's front-line management staff will conduct basic checks on all the income and assets declarations made by PRH tenants whilst the HD's Central Team will carry out in-depth checks on randomly selected cases, doubtful cases and all double rent paying cases by interviewing tenants/family members concerned and obtain the relevant documentary proof on income/assets.

The HD has also put in place effective measures to detect tenancy abuse cases, which include non-occupation, unauthorized occupation and illegal use of premises. Front-line management staff detect tenancy abuse through performing daily tenancy management duties and periodic flat visits. Any suspected cases are referred to the Central Team for in-depth investigation. In addition to this, the Central Team carries out in-depth investigations into all complaints and randomly selected cases.

My reply to the six parts of the question is set out below:

- (a) Some 1 400 management staff members of the HD are deployed to daily property and tenancy management duties. Their duties

include tackling abuse of public housing resources. Among these, 72 staff members are centrally deployed to tackle abuse by conducting surprise flat visits to ensure the proper use of the PRH flats and conducting additional checks on income and assets declarations made by PRH tenants. Details of the management staff involved in combating the tenancy abuse during the past three year are set out below:

<i>Year</i>	<i>Estate Management Staff*</i>	<i>Central Team**</i>	<i>Total</i>
2007-2008	1 310	72	1 382
2008-2009	1 310	72	1 382
2009-2010	1 333	72	1 405

Notes:

* Estate management staff members are mainly deployed to take up property management duties and tenancy matters in PRH estates. Tackling tenancy abuses only forms part of their normal duties.

** A Central Team is responsible for tackling abuse of public housing resources through rigorous checks on suspected cases and randomly selected cases for investigation.

- (b) To safeguard the rational use of public housing resources, the HD has established a Biennial Inspection System (BIS) to detect tenancy abuses. Under the BIS, estate management staff will conduct flat visits to all PRH households every two years and take the opportunity during flat inspection to detect potential tenancy abuses.

During the last Biennial Inspection Cycle (1 November 2006 to 31 October 2008), HD staff visited a total of 663 000 households with completion rate of 100%. For the latest Biennial Inspection Cycle (1 November 2008 to 31 October 2010), a total of 669 000 households have been visited as at 30 September 2010 with completion rate so far of 97.24%.

- (c) The HD does not have information on the amount of rent undercharged which is eventually retrieved. A breakdown of the tenancy abuse cases and false declaration cases detected during the past three years is as follows:

Year	Types		Total	Follow-up Actions against Proved Abuse Cases
	False Declarations on Income and Assets	Tenancy Abuse [#]		
2007-2008	684	460	1 144	(1) Flat Recovered*: 339 (2) Fine Collected: \$265,000
2008-2009	651	392	1 043	(1) Flat Recovered*: 254 (2) Fine Collected: \$793,000
2009-2010	604	377	981	(1) Flat Recovered*: 237 (2) Fine Collected: \$680,000
Total	1 939	1 229	3 168	(1) Flat Recovered*: 830 (2) Fine Collected: \$1,738,000

Notes:

Tenancy abuse case may result in the issue of a Notice-to-Quit (NTQ) for flat recovery.

* Excluding an average of 2 100 self-surrender cases per annum when some of the households surrender their flats voluntarily during the course of investigation and those NTQ cases as a result of rent arrears (average 600 per annum) when the outgoing tenants fail to pay rent on the understanding that their PRH flats will eventually be recovered due to their breach of tenancy conditions.

- (d) To tie in with the enforcement action, the HD has launched a series of publicity and educational programmes including roving exhibitions, a seminar for Estate Management Advisory Committees, a slogan competition, posters and leaflets, newspaper supplement and press releases, video segments and bus-side panel advertisements to disseminate the message of rational use of the limited public housing resources. We consider the measures taken to be effective but we will, from time to time, review and adjust our publicity and educational programmes as appropriate.
- (e) The existing policies on income and assets declarations are considered effective in ensuring the rational allocation of public housing resources. In 2009-2010, some 23 800 PRH households were required to pay extra rent. The HA has no plan to change the existing mechanism which has been working smoothly and effectively.
- (f) The implementation of the one-off exercise to conduct in-depth checks on an additional 5 000 income and assets declarations made

by PRH tenants entails additional staff resources. The HD will internally redeploy not more than 30 experienced staff from various front-line management offices to carry out this one-off exercise in the coming six months. A number of temporary staff will be employed to absorb the duties of the redeployed staff to minimize any impact on normal operation.

BILLS

First Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: First Reading.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) BILL

CLERK (in Cantonese): Anti-money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill.

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

Second Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: Second Reading.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) BILL

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move the Second Reading of the Anti-money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill.

The Bill seeks to improve the anti-money laundering regime for financial institutions to make it further comply with existing international standards and enhance Hong Kong's role as an international financial centre.

The Financial Action Task Force on Money Laundering (FATF) is the international anti-money laundering standard setter and Hong Kong has been a member of the FATF. The reason for introducing the Bill is that in the evaluation conducted by the FATF in 2007-2008, while the FATF recognized the strengths of Hong Kong's anti-money laundering regime, they also highlighted that improvement is required in some areas, such as the lack of statutory backing for the customer due diligence and record-keeping requirements applicable to financial institutions, the limited range of regulators' supervisory and enforcement powers, the lack of appropriate sanctions for these requirements, and the absence of an anti-money laundering regulatory regime for money service operators, namely, remittance agents and money changers. The Bill is formulated to address the above deficiencies.

In the course of preparing the Bill, the Financial Services and the Treasury Bureau has conducted two rounds of public consultation to gauge the views from the public and the financial sectors on the legislative proposals. I am pleased to learn that there was general support for the Administration's legislative proposals to strengthen the anti-money laundering legislation for financial institutions to bring it on a par with the international standards. During the consultation period, we have received a lot of precious views on the technicality and operation of the detailed legislative proposals. Here, I have to thank members of the public and people in the sector for their submission of views. When preparing the Bill, we have taken the views and comments received into careful consideration. To facilitate the operation of the sector and on the premise of not affecting Hong Kong's compliance with the relevant international standards, we amended some of the proposals appropriately. I am convinced that the Bill will not affect any lawful commercial and financial transactions, nor will it stymie the development of the financial markets in Hong Kong.

At present, the customer due diligence and record-keeping requirements applicable to financial institutions are set out in the existing guidelines issued by the Monetary Authority, the Securities and Futures Commission and the

Insurance Authority to their respective regulatees. The legislative proposals covered by the Bill largely reflect the existing customer due diligence and record-keeping requirements in these guidelines, with specific provisions to provide for suitable supervisory and enforcement powers of the regulators and sanctions against non-compliance, having regard to the FATF's requirements. In addition, this Bill also seeks to provide for the regulation of the licensing regime for the remittance agents and money changers, that is, the "money service operators" referred to in the Bill, and to establish an independent review tribunal to review supervisory sanctions for breaches and the decisions on matters related to licensing.

In view of the FATF's request that Hong Kong make improvements to the timetable for anti-money laundering efforts, if the Bill is passed by the Legislative Council, we will follow up the relevant details of implementation immediately, in the hope that the Bill can come into operation on 1 April 2012.

Deputy President, the Bill is vitally important to Hong Kong in preserving this international reputation and enhancing Hong Kong's role as an international financial centre. I hope Members can support the Bill.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Anti-money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill be read the Second time.

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

Resumption of Second Reading Debate on Bills

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

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

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

DR MARGARET NG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Arbitration Bill, I now address the Council on the main deliberations of the Bills Committee.

The Bill seeks to establish a unitary regime of arbitration which accords with international arbitration practices for all types of arbitration on the basis of the United Nations Commission on International Trade Law Model Law (the Model Law) for all types of arbitration, thereby abolishing the distinction between the existing two regimes (that is, domestic and international arbitrations) under the current Arbitration Ordinance (Cap. 341). Moreover, the Administration has stressed that the object and principles of the Bill are to, among other things, encourage the business community and arbitration practitioners to choose Hong Kong as a place to conduct arbitral proceedings and facilitate the fair and speedy resolution of disputes by arbitration without unnecessary expenses.

The Bills Committee noted that this drafting approach is new and unprecedented. The Administration has advised that reproducing the Model Law provisions that are intended to have force of law in Hong Kong in the main body of the Bill, with appropriate add-ons and/or modifications can make it more user-friendly to arbitration users both in and outside Hong Kong. Also, to annex a copy of the Model Law, which shows clearly the parts of the Model Law adopted and not adopted, would also help enhance the perception that Hong Kong is a Model Law jurisdiction.

Some members have expressed support for the current drafting approach as it enables international users to make cross reference between the domestic legislation and the Model Law. However, some members considered that the drafting of the Bill is not as user-friendly as intended. Nevertheless, members

considered that changing the drafting is equivalent to rewriting the Bill, which is not practical technically. The Administration stressed that the current drafting can allow users to find the relevant provisions in the Bill and they would not have to make cross reference to the Model Law.

The Bills Committee held a total of 15 meetings and received views from deputations at one of these meetings. At its initial stage of the scrutiny, the Bills Committee learnt that the construction industry was concerned about the implications of abolishing the domestic arbitration regime on local subcontracts. An "opt-in" system is provided under Part 11 of the Bill to enable users of arbitration to continue to adopt domestic arbitration provisions based on the current Ordinance and as set out in Schedule 2 to the Bill. All the opt-in provisions will automatically apply to an arbitration agreement entered into before, or at any time within a period of six years after the commencement of the Bill, and which has provided that arbitration under the agreement is a domestic arbitration. The construction industry pointed out that under the existing regime, a domestic subcontract needs not expressly refer to the domestic regime as it will automatically apply. However, almost all standard form contracts include reference to domestic arbitration. The *status quo* of local construction subcontractors will immediately change when the Bill comes into force, unless the subcontractors are aware that they need to change their subcontracts to state expressly that they will be subject to the domestic regime. The construction industry strongly requested reinstatement of the automatic opt-in provisions for subcontractors.

Some members share the views of the construction industry. They have pointed out that in the absence of contracts in most subcontracting cases in the construction industry, it can be envisaged that subcontractors will not state expressly that they will be subject to the domestic regime.

While acknowledging the concerns raised by the construction industry, some members have expressed reservation about the proposal to amend the Bill to suit the specific needs of an industry.

The Administration has indicated that the automatic opt-in mechanism for subcontracts may have implications on other industries such as insurance and shipping where there are also contracts for sub-underwriting and sub-charter. The Administration has subsequently advised that after further consideration, it

would move an amendment to insert a new clause 100A into the Bill in order to confine the automatic opt-in mechanism to construction contracts. The Bills Committee considered that the Administration has made an effort to address the construction industry's concern and the proposed amendment is also accepted by the industry. Members agreed that the Administration's proposed amendment is an acceptable resolution. Members also appealed to the Administration to launch adequate publicity, so that the stakeholders, in particular the construction industry, would be aware that the automatic opt-in mechanism would cease after a transitional period of six years, and make necessary preparation for the unitary arbitration regime.

Some members have raised concern about confidentiality in arbitral proceedings, pointing out that the fundamental principle of open justice shall not be discarded lightly for the sake of attracting more arbitration business. Some members have raised concern about the disclosure of information relating to arbitral proceedings and award made in those proceedings. The Administration has stressed that having considered the need to preserve the requirement for confidentiality as a key aspect of arbitration and the need to protect public interest in having transparency of process and the public accountability of the judicial system, it is stipulated in clause 16 of the Bill that as a starting point, court proceedings relating to arbitration are to be heard otherwise in open court, unless on the application of any party or on the Court's initiative in any particular case, the Court is satisfied that the proceedings ought to be heard in open court. Also, it is important to adhere to the international practice that arbitral awards should only be made public with the consent of the parties concerned, having regard to the private and confidential nature of arbitration.

After the Bill is passed, section 108 of the new Ordinance will repeal the current Ordinance on a day to be appointed by the Secretary for Justice by notice published in the Gazette. The Bills committee will examine in detail the provisions relating to arbitration agreements, the composition and jurisdiction of an arbitral tribunal, the conduct of arbitral proceedings and the enforcement of arbitral awards and costs. In response to members' views and concerns, the Administration will propose a number of Committee Stage Amendments. Members support all the amendments proposed by the authorities.

Deputy President, the foregoing is my report on the work of the Bills Committee. I will now express my personal opinions on the Bill.

Deputy President, you may think that this Arbitration Bill only deals with some highly technical provisions, so this should be an uneventful, or even dull and boring, exercise. However, it turned out that the opposite was the case because as soon as the scrutiny of the Bill began, serious and heated controversies arose immediately. The controversies can be divided into two areas. One of them relates to drafting. Since Members had never seen such a way of drafting, therefore, they found it extremely complicated and did not understand why all the international provisions had included in the legislation. For this reason, there was a great deal of controversy among Members in this regard.

Another area arousing great controversy relates to the Bill's objective and contents, that is, using the international arbitration regime called Model Law to replace the existing mode in which both the international and domestic regimes exist side by side. The implication is that the domestic arbitration regime will be abolished. This aspect in particular made many Members believe that this would have implications on the construction industry. In spite of this, why could such a great controversy eventually subside and why could this matter conclude in such a peaceful manner? In fact, here, I also wish to thank in particular the officials representing the Department of Justice. They listened to Members' views and consulted the industry in great sincerity, then proposed practicable solutions founded on facts, so that all parties found the solutions acceptable before the scrutiny was finally concluded. I am grateful for such a spirit and approach, so I wish to put this on record as this does not happen very often.

Deputy President, I wish to talk about the most noteworthy significance of the Arbitration Bill is that Hong Kong is going back to its "former trade" of using its sound legal system to protect systems familiar to and recognized by the international community to enable their operation in Hong Kong. When the authorities concerned introduced the Bill, they pointed out that the reason for including the whole Model Law in the Bill was to make it user-friendly. In fact, to domestic users of arbitration, that is, companies in the construction industry, this surely is not user-friendly or convenient. However, in what sense is it convenient then? It is convenient to practitioners of international arbitration and large international corporations that make use of arbitration frequently. Therefore, this shows the strength of Hong Kong, that is, to provide protection to practices familiar to the international community through our legal system.

Deputy President, although this time around, this exercise was concluded in an amicable manner, I hope the Secretary for Justice would not adopt this approach of including the entire Model Law in the Bill frequently. The merit of this approach is that strangers and people outside Hong Kong can be spared the need to make cross-references as everything can be found in one document but to Hong Kong people, it is necessary to understand an even larger number of very sophisticated provisions. Therefore, I hope that the authorities will exercise caution when adopting the same approach on the next occasion.

However, we know that merely implementing international agreements or the Model Law in Hong Kong cannot be described as a characteristic of Hong Kong. In fact, the Mainland also attaches great importance to international practices and treaties. What we find special is that when the Mainland deals with international agreements, often, many international agreements would be legally binding automatically and all matters involving foreign countries are dealt with with special care, or they would be handled by Courts with special experience. However, in Hong Kong, any matter of international interest — of course, first of all, we have to implement certain international treaties by enacting local legislation and after implementation, these treaties are part of our system — and be it matters relating to foreign countries or domestic matters, a unitary system is adopted in Hong Kong, the same set of laws and regulations is adopted and the relevant protection is dealt with through ordinary court procedures. Therefore, this approach is very special in Hong Kong and for a long time, this special approach of ours has contributed to the overall commercial and economic development of the Mainland. We know that without Hong Kong's sound legal system as the basis and protection, it is not possible to serve this special purpose. For example, in the reciprocal enforcement of arbitral awards, we can see that there is hardly any difficulty for the Courts of Hong Kong to enforce the Mainland's arbitral awards but in contrast, when the arbitral awards of Hong Kong have to be enforced on the Mainland, the situation would become very much unclear and uncertain. This point precisely illustrates the situation arising from the power difference of the judicial systems in these two places. I believe this is a lesson that we should do well to learn, so that we will understand that Hong Kong needs to have this unique characteristic in the future.

Deputy President, when scrutinizing this Bill, we paid special attention to the use of the Model Law as the blueprint and to preventing it from affecting the power and judicial principles of Hong Kong Courts, such as judicial transparency

and judicial independence. One example is that we have to exercise extra caution to ensure that the provisions of the legislation would not give rise to the misunderstanding that an arbitral tribunal can issue orders to set aside the orders issued by the Court as invalid. Regarding this part, we have devoted a great deal of attention to revising the wording and finally, the goal that had to be attained was reached. This also attested to the importance attached by us to this area.

At the same time, we also attach great importance to the Chinese version because we know that the purpose of adopting the international regime in this arbitration law is none other than to make people doing business in Mainland China and business partners of Mainland China use the arbitration law of Hong Kong more often. Therefore, we attach great importance to the Chinese version. Let me give an example: in clause 53(3), the Chinese term "最終命令" was used in the blue bill to mean "peremptory order" in the English version. The thrust of this provision is that if any party to the arbitration fails to comply with any order of the arbitral tribunal, the tribunal can make a final order requiring compliance within a certain period of time and if the order is not complied with within the specified period, serious consequences will arise. Therefore, we think that this kind of "ultimatum" or "final warning" is not equivalent to "最終命令", so we gave a lot of thought to how "peremptory order" should be translated. In the end, all parties unanimously agreed that the expression "最後敦促令" should be adopted. I know that the Government will also move an amendment in this regard at the Committee stage later.

Lastly, I think what is particularly important is that during the transition from the old regime to the new one, understanding should be shown to people who consider the old regime more user-friendly and give them enough time to make preparations for using the new regime.

Deputy President, I notice that over the years, consultations were carried out on this Bill a number of times. Even the Panel on Administration of Justice and Legal Services was consulted several times. The relevant consultation was even carried out in the form of a white bill, so it was very thoroughgoing.

Unfortunately, the most active people were always the practitioners of the arbitration sector and after the construction industry had expressed its views, it seemed that this matter was not discussed any further in that industry. As a

result, other people did not know about this matter. For this reason, the authorities spent even more time on carrying out further consultations to ask various parties what they thought the reasonable scope should be. For example, concerning subcontracts, should the same approach be adopted in all industries? They once conducted a survey and it was found that the great majority of the problems were found in the construction industry. For this reason, the focus was to address its needs, so members of the industry could reserve the right to opt for the old regime in the next six years and automatic opt-in provisions for subcontractors were also prescribed. Given that the reform is so extensive, this arrangement is most reasonable.

Therefore, Deputy President, in sum, I wish to summarize several points of my personal opinion in particular. First, this Bill underscores the special role played by Hong Kong in the commercial and economic development of Mainland China. Second, concerning the drafting, we have given it a great deal of thought, so as to make the legislation both acceptable and enforceable. In the end, having scrutinized this Bill, we are all very familiar with the arrangements therein but will it be possible to adopt this arrangement on each and every occasion? We have great reservation about this.

The last point is that often, we found that even though at the initial stage, it seemed that there were many strong views, why was it still possible to have a happy ending? Certainly, Deputy President, frankly speaking, that was because no major interests were involved in this Bill. Apart from the possible inconvenience it may cause to the construction industry, in fact, no issues of personal freedom were involved and only one more option is provided, so that people who want to use arbitration can do so by adopting this approach. This is the fact, but the most important thing is whether or not the authorities concerned can look for solutions sincerely. If they can, we can formulate a set of relatively well-conceived legislation. I cannot say that after our scrutiny, this Bill is now perfect. However, I can say that the amendments proposed by us all serve to improve the legislation. As Members, in fact, it is a consolation to us that we can make the legislation that will be passed better and more refined. In contrast, if some laws are obviously riddled with problems but the authorities still want to push them through regardless, we will find this very much regrettable. Thank you, Deputy President.

MR LAU KONG-WAH (in Cantonese): Deputy President, the Chairman of the Bills Committee on Arbitration Bill, Dr Margaret NG, scrutinized this Bill together with you and me. Just now, Dr NG has given an account on our behalf. In fact, Dr NG is very good at giving accounts. She said right at the beginning of her speech that initially, Members had a lot of arguments but after discussions, they concluded the exercise amicably, so we can see clearly that herein lies the spirit of conciliation. She also highlighted one point, that is, in this process, Legislative Council Members and government officials could really listen to each other's views, then find a feasible solution together and reconcile differences. This is also the spirit of the entire Arbitration Ordinance.

Deputy President, I think that all along, the Chinese people have abided by the spirit of concluding matters amicably and they believe that harmony will bring good fortune. This piece of legislation is called "仲裁條例" in Chinese and as one can see in its title, the character "仲" is actually made up of the character "人" (man) and next to it is the character "中" (the middle), so obviously, it means finding a middleman to solve certain problems. This also spells out the essence of this Ordinance. In the past, our Judiciary also achieved some results in solving problems through arbitration. This can greatly ease the pressure borne by the Courts and also save quite a lot of time, so in recent years, arbitration and mediation services have gained increasingly greater weight in the legal profession.

Hong Kong is a world city, a hub of international commercial activities with a large corps of legal professionals such as arbitrators and lawyers, so it absolutely has the advantageous conditions in time, place and human resources to develop into an international arbitration centre.

Statistics show that in recent years, the number of international arbitration cases handled by Hong Kong has been on the rise. In 2006, 2007 and 2008, 234, 274 and 449 cases of international arbitration were handled respectively. Last year, the Hong Kong International Arbitration Centre alone handled 429 cases, more than the number in 2008 and among them, more than one third involved organizations on the Mainland.

For many years, the Hong Kong Government has been earnestly promoting the development of Hong Kong into an international arbitration centre. At present, two different regimes, namely, a domestic regime and an international

regime, exist side by side in the arbitration system in Hong Kong and as an international city, such a system is clearly outdated. Now, the passage of this piece of legislation can precisely serve to unify the system, so that it can align with international standards and enhance the competitiveness of Hong Kong's arbitration service.

With vibrant economic development on the Mainland, the trade and economic activities between Hong Kong and China are intense and the demand for legal and arbitration services is ever increasing. It is believed that reforming the Arbitration Ordinance can attract more companies to use the arbitration and mediation services offered by Hong Kong and further consolidate Hong Kong's position as a regional centre of legal services and dispute resolution.

Sometime ago, the Secretary for Justice and the China Council for the Promotion of Trade signed the Co-operation Arrangement on Legal Services for Commercial Matters and Arbitration, which is designed to promote co-operation and exchanges between legal organizations on the Mainland and those in Hong Kong, so as to lay a good foundation for the legal sector in Hong Kong in entering China to do business, as well as enabling more companies to use the arbitration service in Hong Kong, thus consolidating Hong Kong's position as a regional centre for legal services and dispute resolution. We are happy to see this kind of arrangements.

Meanwhile, both sides of the Taiwan Strait signed the Economic Co-operation Framework Agreement recently, so the investment environment in the Asia-Pacific Region will see changes. The increasingly intense interaction between both sides of the Taiwan Strait will present excellent opportunities to Hong Kong, which is already benefiting from CEPA. The passage of this Bill will be most timely.

In the past year, the Bills Committee convened more than 10 meetings during which some provisions aroused some concern. For example, we were concerned about whether or not the reference to "relevant property" in clause 56(6) includes such intangible property as intellectual property rights. The Administration's explanation was that the term "relevant property" includes movable and immovable property and would also include intellectual property rights. This is very important to an international arbitration centre.

In addition, Hong Kong is an international port and according to experienced arbitrators, it is fairly common in shipping arbitrations for written statements by witnesses overseas to be accepted as evidence and arbitral tribunals will sometimes request that such evidence be given on affidavit. In this regard, we also requested the Government to state explicitly in clause 56(1)(c) that an arbitral tribunal may receive any evidence that it considers relevant to the arbitral proceedings.

As regards empowering an arbitral tribunal to appoint experts to submit reports and even to appoint experts to assist in assessing the costs of arbitral proceedings under the legislation, we questioned the need. The Government finally agreed that in practice, it is only necessary to allow the arbitral tribunal to appoint assessors to advise on questions of costs and it will propose an amendment to clause 54(2) to this effect.

Apart from the details of the provisions in the Bill, we also noticed some issues relating to actual application. In fact, they are also quite important. Arbitral tribunals are used most often by commercial companies. However, Members like us, who have all along been involved in district work, have noticed some cases of request for assistance from the owners' corporations of buildings. When repairs and maintenance or renovation projects are carried out on buildings, often issues involving building maintenance contracts will arise, or on completion, the quality of the works is found to have fallen short of expectations. Sometimes, there are even queries about excessive charges, shoddy workmanship or inferior materials. As a result, disputes with contractors would arise. However, owners' corporations often do not know what arbitration is about, nor do they know how much the costs would be, so the budget is invariably greatly exceeded and they are at a loss as to what to do.

In the future, be it arbitration or mediation, if they can be extended to district affairs or matters of public living, they will perhaps have an important role to play. Therefore, I think that after the passage of the Bill, the Government should commit more resources to stepping up publicity and education.

Deputy President, in case of default by a third party which has been specified in an arbitration agreement to appoint a mediator, the Hong Kong International Arbitration Centre may, on the application of any party, appoint a mediator. However, we believe that any capable party should be allowed to

appoint a mediator and the Government should not exclude other qualified organizations from making such appointments. There are also other organizations with equally experienced people in Hong Kong. Perhaps we should let the industry study how to set the standards in this regard, so that the parties to an arbitration can have more choices and the impression of monopolization can be avoided.

Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the passage of the Arbitration Bill and the Government's amendments. Thank you, Deputy President.

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

MR RONNY TONG (in Cantonese): Deputy President, arbitration is an important development in legal procedures in recent years. It is designed mainly to make improvements to the normal legal procedure of resolving disputes through the Court. However, it has been found in every jurisdiction that in societies nowadays, solving problems through the Court often takes a lot of time and the legal costs are also very high, while arbitration offers a simple, direct and time-saving avenue that also avoids high legal costs. Most importantly, it can fulfil the need of conducting the proceedings with a measure of confidentiality. This is a desirable alternative for the resolution of civil disputes. However, if this procedure cannot keep abreast of the times, in fact, it may actually fail to engage in healthy competition with the Court. Therefore, it is essential that the Arbitration Ordinance (the Ordinance) is amended from time to time.

Deputy President, the legislation this time around is basically a rewriting exercise. Two of the main objectives are: First, to eliminate the distinction of international arbitration and domestic arbitration and second, to enhance the rights of arbitrators in law. Deputy President, concerning the first objective, in fact, the distinction of international arbitration and domestic arbitration has all along been faulted by the legal profession and it also makes a lot of people who want to make use of arbitration feel confused and perplexed, particularly given that under "one country, two systems", when Hong Kong people making investments in the Mainland or mainlanders making investments in Hong Kong run into disputes and make use of arbitration, this kind of arbitration is considered international arbitration because the two parties come from different jurisdictions.

Often, as members of the legal profession, we have to explain in detail to our clients that this is actually just a difference in form but not in substance. However, no matter how, I think that to the business sector or people who wish to make use of arbitration proceedings to resolve disputes, this distinction is a hassle quite difficult to come to terms with. Now, this piece of legislation eliminates such a distinction and aligns our arbitral proceedings with those adopted by most countries in the world, so it is a major improvement in upgrading the arbitration service in Hong Kong.

However, during the scrutiny of this Bill, I felt puzzled by one of the proposed provisions on augmenting the powers of arbitrators, namely the one that confers on them powers used to be vested only in the Court, including the power to grant interim measures, which is the same as the power of the Court to issue an injunction or an interim court order. This power can be exercised upon application by either party to arbitration. Although there are some safeguards in the legislation, for example, the legal effect of a preliminary order applied for by one party is limited only to 20 days after issuance and after 20 days, both parties have to present their arguments to the arbitrator. Since this provision is not subject to any appeal mechanism, initially, I felt somewhat uneasy about this arrangement. Frankly speaking, I am also an arbitrator, but the selection criteria for arbitrators are after all different from those for judges. I dare not say that the standard of arbitrators is not on a par with that of judges, but ordinary people will think that the credibility of judges is greater. Moreover, arbitral proceedings are designed to make the two parties to the proceedings refrain from making applications to the Court for invocation of interruptive recourses, appeals or reviews, thus effectively lengthening the arbitral proceedings, pushing up the legal costs and running counter to the aim of arbitration.

Deputy President, I believe after all that in order to facilitate arbitration, adapt to the needs of legal development nowadays and strike a balance between the Court and arbitration, we need to give arbitrators greater powers. Moreover, the relevant provision in the Ordinance has included the principles for the issuance of injunctions by the Court in common law and this will provide some guidance to arbitrators. Meanwhile, this provision does not exclude the Court from exercising its powers as it also has the same powers. Therefore, given the various safeguards, in the end, I think that the relevant proposal is acceptable. I hope that after the passage of the Bill, all people hoping to invoke the Ordinance

to resolve disputes will understand clearly that under the new law, the powers of arbitrators will be augmented significantly. In the spirit of respecting freedom and the principles of contract, they have to understand that once they agreed to using arbitral proceedings to resolve disputes, they should also confer on arbitrators the powers that are usually exercised by the Court, as I pointed out just now. They must understand the convenience and restrictions in this regard and after the passage of the Bill, people making use of arbitral proceedings will perhaps shape a new culture that will lead to better understanding of this system. I think that generally speaking, the passage of this piece of legislation will only be conducive to promoting arbitral proceedings.

For this reason, Deputy President, I think this piece of legislation merits our support.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Justice to reply. This debate will come to a close after the Secretary for Justice has replied.

SECRETARY FOR JUSTICE (in Cantonese): Thank you, Deputy President. The Administration introduced the Arbitration Bill into the Legislative Council in July 2009. Afterwards, the Legislative Council established a Bills Committee chaired by Dr Margaret NG and a total of 15 meetings were held. The Bills Committee scrutinized various provisions and the underlying policy beliefs thoroughly. Here, I wish to express my sincere thanks to Dr Margaret NG and various members of the Bills Committee, including the Deputy President, for their efforts and valuable views.

Just now, Dr NG remarked that the passage of this Bill symbolizes the sincere co-operation between the Department of Justice and Members, who could maintain good communication on many issues, so that a consensus could be

reached eventually. Deputy President, I agree very much that this is a desirable outcome and once again, I thank Members. Through the Arbitration Bill, Hong Kong will be able to further enhance its capacity in this area, and this is absolutely compatible with the ultimate interests of Hong Kong.

Deputy President, as I said in tabling the Bill, the purpose of the Bill is to implement the proposals made in the Consultation Paper on Reform of the Law of Arbitration in Hong Kong and draft Arbitration Bill (Consultation Paper) published in December 2007. The Bill creates a unitary regime for all types of arbitration on the basis of the UNCITRAL Model Law on International Commercial Arbitration (Model Law) adopted by the United Nations Commission on International Trade Law (UNCITRAL). After enactment, the arbitration law of Hong Kong will be more complete and to arbitration users, it will be clearer, more definite and user-friendly.

(THE PRESIDENT resumed the Chair)

In response to the proposals of the Bills Committee, we agreed to make some amendments to the Bill. I will propose the relevant amendments later on at the Committee stage. Now, I will comment in gist on several more important amendments among them.

Arbitration attaches great importance to confidentiality and the parties concerned may have chosen arbitration instead of legal proceedings because of the former's confidential nature. For this reason, clause 18(1) of the Bill provides that unless otherwise agreed by the parties, a party shall not publish, disclose or communicate any information relating to arbitral proceedings and awards. However, in order to balance various parties' demand for confidentiality and the public interest in the disclosure of information relating to arbitral proceedings and awards, clause 18(2)(a) provides that disclosure of such information can be made if the publication, disclosure or communication is "contemplated by this Ordinance".

The Bills Committee is of the view that the scope and meaning of the phrase "contemplated by this Ordinance" may not be very clear. In response to

this view, the Administration will move an amendment to the effect that a party may disclose the relevant information for the purposes of protecting or pursuing a legal right or interest, or of enforcing or challenging the award in legal proceedings.

Clause 32 provides that if a third party should but fails to make the appointment of a mediator, the Hong Kong International Arbitration Centre may appoint a mediator. To spell out more clearly that this provision only applies to the appointment of a mediator provided in an arbitration agreement, the Administration will move an amendment to state clearly that it is an "arbitration agreement", not a "written agreement".

Clause 54(2) provides that in assessing the amount of the costs of arbitral proceedings, the arbitral tribunal may appoint experts, legal advisers or assessors to assist it in technical matters. However, the Bills Committee has questioned the need to empower the arbitral tribunal to appoint experts to assist in the assessment of costs. After consideration, the Administration agreed that in practice, it is only necessary to allow the arbitral tribunal to appoint assessors to advise on questions of costs. Therefore, we will propose amendments to this effect.

Clause 55(3) provides that the Court of First Instance may order a writ to be issued requiring a prisoner to be taken before an arbitral tribunal for examination. However, under section 81 of the Evidence Ordinance, the Court can issue the warrant or order to bring up any person in lawful custody before any Court or arbitrator for examination as a witness. Therefore, the Bill only has to appropriately invoke the power given to it by section 81 of the Evidence Ordinance. The Bills Committee also agreed with this point. Therefore, we will propose amendments to this effect.

Clause 60(5) provides that an order made by the Court of First Instance under section 60 will cease to have effect, in whole or in part, on the order of the arbitral tribunal. Members have suggested to further improve the relevant provision to clearly state that arbitral tribunals do not have the power to take the initiative to set aside court orders. Having considered Members' suggestion, the Administration will move amendments to state clearly that the arbitral tribunal can order that an order made by the Court of First Instance ceases to have effect only if that Court has allowed the arbitral tribunal to do so in the original order

made by the Court. This amendment defines clearly the roles of the Court of First Instance and the arbitral tribunal in relation to the orders concerned and reflect the policy intent of the provisions. In other words, an arbitral tribunal cannot order that an order made by the Court of First Instance ceases to have effect unless that Court has allowed the arbitral tribunal to do so in the original order made by the Court. It is made very clear that an arbitral tribunal can invoke such a power only if it is empowered or authorized by the order of the Court to do so.

Clause 75(1) provides that if the parties have agreed that the costs of arbitral proceedings are taxable by the Court, the arbitral tribunal must direct in an award that the costs are taxable by the Court. The Bills Committee considered that the provision should include a situation where an arbitral tribunal has omitted to make an order for taxation by the Court. For this reason, we will move an amendment to clearly provide for taxation of costs by the Court if the parties have so agreed, unless the arbitral tribunal otherwise directs in the arbitral award.

Clause 100 provides that subject to any express agreement to the contrary, all the "opt-in" provisions in Schedule 2 will be automatically applied if that arbitration under the arbitration agreement is a domestic arbitration. These "opt-in" provisions are similar to existing provisions applicable to domestic arbitration. However, the above arbitration agreement must be an arbitration agreement entered into before the commencement of the new Arbitration Ordinance or an arbitration agreement entered into at any time within a period of six years after the commencement of the new Arbitration Ordinance.

The construction industry expressed general support for the proposal to make all the "opt-in" provisions applicable to subcontracts. However, representatives from other industries generally held that such an arrangement might have implications on other industries, such as insurance and shipping, where there are contracts for sub-underwriting and sub-charter.

The Administration will, after fully considering of the views of stakeholders in various sectors, propose an amendment to limit the application of the "opt-in" provisions to construction subcontracts in Hong Kong only.

The definitions of "construction contract" and "construction operations" in the new provision will be modelled on the definitions of the relevant words and expressions used in the Construction Industry Council Ordinance and the Construction Workers Registration Ordinance to ensure consistency in the meaning of terms among different ordinances. Moreover, the new provision does not apply to "non-local subcontractors" to avoid imposing the "opt-in" provisions on the unwary non-local subcontractors, so as to avoid undermining Hong Kong's reputation as an international arbitration centre.

Clause 103 provides that the arbitral tribunal or mediator are liable only for dishonest acts or omissions. The Administration will propose amendments to make it clear that, in relation to mediation, clauses 103 and 104 only apply to the situations as provided for in clauses 32 and 33, thus confining the availability of immunity to mediators only in respect of mediation conducted within the framework of arbitration.

President, apart from the above amendments, the Administration will also move other amendments to deal with some minor and technical issues. The Bills Committee has considered the amendments and indicated that it would not oppose them.

President, let me respond briefly to the comments of individual Members.

First, Dr Margaret NG mentioned just now that the drafting of this Bill was rather special. President, the Member also explained just now that it was because we hoped to introduce the Model Law, which is well-known in the international community, into Hong Kong, hoping that the outside world will consider Hong Kong to have adopted the international standard and the approach adopted by us will be more widely applicable in the international community. We believe this is the right step. There are many experts and stakeholders in the arbitration sector in the Departmental Working Group to implement the Report of the Committee on Hong Kong Arbitration Law under the Department of Justice. They also consider our present mode of legislation the most appropriate, most capable of achieving our policy objective and in the end, Members also accepted this approach. I believe that this is completely in line with the goal of developing Hong Kong into a regional, and even international, dispute resolution centre. In particular, in international arbitration, we must have international vision and breadth of mind. Dr NG also mentioned that in our co-operation with the Mainland in this area, on the one hand, we can tap the economic development of the Mainland, and on the other, we can also give full play to Hong Kong's

strengths in law and international perspective by using them as the platform. I believe the arrangements in the Arbitration Ordinance are in line with the overall policy principles.

Certainly, Dr NG also reminded us that this is a rather special arrangement and in the future, if we want to introduce other international standards, what approach considered the most appropriate should be adopted? We will certainly deal with this carefully.

Of course, just now, it was also pointed out that when introducing this international standard, to people who are well versed in the original arrangement in Hong Kong, they may not be able to accustom to the international standard immediately. However, Members can also see that corresponding transitional arrangements have been provided for in the Bill.

Just now, Mr Ronny TONG also said that at present, the distinction between local arbitration and international arbitration had all along been faulted by members of the profession, who believe that it is impeding our development. For this reason, in the long term, I hope that people related to the arbitration sector can adapt to this international standard, so that we can continue to develop from this higher threshold. Of course, on the question of how best assistance can be rendered to the people concerned in Hong Kong, after the passage of the Bill, we will definitely do our best through such measures as making press releases, preparing relevant leaflets, arranging for briefings on the arbitration legislation and explaining various arrangements, such as the automatic opt-in provisions in the new Ordinance. The stakeholders concerned, including the Hong Kong International Arbitration Centre and various international business associations, have all said that they will take suitable measures to assist arbitrators and other professionals in making preparations for the implementation of the new Ordinance. We definitely will do our level best in making the transition from the old to the new.

Just now, Mr LAU Kong-wah also pointed out that apart from arbitration, there was also mediation, in particular, mediation at the district level. In fact, this is another very important policy to us — to use other means of dispute resolution outside the judicial system. In the Bills Committee, we also had a lot of discussion on mediation. This is an important area of our work and later on, we will give a further account on the more targeted, detailed and specific measures to the Bills Committee and Legislative Council Members.

Lastly, Mr Ronny TONG said just now that initially, he felt somewhat uneasy about some provisions, including the rationale for giving arbitrators and arbitral tribunals greater powers. I believe that ultimately, Mr Ronny TONG would also agree that we can try out the balance that was struck in the end and that we should look at the positive sides.

I wish to point out that the overarching principle of the changes this time is to enhance the efficiency of the entire arbitration mechanism, with special emphasis on giving choices to the parties concerned. In addition, we will also try to minimize the influence of the Court on the arbitral mechanism. We will do whatever is essential but on non-essential matters, we will reduce the influence to a minimum, so that the efficiency of arbitration services can be enhanced.

Just now, Members also talked about conferring greater powers on arbitrators. In fact, this is also the approach of the Model Law. In addition, a Member also mentioned the lack of an appeal mechanism. During the discussions on the Bill, I have already given an account on the considerations in this regard and in the end, Mr TONG also accepted this arrangement, so I am not going to repeat them here.

Lastly, I hope that in this process of development, we can look ahead to see how an optimal balance can be sought and how the relevant measures will enable our arbitration mechanism to gain a secure foothold in the world.

Each time I made overseas visits, and when I talked with people in other countries or on the Mainland about our development in arbitration, including the introduction of the Model Law into the reform on arbitration, nearly all of them considered this to be a step in the right direction, believing that this could definitely help Hong Kong develop into an international arbitration centre and that this would be an important step. Apart from the software, we will also continue to work hard on our policy. Internationally, we hope that international arbitration centres will consider setting up secretariats in Hong Kong and we will also invite arbitration organizations on the Mainland to come to Hong Kong to use this platform and provide the broadest range possible of arbitration services meeting international standards, so as to make our positioning in this area even stronger.

With these remarks, President, I implore Members to support the Second Reading of the Arbitration Bill and pass the amendments to be proposed by the Administration at the Committee stage later.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Arbitration Bill be read the Second time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Arbitration Bill.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

ARBITRATION BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Arbitration Bill.

CLERK (in Cantonese): Clauses 1, 3 to 7, 9 to 12, 14 to 17, 19, 21, 22, 23, 25 to 31, 33 to 52, 56 to 59, 61 to 74, 76, 78 to 85, 87, 88, 89, 91 to 97, 99, 100, 102 and 105 to 111.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clauses 2, 8, 13, 18, 20, 24, 32, 53, 54, 55, 60, 75, 77, 86, 90, 98, 101, 103 and 104.

SECRETARY FOR JUSTICE (in Cantonese): Chairman, I move the amendments to the clauses read out just now. The amendments and those I will propose later on have been set out in the paper circularized to Members.

Just now, I have explained the aims of most of the amendments. On the other amendment proposals, they mainly involve amendments to wording or technical amendments. Generally speaking, they can be grouped as follows:

The first type of amendments involves wordings in the Chinese version. They include standardizing the Chinese equivalents of the terms in the Bill and those in the UNCITRAL Model Law. One example is clause 2(1). In the definition of "interim measure", the term "保護" is deleted and substituted by "保全"; and in the definition of "respondent" in clause 2(1), the term "應訴" is deleted and substituted by "被申請". In addition, just as Dr Margaret NG said earlier, we also propose to substitute the term "最終命令" with "最後敦促令" in the Chinese text of clause 53, so as to express more clearly the need to comply with the orders or instructions of arbitral tribunals within a certain time limit.

Chairman, the second type of amendments is intended to further clarify and rationalize the relevant provisions. Examples include the following:

In clause 8(2), the words "other than section 2(5)" are added after "section 2" to clearly provide that clause 8(2) is not intended to have any effect on clause 2(5). This will serve to explain these two provisions further.

The second example is the deletion of the reference to "subsection (2)" in clause 20(3) of the Bill. Clause 20(3) originally provided that subsections (1) and (2) have effect subject to section 15 of the Control of Exemption Clauses Ordinance (Cap. 71). However, since the Control of Exemption Clauses Ordinance only deals with agreements involving consumers but not employment-related cases targeted by clause 20(3), the reference to "subsection (2)" in clause 20(3) should be deleted.

Another example is to add the term "direction" after the two original words of "order" and "decision", so that the provision clearly covers all kinds of decisions made by the Court of First Instance or the Appeal Court under section 7 of schedule 2, which are not subject to appeal.

Chairman, the third type relates to the Hong Kong International Arbitration Centre (HKIAC). The Administration proposed to amend clause 13(3) to expressly provide that the HKIAC may, with the approval of the Chief Justice, make rules to deal with matters relating to determining the number of arbitrators under section 23(3).

The last type of amendments concerns the list of parties to the New York Convention specified in the Schedule to the Arbitration (Parties to New York

Convention) Order (Cap. 341 sub. leg.). We would like to take this opportunity of amending Schedule 4 to update the list.

The Bills Committee has discussed and expressed support for all the amendments. I implore Members to endorse them.

Proposed amendments

Clause 2 (See Annex I)

Clause 8 (See Annex I)

Clause 13 (See Annex I)

Clause 18 (See Annex I)

Clause 20 (See Annex I)

Clause 24 (See Annex I)

Clause 32 (See Annex I)

Clause 53 (See Annex I)

Clause 54 (See Annex I)

Clause 55 (See Annex I)

Clause 60 (See Annex I)

Clause 75 (See Annex I)

Clause 77 (See Annex I)

Clause 86 (See Annex I)

Clause 90 (See Annex I)

Clause 98 (See Annex I)

Clause 101 (See Annex I)

Clause 103 (See Annex I)

Clause 104 (See Annex I)

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

DR MARGARET NG (in Cantonese): Chairman, I agree with and support these amendments. However, we are not totally convinced of some of the details, in particular, in clause 2(1), the Chinese equivalent of "respondent" was "被申請人" instead of "應訴人". We have strong views on this. Insofar as the present blue bill is concerned, we always think that it is a cultured way of expression to use "應訴人" as the Chinese equivalent to the term "respondent" in the laws of Hong Kong. One can make an application, but one cannot have an application made on oneself. The object of an application cannot be a human being, so this does not make any sense at all. Moreover, we always say that in good Chinese, we should not use the word "被" so often to convey a passive sense, so one can see that not only can good Chinese be found in Hong Kong, it can also be found in Mainland China. Originally, the authorities were very much inclined towards our view. Moreover, it can be said that they very much agreed with it. However, since the term "被申請人" is used in the Chinese version of the Model Law, the authorities said that in order to avoid confusion, the desirable term "應訴人" would not be used and the undesirable term of "被申請人" would be used instead.

Chairman, as I said just now, we are not at all convinced of this. However, we think the implications would not be very great, so we accepted this reluctantly.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Justice to speak again.

SECRETARY FOR JUSTICE (in Cantonese): I have nothing to add here.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendments passed.

CLERK (in Cantonese): Clauses 2, 8, 13, 18, 20, 24, 32, 53, 54, 55, 60, 75, 77, 86, 90, 98, 101, 103 and 104 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amended clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): New clause 100A Opt-in provisions that automatically apply under section 100 deemed to apply to Hong Kong construction subcontracting cases.

SECRETARY FOR JUSTICE (in Cantonese): Chairman, I move the Second Reading of new clause 100A.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 100A be read the Second time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That new clause 100A be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): New clause 100A.

SECRETARY FOR JUSTICE (in Cantonese): Chairman, I move that new clause 100A be added to the Bill.

Proposed addition

New Clause 100A (See Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 100A be added to the Bill.

CHAIRMAN (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Schedule 3.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedule 3 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Schedules 1, 2 and 4.

SECRETARY FOR JUSTICE (in Cantonese): Chairman, I move the amendments to Schedules 1, 2 and 4. The relevant amendments were covered in my speech earlier on. I have nothing else to add.

Proposed amendments

Schedule 1 (See Annex I)

Schedule 2 (See Annex I)

Schedule 4 (See Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Schedules 1, 2 and 4 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedules 1, 2 and 4 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ARBITRATION BILL

SECRETARY FOR JUSTICE (in Cantonese): President, the

Arbitration Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Arbitration Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Arbitration Bill.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Port Control (Public Cargo Working Area) Order 2010.

I now call upon the Secretary for Transport and Housing to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I move that the Resolution to amend the Port Control (Public Cargo Working Area) Order 2010 (the Order) as set out on the Agenda be passed.

The Order was tabled at the Legislative Council on 14 July 2010. The Legislative Council subsequently established a Subcommittee to scrutinize the Order. I am most grateful to the Honourable Miriam LAU, Chairperson of the Subcommittee, and the other 11 Members of the Subcommittee for their detailed discussion and invaluable opinions during the course of scrutiny.

To proceed with the construction of the West Island Line and the expansion project of the Mass Transit Railway (MTR) Admiralty Station of the South Island Line, a small portion (7 500 sq m out of 40 200 sq m) of the Western District Public Cargo Working Area (PCWA) is required to serve as a temporary barging point for transporting the excavated materials to reception facilities by sea which can minimize the impact of road transport on both the traffic and environment. Hence I made the Order under the Port Control (Cargo Working Areas) Ordinance to revise the boundary of the Western District PCWA to tie in with the temporary arrangements.

At the meeting of the Subcommittee, Members requested the Administration to stipulate an effective period for the use of the site as a temporary barging point to ensure that it will be reverted as a PCWA upon the

expiry of the period. In the light of Members' request, we have proposed amendments to the Order to stipulate that the temporarily revised boundary of the Western District PCWA for the purpose of dumping operation will only be effective between 13 November 2010 and 31 December 2014. The original boundary will be restored on 1 January 2015. The legislative amendments ensure that the site to be used as a temporary barging point will be reverted as a PCWA on 1 January 2015.

Separately, the Subcommittee has expressed concern about the specific arrangements and operation of the temporary barging point. We have undertaken to take appropriate measures to minimize the adverse impact of the temporary arrangements on the traffic and environment of the Central and Western District. For instance, the delivery of excavated materials to the temporary barging point by dump trucks for the expansion project of the MTR Admiralty Station will be restricted to non-peak hours from 10 am to 4 pm, and may be suspended if the traffic condition in the district so warrants. We also note the Central and Western District Council (CWDC) has expressed concern about the proposal of using the temporary barging point for disposal of the excavated materials generated from the construction of the West Island Line and the expansion project of the MTR Admiralty Station of the South Island Line. We explained in detail the proposed measures and implementation arrangements to the CWDC jointly with the MTR Corporation Limited (MTRCL) some time ago. I can assure you that the Administration and the MTRCL will continue to keep close contact with the CWDC and local community, and to address their concerns by providing the necessary information and proposing appropriate mitigation measures to reduce the impact on the local community.

President, the Order has been scrutinized in detail by the Subcommittee, and we have accepted comments of the Subcommittee and proposed amendments accordingly. The amendments are supported by the Subcommittee, and the public would like to see the early completion and commissioning of the railway projects. Therefore, I hope Members will support the amendments, so that the railway projects can proceed on schedule.

Thank you, President.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Port Control (Public Cargo Working Area) Order 2010, published in the Gazette as Legal Notice No. 98 of 2010 and laid on the table of the Legislative Council on 14 July 2010, be amended as set out in the Schedule."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Transport and Housing be passed.

MS MIRIAM LAU (in Cantonese): President, I now make a report in my capacity as Chairman of the Subcommittee. The Subcommittee has held two meetings to scrutinize the Port Control (Public Cargo Working Area) Order 2010.

The Administration has proposed to convert a small portion of the Western District Public Cargo Working Area (PCWA) as a temporary barging point to facilitate the construction of the West Island Line. The Subcommittee is very concerned about the environmental impacts of this proposal. The Administration has advised that the excavated materials generated from the construction of the West Island Line will be transported underground into a completely enclosed conveyor belt system leading to the proposed barging point. Therefore, the dust and traffic impacts will only be minimal.

The Subcommittee considers it necessary to clearly stipulate in the Order that the site will be reverted as part of the Western District PCWA on a date no later than 1 January 2015. At the request of the Subcommittee, the Administration has agreed to propose amendments to stipulate that the original boundaries of the Western District PCWA will be restored on 1 January 2015.

The Subcommittee is concerned about the environmental and traffic impacts of the transportation of excavated materials generated from the expansion project of the Admiralty Station by dump trucks to the proposed barging point. The Subcommittee has urged the Administration to explain to the Central and Western District Council (CWDC) the detailed arrangements and to keep the CWDC posted of the developments. The Subcommittee has subsequently learnt that the Administration held an informal meeting with the CWDC on 2 November

to discuss the transportation arrangements. The CWDC has submitted the minutes of this meeting to the Subcommittee for information.

The deliberations of the Subcommittee have been detailed in its report to the House Committee. I am not going to make any repetition here.

I now speak in my personal capacity.

President, the Port Control (Public Cargo Working Area) Order 2010 serves to declare the new boundaries of the Western District PCWA. The purpose is to release a small portion of the site for setting up a temporary barging point, or commonly known as a discharging point, to facilitate the transportation of the excavated materials generated from two railway projects on Hong Kong Island (namely the West Island Line and the expansion project of the Mass Transit Railway (MTR) Admiralty Station of the South Island Line) to the collection point. The provisions of this Order are not complicated, and the Subcommittee has held only two meetings. Our concerns are the environmental impacts of the transportation of the excavated materials, and when the temporary discharging point can be reverted to its original use as part of the Western District PCWA.

Indeed, once a project has commenced, a facility like a barging point will be inevitably required for handling a large amount of excavated materials hence generated and transporting the materials to the collection point. But as such work will have certain impact on traffic and the environment, this type of facilities, like incineration facilities, refuse collection points, landfills, and so on, are not welcomed by the residents, which is understandable. But there is indeed an actual need for a barging point during the construction works. If the excavated materials generated by the construction of the West Island Line are transported by dump trucks to the Government's reception facilities at Tseung Kwan O or Tuen Mun, the number of dump trucks on roads in the district (that is, Central and Western District) is set to increase tremendously, as it is estimated to increase by 120 truck trips per day and even to 230 per day during the peak of construction. An increase in the number of dump trucks will put a heavier burden on roads in the Central and Western District, which are already very busy, and also on roads from the Central and Western District to places such as Tseung Kwan O or Tuen Mun. This may lead to even more traffic congestions.

Furthermore, in the course of transferring the excavated materials, the dump trucks will inevitably cause environmental pollution in places passed by them. For this reason, regarding the approach adopted by the Administration of releasing part of the Western District PCWA for setting up a temporary barging point for shipping the excavated materials to the specified reception point by sea as far as possible, the Liberal Party and I firmly believe that transportation of the excavated materials by sea in lieu of road transport is the most effective way to reduce the adverse traffic and environmental impacts of dump trucks travelling on roads.

As there are amenity areas and many residential dwellings in the vicinity of the Western District PCWA, we are very concerned about what mitigation measures the Government has in place to address the air pollution caused by the discharging of the excavated materials. In this connection, the MTR Corporation Limited (MTRCL) will transport the excavated materials generated from the construction of the West Island Line to a completely enclosed conveyor belt system through a tunnel leading to the barging point; the loading ramps of the barging point will be enclosed; any excavated materials pending loading will be covered; and the frequency of water spraying will be increased. It is hoped that these measures can help suppress dust and reduce environmental pollution as well as the nuisance caused to the residents. I believe, granting the effective implementation of these measures, the impact of the excavated materials on the surrounding environment can be minimized.

While the excavated materials generated from the expansion project of the Admiralty Station of the South Island Line will also be shipped on barges to the specified reception point by sea, the materials will be transported by dump trucks on the road section from the Admiralty Station to the Western District temporary barging point, and the number of dump trucks on roads is estimated to increase to 120 truck trips. The Administration has said that as the dump trucks will be travelling on Connaught Road along the waterfront and operating only during non-peak hours from 10 am to 4 pm, and adjustments will be made in the light of the traffic conditions, the impact of these measures on the district should be minimal. In spite of this, we are still worried that the dump trucks will add to the pressure on the road network in the Central and Western District, which is already very busy, and hence aggravate traffic congestion. We all know that the traffic is always congested along Connaught Road even during non-peak hours, and with the addition of over 100 dump trucks travelling there, the road capacity

does give cause for concern. In view of this, the Administration should honour its undertaking by adopting appropriate measures by all means to address the concerns of residents in the district. When carrying out the projects, the Administration should strengthen its liaison with the CWDC and keep a close watch on the contractor to ensure that the traffic and environmental impacts on the district are minimized.

The environment aside, I am also concerned about when the original use of the Western District PCWA can be restored. I am glad that the Administration has taken on board the views of members of the Subcommittee. The Administration has readily heeded good advice and taken the initiative to propose amendments to stipulate the effective and expiry dates of the Order to ensure that the site released for use as a temporary barging point will be reverted as part of the PCWA as scheduled after the completion of the construction works. So, there will not be a case of "LIU Bei borrowing Jingzhou" in that what is borrowed will never be returned.

The shortage of suitable PCWAs which has taken toll on the operation of the logistics industry has all along been a knotty problem to the logistics industry. There are now eight PCWAs in the territory for logistics operators to transfer general cargo, bulk cargo and containers to and from barges. But in the middle of next year, the PCWAs in Kwun Tong and Cha Kwo Ling will be closed for the development of the Kwun Tong Promenade. By then, the total area of PCWAs will be greatly reduced, and the demand for PCWAs will become pressing. So far, 30 members of the industry operating at the PCWAs in Kwun Tong and Cha Kwo Ling have to relocate their operation elsewhere. If the borrowed portion of the Western District PCWA will be taken up permanently, the choices of cargo handling operators will be restricted.

In fact, the development of the barging and public cargo handling industries is no doubt pivotal to the development of Hong Kong into a world shipping and logistics hub. Under the present proposal, the Administration will borrow an area measuring 7 500 sq m, which accounts for about 20% of the total area of the Western District PCWA, and the 29 berths in the PCWA will be reduced by three. If, after the completion of the two projects, the Administration continued to take up the Western District PCWA as a discharging point or for other uses because of other projects, thus preventing the Western District PCWA from being restored to its original use in the near future, that would be *de facto*

exploitation of the interest of the industries and would have certain impact on the business of the logistics and cargo handling industries. Therefore, the industries very much hope that the Administration will only borrow this portion of the PCWA temporarily, not permanently, in order not to jeopardize their future development.

I very much welcome the Administration stipulating clearly the borrowing period to ensure that the temporary barging point can be reverted as part of the Western District PWCA on 1 January 2015.

With these remarks, President, I support the Port Control (Public Cargo Working Area) Order 2010.

MR KAM NAI-WAI (in Cantonese): President, on behalf of the Democratic Party, I rise to speak on the Port Control (Public Cargo Working Area) Order 2010.

As mentioned by the Secretary and Ms Miriam LAU earlier on, the Subcommittee originally did not intend to provide for a date of reversion in the Order. In other words, we did not set a date for reverting the site to its former use upon cessation of its temporary use in mid-2014 or August 2014. So, I said at the time that given the track record of the Government going back on its words and not honouring its promise It is often the case that these facilities, which we refer to as barging points or discharging points, will remain there as temporary facilities for a decade or two without being removed even after the completion of works completed. Let me cite as an example the tram depot in Western District which may be more familiar to Members. The tram depot was originally meant as a temporary maintenance depot, and it turns out that this maintenance depot, after being put to this "temporary" use for eight to 10 years, has become a permanent depot. So, I said at the time that if it was intended to be a temporary discharging point only but if the Order did not stipulate that the original boundaries would be restored, the discharging point would remain as a permanent facility on the site, which is not what the residents would wish to see.

I would like to respond to Ms Miriam LAU's remarks. Although I support her proposal of setting a reversion date, my objective is purely to make sure that the barging point would then be gone, and I do not wish to see the PCWA

remaining there. In this connection, my view is very different from that of Miriam LAU. Ms Miriam LAU and the Liberal Party hope to protect the interest of the industries in handling cargo in the PCWA. But I would like to tell her that if a portion of this site will be turned into a barging point and will not be used for cargo handling between 2010 and 2015, then what exactly is the actual need? The residents' views are actually unanimous. They hope that this site can be converted into a waterfront promenade. But as this Order purely relates to the PCWA and given the power constraint, we could not turn the site into an amenity area. To choose a lesser evil, I have to kick out this discharging point first and revert it as part of the PCWA. But I have to clarify that the Democratic Party does not support the reversion of the site as part of the PCWA, just that we have no alternative because this Order only concerns the PCWA. I, therefore, would like to put this down on record.

What we have often talked about recently is that nobody would wish to see the construction of unwelcomed facilities in his district, and the Tseung Kwan O Landfill has been most often talked about lately. Barging points are actually not welcomed. I remember that the construction of a barging point at Telegraph Bay was mentioned during the discussion on the South Island Line some time ago and Members opposed it. But why do residents in the Western District support the construction of a barging point? Because the residents very much hope that the construction of the West Island Line can commence as soon as possible. They understand that they have to shoulder some responsibilities during the construction of the West Island Line. This is why they still throw weight behind this project even though an obnoxious facility would be built there.

However, even though the residents have given their support, what the Government has been doing now is most unfair to them. In the beginning of the consultation, the Government told the residents that the excavated materials would be discharged at the PCWA via an enclosed duct, which would not cause pollution in the district. The residents agreed to this arrangement because even though there would probably be some impact, they had no alternative. Miriam LAU said earlier that the duct would be constructed underground but in fact, it will be laid above ground as it will pass by the waterfront and the park. On learning about this, the residents still agreed, knowing that they had to accept it, in order to shoulder their responsibilities. But what the Government says now is different, as it turns out that apart from that enclosed duct, there will also be

lorries and dump trucks coming to the barging point when the construction works are in progress. The residents still accepted it, thinking that this is their responsibility. But outrageously, what the Government has said recently is different again, as it turns out that the excavated materials generated from the Admiralty Station project of the South Island Line will also be transported and dumped there, but the Government has never consulted the residents on this.

The Government told me a different story, for they had already discussed this with the Central and Western District Council (CWDC) in April 2010 and stated that some excavated materials from the Admiralty Station project will be shipped to this barging point, but I did not raise any objection at the time. This is how the Government has "played foul". They did not tell us the quantity of the excavated materials at that time. They only asked us whether we were happy with the design of the park and whether the design would affect the residents. They had never mentioned the quantity of the excavated materials or the number of truck trips. Members did raise questions at that time, but the Government did not give us any answers. Finally, it was only when this Order was tabled before the Legislative Council that the Government provided the statistics. Students must really listen. The Government is very cunning indeed. Now we come to realize that this is how the Government conducts consultation.

What exactly will be the quantity of excavated materials to be dumped in the Western District? The West Island Line alone will generate about 540 000 cu m of such materials. Then what about the Admiralty Station? It will be 320 000 cu m. It is found that a substantial proportion of the excavated materials to be dumped in the Western District is generated from the Admiralty Station. Is it a bogus consultation that the Government has conducted? As things have developed to the present stage, could we oppose the construction of the barging point? If we oppose it, the construction of the West Island Line would not be able to proceed. So, the way in which the Government conducted consultation has indeed greatly infuriated the residents.

Let me put aside the issue of consultation and talk about the actual situation. Ms Miriam LAU said earlier that the Government should really monitor the relevant operation. I wish to show Members a photograph.

President, this is a photograph of the barging point. I wonder if the Secretary has seen it. This Order is under our discussion only today, but it turns out that the barging point has already been built. I would like to ask: Has the MTRCL breached the law? Has the MTRCL acted in defiance of the law? While we have not yet passed this Order, the two facilities have already been built. Secretary, can you give us a response? Is it that the works can commence disregarding whether or not the Legislative Council is going to pass the Order? Assuming that this project has a very pressing timeframe and the Government may ask me to be more understanding and not getting in the way of the works. Fine, I can allow it to jump the gun, but I went there last week to find out about the progress of the barging point. Members please take a look at this. Large quantities of rocks and excavated materials have already heaped up on the site.

President, in the incident of Tseung Kwan O, the Government kept on accusing the residents, arguing that if everyone opposes the construction of unwelcomed facilities, there would be no way for the Government to continue with its work. But has the Government discharged its responsibility? Residents in Tseung Kwan O have complained about the stench brought by refuse collection vehicles going in and out of the landfill, and this problem has remained unresolved over the years. Eventually, I remember Secretary Edward YAU had said that the streets would be cleansed eight times a day, I repeat, eight times a day. Why is it that he proposed to cleanse the streets eight times a day only when he came to the Legislative Council? Besides, I wish to ask Secretary Eva CHENG this: The barging point has not yet come into operation but the entire site is already full of excavated materials and has become very dusty. What has the Government done in monitoring? The Government asked the residents to take up their due share of responsibilities, but the Government has not discharged its due responsibilities. If the Government continues to adopt this attitude in its work, how can it ask the residents to accept some unwelcomed facilities again?

We will later on discuss the construction of incineration facilities in Tuen Mun. Yesterday, I had a meeting with the village head of Lung Kwu Tan in Tuen Mun. He invited me to take a look at that passage, which is already very dusty, and it would be impossible for incineration facilities to be constructed there. Government departments have worked separately in their own ways. The Environment Bureau proposes the construction of incineration facilities, but

the cleaning work falls into the purview of another department. Similarly, has the Transport and Housing Bureau exercised any control and monitoring over the projects undertaken by the MTRCL? When I inspected the site, do Members know what those engineers told me? They said that the construction site was under their management, but what happened on the site had nothing to do with them. I asked them how they could say such a thing.

All the residents hope that the works can be completed as soon as possible. Insofar as the construction of the West Island Line is concerned, I hope the Transport and Housing Bureau will perform its monitoring role properly, especially on facilities affecting the residents. They include firstly, the barging point. When we first inspected the site, can Members guess what the so-called enclosed system is like? President, we found that several canvas sheets are used as a cover, with the canvas sheets flapping, but then, this is said to be an enclosed barging point. The truth is that dust is all over the place. The Democratic Party demands that the entire platform, that is, the platform where the dump trucks will go up to, be fully enclosed.

Second, the dump trucks travelling in and out of the site must be sprayed with water sufficiently, not in a window-dressing manner. President, I wonder if the Secretary has been to Chai Wan to inspect the operation of a permanent barging point there. Before the dump trucks enter the barging point, water will be sprayed on the excavated materials for at least two to three minutes before the dump truck can go up to the platform to discharge the materials onto the barge, unlike the situation mentioned by Miriam LAU earlier. Now, there will be 120 truck trips per day. She said that there will be no spraying of water during peak hours, and that water will be sprayed only during non-peak hours. This is what was said at that time. In other words, this will be done only from 10 am to 4 pm, spanning six hours only. Let us do some calculation. With 20 trucks coming in and out per hour, it means one truck in for each three minutes. Think about this: A truck must first enter the site and then wet the excavated materials before dumping them onto the barges. Is time enough for wetting all the materials on the truck? Spraying water on the excavated materials for only 10 seconds or eight seconds is simply not enough to wet the materials, but if they have to be dumped that way, this would not be up to standard. So, the second point I raised is that the entire load of excavated materials on the truck must be wetted before they can be discharged onto the barges, in order to suppress dust nuisance.

Third, is it a must for the excavated materials generated from the Admiralty Station project to be transported to and discharged at the barging point in the Western District? I hope the Secretary and her subordinates can discuss this with the CWDC as soon as possible. The CWDC has submitted a paper to the Legislative Council, which mentioned that at the meeting on that day, the CWDC could not agree to the disposal of the excavated materials generated from the expansion project of the Admiralty Station at the temporary barging point in the Western District PCWA. This is a conclusion drawn by the Chairman of the CWDC at the meeting on that day.

I hope the Secretary will not think that she can kick down the ladder and wash her hand of everything after this Order is passed today, as in the case of Choi Yuen Tsuen. I hope the Secretary will closely monitor this project.

Lastly, President, the PCWA will be restored on 1 January 2015, which means that the barging point can operate only until 31 December 2014. I wish to reiterate that the Democratic Party hopes that after its restoration, the site can be turned into an open space, rather than being continuously used as a PCWA. Thank you, President.

MS CYD HO (in Cantonese): President, a month ago we were here dealing with an Order relating to country parks, which sought to reduce 5 hectares of land designated as country park in Tseung Kwan O. What was originally a district administration issue concerning waste disposal and landfill odour had nevertheless caused great tensions in the relationship between the executive and the legislature, resulting in conflicts of constitutional powers. What happened was grossly undesirable.

Fortunately, insofar as this Port Control (Public Cargo Working Area) Order 2010 is concerned, government officials have taken a very pragmatic attitude. We have held two meetings and completed our scrutiny, and the Government has also responded promptly to Members' suggestions. For instance, we were concerned that the two berths, after they had been borrowed, would never be returned and would be continually used as a barging point in future, and we expressed the wish for designation of the place as an open space as soon as possible. Finally, although our wish was not completely granted as the

place will eventually be restored for cargo handling purposes, at least the law has clearly limited the period of its use as a barging point.

So, I hope that during the scrutiny of legislation, if the executive authorities can see that the views put forward by this Council can reflect the wish of the residents and that such views hold water, they really must not start disputes swayed by personal feelings and instead, they should take on board our proposals as soon as possible. With regard to the voting result today, I believe Members will support these amendments, thus enabling this project to commence as early as possible.

Having said that, President, if those two berths for cargo vessels as mentioned earlier will be used as a barging point in the next four years, which means that the cargo working area in the Central and Western District can operate with two berths less, it is actually a simple inference that those two berths will no longer be needed in future. Such being the case, after the barging point has served its purpose, the residents in the district strongly demand that this site be used as an open space to extend the waterfront promenade on the north shore, with the ultimate objective of developing a waterfront promenade connecting the Central and Western District, Wai Chai and the Eastern District. This is a wish shared by several District Councils (DCs), as well as residents on Hong Kong Island and Members representing Hong Kong Island.

But speaking of this point, we note that the cargo working areas in Kwun Tong and Cha Kwo Ling will be removed for the development of a waterfront promenade there. The case is all the same for district facilities. I very much support the development of cargo working areas, which are part and parcel to the economic activities in Hong Kong as a whole, but where should they be placed? Most members of the public will think that in any case, these facilities should not be placed in the vicinity of their districts as far as possible. They think that these facilities should be placed elsewhere, but they would not mind to have such facilities as a waterfront promenade.

So, when members of the public know more and more about their rights and interests, and when they dare to take actions and speak up to voice their demands, that would actually pose a challenge to governance. How should we strike a balance among these reasonable demands for the interests of districts? The demands of the three districts are all reasonable. The residents of Tiu Keng

Leng, Kwun Tong and the Central and Western District are all reasonable and sensible in asking for a waterfront promenade for public enjoyment in their own district.

First, we must think about this: Is it that these cargo working areas can be placed only in these three districts? Can they be placed in the more remote districts, or the less developed districts where there are not too many residents in the vicinity and there is not too great a demand for open space? Must they be developed in the Central and Western District if they will not be provided in Kwun Tong or Tiu Keng Leng? Of course, the industries have a lot of views on this, because this concerns not only sea transport but also land transport for cargo handling. If they are located at places which are too remote, vehicles will have to travel a long distance to get there. So, this begs this question: Whether it be the executive authorities, the political parties, the Legislative Council or the DCs, why is it that whenever there is such a case, none of them can engage in objective and fair discussions on the interests of various districts *vis-à-vis* public interest?

Some Members mentioned earlier that the residents of the Western District do not mind the disposal of the excavated materials generated from the West Island Line at the baring point and they do not mind even if over 500 000 tons of excavated materials would be dumped there, but they have strong views on the disposal of the 300 000-odd tones of excavated materials generated from the Southern District. This is a mentality of "what happens next door is none of my business". In fact, the project in the Southern District will have a terminus at Ap Lei Chau. A barging point is already developed near Telegraph Bay and Residence Bel-Air, and we all know that this was an issue in the DC by-election. As for the other terminus, there would be an exit in Admiralty.

The method of construction is already quite desirable, as tunnelling will be adopted, rather than carrying out the works in open air. This will minimize the nuisance caused to the public, and there will be openings only at both ends of the tunnel. If Admiralty were made an exit but the excavated materials would not be disposed of in the Western District, does it mean that the materials will have to be transported all the way from the Western District back to the Southern District for disposal through the Aberdeen Tunnel via the Morrison Hill junction where traffic congestion is most serious in the world? Is that what we want? If so, even more nuisances may be caused to more residents in places passed by the

trucks. In fact, the Government should have openly and honestly announced the entire plan and provided all the details, and held discussions with the DCs, rather than suddenly stating at the last minute that in addition to the excavated materials generated from the West Island Line, the barging point will also cater for the 300 000-odd tons of excavated materials generated from the South Island Line.

From the perspective of central planning, it is reasonable to make use of that barging point, but it is indeed necessary to deal with the public sentiments. If the Government, in dealing with the public sentiments, thinks that it can provide the information only at the last moment and then put the public in a situation where they have no alternative but to accept the Government's proposal, that would be a very wrong view set to meet with opposition from the public.

In fact, new thinking has already been injected into the method of shipping excavated materials generated from the West Island Line in that the excavated materials will be transported into an enclosed tunnel at Mid-Levels West leading to the waterfront. Then, the excavated materials will be transferred within a very short drive from the cargo working area to the seaside for dumping into the barges. We very much hope that consideration can also be given to carrying out other major infrastructure projects with this approach, rather than just applying it to the construction of the West Island Line. Such an approach will enable us to take forward construction works while minimizing the nuisance caused to the residents in the process.

Certainly, there are a lot of underlying details that need to be followed up in the DCs. For example, as there will be 120 truck trips travelling from Admiralty to the Western District daily, in the event of a minor traffic incident, how should the mechanism be initiated to immediately stop these 120 trucks from using the road, in order to prevent all the trucks from being stuck in one place, which could otherwise turn a minor traffic incident into a serious quagmire? All these issues will need to be followed up in detail by the authorities at the level of DCs.

President, this is precisely a "knot" tied in the existing administrative framework. Issues of district administration which require detailed follow-up work in districts are brought to the Legislative Council for a vote to be taken on

them, but the Legislative Council is simply not provided with the clearest and fullest information. On the other hand, while the DCs are in touch with the residents day and night and they know very well the administrative process of the Government, they nevertheless do not have the power to stop the Government from doing that.

So, from these issues handled by us recently, that is, issues of a district nature which had to be submitted to the Legislative Council for a vote to be taken, we can see that it is actually necessary for the authorities to enhance the powers of the DCs and give the DCs the power to veto, rather than just regarding the DCs as an advisory structure. If, on certain issues, full co-operation can be forged at the district level with DC members and the residents, and improvement measures implemented administration-wise in an honest and candid manner, the Government would not necessarily face setbacks in the Legislative Council, just as it did on the last occasion in respect of the country parks Order on Tseung Kwan O.

President, I hope that in the long term, the authorities will consider enhancing the powers of DCs. There is a practical need to do so, in order to provide the DCs with greater room for manoeuvre in respect of these issues, thereby giving play to their role in interacting with the residents. Thank you, President.

MR IP KWOK-HIM (in Cantonese): President, the West Island Line is a project that residents in Western District have striven for and anticipated for more than a decade. The project was officially launched in 2007, and the construction of the entire line is now at full throttle in the district. The implementation of the project brings along various problems arising from the construction works, including the relocation of residents whose buildings may have to be resumed in order for exits to be built and so, the relocation of these residents has to be resolved. Other problems, such as noises of the construction works, traffic diversions, and safety on the construction site will also emerge gradually, and these are problems that we District Council (DC) members also need to face.

This Order under discussion today actually arises from the need to develop a barging point following the commencement of the project, in order to dispose of the excavated materials generated from the underground tunnelling works for

projects undertaken by the MTRCL, and as the exit is precisely located at the Western District Public Cargo Working Area (PCWA), it is therefore necessary to table the Order to the Legislative Council for discussion to be held on changing its use. In fact, I, being a member of the Central and Western District Council (CWDC), have all along kept a very keen interest in the entire project. The CWDC has set up a dedicated working group, and this project has also been raised for discussion. When there is any problem relating to the construction works, special meetings will be held to conduct discussion. So, insofar as the entire project is concerned, I believe it is only fair to say that the DC has played a very important role and in the process, we also see that the Government and the MTRCL have very much respected the views of the DC.

Certainly, with regard to this Order which proposes to change the current use of the PCWA by converting it into a barging point, in our discussions we have all along held the view that it is necessary to deal with this issue according to the "user pays" principle, so that there will not be a large number of dump trucks on roads both inside and outside the district as a result of the construction of the West Island Line, which will otherwise affect the traffic in various districts on Hong Kong Island and in Kowloon and the New Territories and cause environmental pollution.

In this connection, we can see that the construction of the entire West Island Line should be completed for commissioning in the middle of 2014. Insofar as this barging point is concerned, and as we clearly mentioned during discussions in the CWDC, the operation of this barging point must end no later than 2014. We can see that the Government, in order to address Members' concern in this respect, has introduced amendments to specify that this place, which is borrowed or converted for another use, must be returned and restored as a PCWA on 31 December 2014.

I very much agree with what Mr KAM and Ms HO have said earlier. In the discussions of the CWDC, we absolutely do not only wish to restore the place as a PCWA, because insofar as this place is concerned, we have been fighting for more than a decade, if not two. Since the reclamation at the Belcher Bay we have been striving for the return of this place to residents in Western District, so that the residents can enjoy this open space at the waterfront. So, under the circumstance, a guarantee must be given, that is, the approach of "LIU Bei

borrowing Jingzhou", meaning that what is borrowed will never be returned, must not be adopted. The tram depot is a vivid example. The current approach of stipulating the restoration to its original use is merely for the sake of expediency. But a more important point is the expectation long held by the CWDC or by us DC members and the residents. Since this place can be borrowed for use as a barging point for four years, why can it not be permanently returned for the enjoyment of residents in Western District?

So, the goal of this long-standing fight in the DC is actually restoration of the place as an open space, so that after it is returned to the residents on Hong Kong Island, it can be developed into a waterfront promenade forming part of the waterfront promenade on Hong Kong Island. So, at this meeting today, I have very clearly expressed the opinions of the CWDC as well as the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in this regard.

As regards the operation of the barging point, we are very much concerned about the amount of excavated materials to be disposed of there daily. We have therefore requested the Government and the MTRCL to clearly provide all the details in relation of the disposal of such materials. As we have stressed during discussions in the DC, the handling capacity of this barging point must be capped. This cap must not be exceeded, or else the traffic in the district will be affected. Given that the overall traffic conditions in Western District are already very congested, if the dump trucks have to wait in long queues at the barging point, serious traffic congestion will definitely be caused. This is why we must make it very clear that a cap must be imposed, for the traffic cannot be affected endlessly. Of course, as also mentioned by some Members earlier, there is the view that other excavated materials generated from the South Island Line should not be shipped here for disposal. But as far as I understand it, the situation now is that the expansion of the Admiralty Station, which is currently in progress, is very large in scale, and the expansion of this Station may involve not only the South Island Line, but even the Shatin to Central Link, eventually becoming a full-scale interchange station. On this point, I hope that a clarification can be given to us, because the DC considers that Admiralty is part of the Central and Western District and so, we will not bar the entry into the barging point of dump trucks carrying debris from the works being carried out there. But most importantly, this transit point barging point must not be overloaded or operate beyond its capacity, for this would be unacceptable to us.

We must add that there is also a barging point at the farthest end of Kennedy Town near the former incinerator. We demand the authorities not to restore it for the disposal of excavated materials — that is, the authorities must not transfer the excavated materials there if the disposal problem cannot be resolved — because this is precisely a cause of the traffic problem now and particularly as the traffic is already seriously congested at Kennedy Town, this would only aggravate the situation. Here, I hope the Government can take note of this point.

President, recently we have frequently seen an advertisement by the MTRCL, saying "please excuse us, please excuse us, please excuse us" to residents affected by the rail projects of the MTRCL. It says "please excuse us" because the projects will certainly cause impacts. In this connection, I hope that the protection measures will be enhanced against the impacts caused by the barging point through monitoring by the Government or the operation of the MTRCL, and efforts must also be made to mitigate the nuisances caused by the entire project to nearby residents, especially the dust and noise nuisances. On the other hand, Honourable colleagues and I all hope that the Government, particularly the Transport Department can — given that a large volume of construction traffic will lead to serious congestion — at the same time consider making improvements to the congested traffic conditions at Belcher Street. One way to make improvement is, as often mentioned by the DC, to open the access road connecting the westbound lane of Shing Sai Road with Smithfield, so as to provide one westbound access road for vehicles to directly enter Smithfield where they can further travel from the Smithfield extension to the Southern District via Pok Fu Lam. This can be a way to divert the traffic flow away from the overloaded Belcher Street.

President, to facilitate the smooth execution of the project and achieve satisfactory results for the benefit of residents by providing them with efficient and convenient railway services, it certainly requires the understanding and support of all sides in the process. It is, therefore, most imperative to enhance communication. Here, I hope that the relevant government departments and the MTRCL will forge closer co-operation with DC members and Members of the Legislative Council in the next four years, with a view to making concerted efforts to reduce the nuisance caused by the project to the public.

With these remarks, I support the Order and the amendments on behalf of the DAB. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank the Chairman of the Subcommittee, Ms Miriam LAU, as well as other members of the Subcommittee, for their valuable views. I also thank all the parties concerned, especially the Central and Western District Council (CWDC), for showing understanding in respect of the West Island Line and the other infrastructure projects. As Mr IP Kwok-him has said earlier, in view of the overall construction works of the West Island Line and the other concerns aroused by the project, the CWDC has specifically formed a working group and put forward many constructive suggestions. We are very grateful to them. I certainly appreciate the concerns raised by Members and the CWDC about the arrangements relating to the temporary barging point, especially the disposal of excavated materials generated from the expansion project of the Admiralty Station. I wish to emphasize once again that the Administration and the MTR Corporation Limited (MTRCL) will definitely take appropriate measures to ensure that the relevant temporary arrangements will minimize the adverse traffic and environmental impacts on the Central and Western District. In my speech earlier I have explained a series of measure for this purpose. Members stressed the need to earnestly implement the mitigation measure and monitor the entire process. We undertake that we will definitely do a good job of these tasks.

I am also grateful to the CWDC for supporting this Order made by the Government for the disposal of the excavated materials generated from the construction of the West Island Line. With regard to the proposal of transporting the excavated materials generated from the expansion project of the

Admiralty Station to the temporary barging point, we have given an undertaking to the CWDC that we will further provide necessary information, strengthen communication and continuously explore improvement measures, with a view to allaying the concerns of locals.

In response to some of the views expressed by several Members earlier, I would like to make a few points in all fairness. First, the Government is very sincere, and we will definitely restore the cargo working area. In this connection, we have listened to Members' view by writing the effective and expiry dates into this Order.

The second point that I must make for fairness' sake is that the cargo working area does serve some functions. It is vitally important to the logistics industry and provides choices for freight transportation. In fact, the Western District Public Cargo Working Area (PCWA) is handling many different kinds of goods, including food, construction materials and general cargoes, while providing important freight transportation services for residents of the outlying islands. Meanwhile, the Western District PCWA has also provided 800 jobs of various types for the relevant industries. So, while we appreciate the concerns of Members, the Western District PCWA is still playing a role in generating economic benefits on the other hand. Obviously, PCWAs still handle about 10% of the total number of containers in the port of Hong Kong, which is not a small number. So, with regard to the remarks made by Members earlier about where the Western District PCWA should be located and whether there is space in the Western District PCWA to be designated for other uses, we must handle this very carefully.

The third point that I must make for fairness' sake is that insofar as railway is concerned, large quantities of excavated materials will need to be disposed of whenever a rail project is implemented. We certainly have to consult all sides on this and strengthen communication, in the hope that through mutual understanding and with the greatest sincerity, this matter can be resolved in a way acceptable to all as far as possible. It is because every infrastructure project will certainly involve excavated materials and ventilation shafts. There must be communication and discussion in the districts and in the Legislative Council before an arrangement acceptable to all can be reached.

A Member questioned earlier about whether the excavated materials have already been disposed of in the Western District PCWA. In fact, the MTRCL is currently carrying out some preparatory work and trial runs there to tie in with the

pressing timetable of construction. The purpose is to ensure that the temporary barging point can come into operation smoothly when this Order takes effect, so that the rail project can be completed as soon as possible to answer public aspirations.

President, members of the public generally hope to see the commissioning of the West Island Line as soon as possible. The DC has also given support to this Order for the purpose of facilitating the disposal of excavated materials generated from the construction of the West Island Line. I, therefore, hope that Members can support our amendments.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Transport and Housing 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 of the Members present. I declare the motion passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the three items of subsidiary legislation relating to the commencement of the minor works control system under the Buildings Ordinance, which were laid on the table of this Council on 13 October 2010.

I now call upon Ms LI Fung-ying to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS LI FUNG-YING (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

At the House Committee meeting on 15 October 2010, members agreed that a Subcommittee be formed to study the three Commencement Notices made under the Buildings (Amendment) Ordinance 2008, Building (Minor Works) Regulation and Building (Administration) (Amendment) Regulation 2009 which were tabled before the Legislative Council on 13 October 2010. To allow sufficient time for the Subcommittee to conduct deliberations and report its deliberations to the House Committee, in my capacity as Chairman of the Subcommittee, I move that the period for scrutinizing the subsidiary legislation be extended to 1 December 2010.

President, I urge Members to support the motion.

Ms LI Fung-ying moved the following motion:

"RESOLVED that in relation to the —

- (a) Buildings (Amendment) Ordinance 2008 (Commencement) Notice 2010, published in the Gazette as Legal Notice No. 118 of 2010;
- (b) Building (Minor Works) Regulation (Commencement) Notice 2010, published in the Gazette as Legal Notice No. 119 of 2010; and
- (c) Building (Administration) (Amendment) Regulation 2009 (Commencement) Notice, published in the Gazette as Legal Notice No. 120 of 2010,

and laid on the table of the Legislative Council on 13 October 2010, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 1 December 2010."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms LI Fung-ying be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Air Pollution Control Ordinance to extend the period for amending the Second Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences.

I now call upon Ms Audrey EU to speak and move the motion.

PROPOSED RESOLUTION UNDER THE AIR POLLUTION CONTROL ORDINANCE

MS AUDREY EU (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Second Technical Memorandum for Allocation of Emission

Allowances in Respect of Specified Licences, I move that the motion, as printed on the Agenda, be passed.

At the House Committee meeting on 22 October 2010, members agreed that a Subcommittee be formed to study the Second Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (the Memorandum) which was tabled before the Legislative Council on 20 October 2010. As the Subcommittee needs more time to conduct deliberations, I urge Members to support the motion on extending the period for scrutinizing the Memorandum to 8 December 2010.

President, I urge Members to support the motion.

Ms Audrey EU moved the following motion:

"RESOLVED that in relation to the Second Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences, published in Special Supplement No. 5 to the Gazette on 15 October 2010 and laid on the table of the Legislative Council on 20 October 2010, the period for amending the technical memorandum referred to in section 37B(2) of the Air Pollution Ordinance (Cap. 311) be extended under section 37B(4) of that Ordinance to the meeting of 8 December 2010."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Audrey EU be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

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

PRESIDENT (in Cantonese): First motion: Helping needy persons acquire their homes.

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

I now call upon Mr LEE Wing-tat to speak and move the motion.

HELPING NEEDY PERSONS ACQUIRE THEIR HOMES

MR LEE WING-TAT (in Cantonese): President, today, the Legislative Council is again debating an issue of concern to Hong Kong people, namely, the housing and land issue.

President, it has been about a month since the delivery of the Policy Address. We would like the Chief Executive, Secretaries of Departments and Directors of Bureaux to rationally review what has happened on the economic

front locally and globally during this interim. After delivering the Policy Address, the Chief Executive has kept on saying that he is very concerned about property prices. The Financial Secretary has also said that he is very concerned about whether a bubble has taken shape in the property market. Then Secretary Carrie LAM also talked about increasing land supply, while the Secretary for Transport and Housing talked about the My Home Purchase (MHP) Plan. After this series of publicity, local property buyers, speculators or developers have actually formed the view that the Government is, to put it bluntly, at its wits' end. If Members, like me, read the property pages every day — I read them not to speculate on property, but to keep tabs on changes in the property market — they will know that many headlines on the property pages are all saying that the land and housing policies set out in the Chief Executive's Policy Address are primarily "giving a green light" to property developers and speculators and unleashing the huge power of potential buyers and speculators. This is why in just a month's time the prices of luxurious residential flats in Hong Kong have almost all exceeded the level in 1997. As regards residential properties in the middle price range, such as the top ten housing estates including Taikoo Shing, Mei Foo Sun Chuen, City One Sha Tin and Telford, there have been robust transactions, with the prices rising close to the level in 1997. We are only waiting for a new red alert to be signalled when the prices of all residential properties, including the ordinary private residential flats and old buildings in Tin Shui Wai or New Territories North, have risen beyond the 1997 level. If that happens, I believe the Secretaries of Departments and Directors of Bureaux will no longer say that the residential property prices, like an ascending hot air balloon, will descend in the course of time. Some time ago the Financial Secretary told us not to worry because the hot air balloon would gradually descend. President, this is the first development, a local development.

As regards the international development, to put it simply, it has to do with the release of new capital by the United States' second round of the quantitative easing (QE2) policy. As we all know, the primary objective of this policy is to provide support to the banks in the United States, so that they can help Americans buy properties or assist in the development of their industries and business. However, as their industries and business cannot make any profit in the United States, the banks, therefore, will invest a considerable part of their capital in Asia, buying Renminbi assets in the Mainland and assets in Asia, including the local assets in Hong Kong, thus causing our asset prices to soar.

In fact, President, we all know that the economists no longer discuss whether or not a bubble has been formed, for it is already a conclusion agreed by all that the asset bubble has been formed. Moreover, the economists no longer discuss whether or not the bubble will burst, because everyone knows that it is going to burst, sooner or later. The bursting of the bubble is just a matter of time, and the question is whether this will happen in a year, one and a half years or two years. After the United States announced the QE2 policy, many local and international economists have stated that the world is facing severe financial risks. The bursting of the bubble will not only affect Hong Kong. It may even cause a lot of "fatalities", as many people who frenziedly invested in the asset and stock markets without considering their financial capability are set to suffer.

President, the situation is so very critical. The Secretaries of Departments and Directors of Bureaux have repeatedly resorted to "verbal coercion". But what exactly has the Government done? Today, I find it very strange as to why Secretary Carrie LAM is not going to give a reply. My motion does mention land. Unless Secretary Eva CHENG's ambit also covers land if this is really the case, I can only tell her that an able person is given more work to do. Of course, I am in no position to comment on the Government's decision in assigning which Director of Bureau to give a reply. But I hope that the Bureaux can listen to our views.

The Government, Secretaries of Departments and Directors of Bureaux have all said that the long-term solution to the problem of rising asset prices in Hong Kong is to stabilize land supply. This is the one and only way in economics, as simple as ABC. That said, I have talked about this for many times before. Land will be provided for developing 20 000 flats each year but then, they said that they may not necessarily have sufficient land for developing 20 000 flats. They only said that land may be provided for developing this number of flats but the number may be less, or land may be placed on the Application List, rather than being put to auction. We actually do not have a complete answer. So, I am still disappointed with this.

But more importantly, President, we all know that it is difficult to make adjustments to land supply in a short time. Furthermore, land supply is a long-term policy, and land supply in the coming year and in the year after next definitely will not be increased substantially. If we must rely on land supply in

the third, fourth, or fifth year from now to solve the problem, that would obviously be too distant to address the pressing problem.

The second point relates to this new initiative of the MHP Plan of Secretary Eva CHENG. We mentioned time and again in the policy debate that the Home Ownership Scheme (HOS) is a really proven system, and I believe colleagues in the Legislative Council also maintain this view. By producing an adequate number of flats, the HOS can at least be more reassuring to those people who aspire to buying a flat for self-occupation in a simple way. This is why I think the MHP Plan is not as good as the HOS. Moreover, the Government has not indicated support for the Sale of Flats to Sitting Tenants Scheme.

The Secretary should make adjustments to the MHP Plan by injecting considerable HOS elements into it, such as developing an abundant number of flats by providing not only 5 000 flats but 5 000 flats each year; and making it easy for the public to secure mortgage loans in a way that instead of requiring an applicant to save up to \$800,000, a mortgage loan can be approved with a down payment of some \$100,000 to \$200,000. Besides, unlike the current arrangement whereby a successful applicant does not know at the outset the future price of the flat, adjustments should be made to the effect that an applicant buys a flat with full knowledge of the price of the flat well before that date. These are the elements which can put the people's mind most at ease. Otherwise, President, I am sorry that I must say the results or benefits to be achieved by the MHP Plan would be very limited. Last week when I chaired a meeting of the Panel on Housing, I did some computations based on the number of flats to be produced under the MHP Plan. There are at present 170 000 eligible households which do not own any property. If, in the first year, only 1 000 flats were provided and if all of these households submitted an application, the chance of success would be less than 1%, which means that 99% of them would be disappointed. Secretary, this MHP Plan can only be described as better than nothing. For what reason do you think we can possibly support it? I cannot see how someone who is rational can convince himself to support this Plan.

President, I believe many colleagues will mention these two schemes today, and I wish to talk about a third one. It is not a long-term or medium-term scheme, but a short-term one. President, as we all know, no long-term or medium-term scheme can put out this raging fire of asset speculation. But is

there any tool at our disposal? Strictly speaking, yes. We put forward many views when we met with the Secretaries of Departments and Directors of Bureaux. The first proposal is: In respect of non-owner-occupied properties (which refer to the second or third property other than the self-occupied one), should loans be provided at such a high loan-to-value ratio? Can the loan-to-value ratio be lowered to 30% or 40%, in order to increase the cost of speculation borne by speculators and reduce the volume of their speculative activities? As for self-occupied properties, we do not propose any intervention.

The second proposal is: With regard to property owners who resell their properties within a short period of time, the Government has only prohibited confirmor sale of uncompleted flats. We have questioned this for many times. Of a total of 120 000 property transactions each year, only 10 000-odd are transactions of uncompleted flats, which means that over 100 000 are transactions of completed flats. Why does the Government not look at the resale of completed flats and the resale of completed flats before taking out mortgage loans? This has prompted some men and women in Tin Shui Wai to chip in \$200,000 each to purchase a flat, resell it three months later and make a profit of \$200,000 with each getting \$50,000. They said, "Mr LEE, this \$50,000 profit is far more than our wages for six months." In fact, this is a crazy thing to do. I do not understand why the Government does not prohibit speculation on completed flats.

Besides, speaking of short-term speculation on completed flats, why does the Government not impose a punitive tax on short-term property speculation or resale of property? The Democratic Party once proposed that reselling a property two years after the date of purchase should not be considered as speculation, but for the resale of completed or uncompleted flats within two years from the date of purchase, an additional property resale tax on top of the stamp duty should be imposed on the basis that the shorter the period, the higher the tax amount payable. We propose to impose this tax according to three tiers, which include six months, one year, and one and a half years, and the tax amount should be set at a certain high level, so that people intending to engage in short-term speculation (within six months or one year) will consider the cost too high and hence, it is not worth doing.

President, lowering the loan-to-value ratio, prohibiting confirmor sale of completed flats and imposing an additional property resale tax targeting

short-term speculative activities are measures that can be immediately taken by the Government. The objective of these measures is to The bubble has now become very large and its bursting now can already cause a lot of "fatalities". But if the Government does nothing but relies on pure luck, the bubble may grow even bigger at the end of next year and by then, its bursting will not only result in a lot of "fatalities", because many people would lose all their fortune and again face the ordeal back in 1997 or 2003 and 2004 in the wake of the bursting of the asset bubble. We call on the Government to do something and implement these short-term administrative measures, such as lowering the loan-to-value ratio and imposing a tax on speculation, with the aim of containing the bubble at the present level and even making it become smaller gradually, so that the consequences of its bursting would not be too serious.

President, what I consider most worrying is that since the beginning of the year when the Government started to discuss this problem with us, it has not taken any practical actions other than relying on pure luck. The Government is very concerned about the consequences of taking actions on its own initiative, fearing that it will be blamed by the public in taking the initiative to stab at the bubble. But this bubble will burst sooner or later. If no action is taken to contain or reduce its size, the future situation will be even worse.

President, I beg to move.

Mr LEE Wing-tat moved the following motion: (Translation)

"That, as after the Government has put forward the My Home Purchase Plan, private residential property prices still continue to rise and the Plan is unable to meet society's demand for subsidized home ownership, this Council urges the Government to expeditiously increase the supply of land and public and private housing, resume the Home Ownership Scheme ('HOS'), re-launch the Sale of Flats to Sitting Tenants Scheme, and re-examine the practice of allowing eligible white form applicants to purchase HOS flats without premium paid in the secondary market for HOS flats, with a view to helping needy persons acquire their homes."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat 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 Mr Frederick FUNG to speak first, to be followed by Mr WONG Kwok-kin, Mr CHAN Kam-lam, Dr Priscilla LEUNG, Mr Ronny TONG and Mr LEUNG Kwok-hung respectively; but no amendments are to be moved at this stage.

MR FREDERICK FUNG (in Cantonese): President, my amendment is basically and in principle in agreement with Mr LEE Wing-tat's original motion. But I have added one point to call on the Government to formulate a stable and sustainable long-term housing policy. Here, I throw down the gauntlet to the Chief Executive for a second time. If he thinks that his housing policy is in keeping with public sentiments, that his housing policy has secured reasonable support, and that his housing policy can truly resolve the housing problem of Hong Kong people, please debate with me openly.

President, in his Policy Address this year, the Chief Executive has basically mentioned just two points relating to the housing issue. First, land will be made available by tender for developing 20 000 residential flats annually. Second, the first project of the MHP Plan will provide 1 000 flats which will come on stream only in 2014. The second paper is a paper submitted by the Secretary for Transport and Housing to the Panel on Housing, setting out the Government's housing policy objectives. This can be considered as a paper in which the Government has given a more systematic account on its views and plan on housing recently. After reading it, however, the so-called plan is no plan at all, and the so-called policy is no policy; the so-called policy is a market-led policy; the so-called policy is no intervention in the market. Let me read this out: The Government will continue to withdraw as far as possible from housing assistance programmes other than public rental housing (PRH) to minimize intervention in the market. It means that apart from, basically everything else should be avoided where possible and nothing else should be done where possible. What is the effect of this policy in the property market, or this so-called free market which I have all along referred to as a bad market? The effect is that the bigger the capital, the greater the competitiveness; the bigger the capital, the greater the control over the constituents of the market; and the bigger the capital, the easier

to manipulate the market. In vowing not to intervene in the market, the Government is actually pretending to be blind. If it is not pretending to be blind, then this is connivance, in that the Government is conniving at manipulation of this market by property developers with big capital. The Government no longer talks about the housing problems faced by the public. It no longer talks about the ways to address these needs; nor does it talk about anymore the affordability of the public, the level of rental affordable to the public, and the prices of flats that they can afford to buy.

Generally speaking, the so-called housing programme of the Government has several levels. The first level concerns the low-income households which cannot afford the rental in the private sector, and the Government provides PRH units for them. On top of PRH is the Home Ownership Scheme (HOS) secondary market. With regard to the so-called HOS secondary market which is under planning, is the payment of premium required or not required? This is still under discussion by the Government. This is the second level. At the third level, the Government manoeuvres through the private property market, targeting the needs of the general public and households with a lower income. At the fourth level there is the MHP Plan, under which the flats will be developed by the Housing Society. Judging from these four ways to address the housing problems of Hong Kong people, does the Government have any plan?

Let me provide some statistics to the Government once again. According to past statistics, the supply of private residential flats and HOS flats was 46 000 flats on average over the past decade, compared to 52 000 flats over the past 20 years, and 56 000 flats over the past 25 years. In the past two to three decades, the number of flats supplied has been consistently on the increase. President, the Government now says that land will be made available for developing 20 000 flats only. These sites will be put on the Application List and if the property developers can successfully trigger the sale of all these sites, 20 000 flats will be provided but if they cannot trigger the sale of all the sites, only 10 000-odd flats will be provided. Given such a large gap between some 50 000 flats and 20 000 flats, how can you tell me that you believe property prices will come down and be stabilized instead of rising when there is less supply in the market? How can you tell me that a reduction in supply can tackle the problems of the 130 000 households on the PRH Waiting List and the problem that many people cannot afford private housing as their prices have spiralled frantically? The

Government said that 15 000 PRH units will be provided annually in future but in the past two decades, the Government has provided an average of 30 000 to 35 000 PRH units. There used to be about 100 000 households on the Waiting List, but the number has increased to 130 000 households now. Why should the supply be nevertheless reduced when more people are waiting in the queue? Why is it that less people can be provided with housing when there are more people in the queue and the Government considers it right to do so? All these problems are not addressed in the housing policy stated by the Government.

President, on this issue, I have another document to show Members. As Members may recall — I guess Chief Executive Donald TSANG will be scared at seeing it — it is a "White Paper on Long-term Housing Strategy in Hong Kong" entitled "Homes for Hong Kong People into the 21st Century" published in February 1998. This White Paper was published by Chief Executive TUNG Chee-hwa shortly after he had taken office, proposing the production of 85 000 residential flats. I think Chief Executive Donald TSANG will be the first to feel scared on hearing "85 000". In fact, should the production volume be 85 000 flats, 55 000 flats or 35 000 flats? This really depends on the judgment and decision of a political person. But the difference is that when you read this document, you can see that the then Government was committed, well-planned and well-organized. It even tells you the ways to address housing demand.

Let me now talk about this White Paper of 12 years ago. This White Paper sets out the methodology for assessing the housing demand, that is, dividing the demand by 10 years and thus arriving at 85 000 flats each year. We may disagree with this number. But then, it tells us about the sources of land supply and the land disposal programme, it tells us how the infrastructure in the new buildings will provide support, and about the provision of such facilities as water supply, electricity, gas, and transport after the completion of a new housing estate; it tells us how the development procedures can be shortened; it tells us how to encourage the construction industry to work in concert to develop more housing units; it even tells us which departments will be given charge of this housing production programme and that there is a system of accountability. Let me cite some examples to explain this. In the document, it is mentioned that for projects in new towns of the New Territories, the Territory Development Department is responsible for site delivery whereas the Housing Department is responsible for flat production delivery in respect of public housing; and in respect of private housing, the Territory Development Department is responsible

for site delivery whereas the Lands Department is responsible for flat production delivery. As for projects in the urban area, the Housing Department is responsible for both areas of work in respect of public housing, whereas the Lands Department is responsible for both areas of work in respect of private housing. The document has stated very clearly how sites will be identified, how monitoring will be exercised on flat production, and who will be responsible after the completion of the flats.

As a common saying goes — I wonder if Chief Executive Donald TSANG or the Directors of Bureaux in the Chamber have heard of it — "opportunity favours the prepared mind". A well-prepared person who encounters a problem will be able to deal with it and overcome it. It also applies to this situation where we are in need of housing. We are need sites for housing, and if you are well-prepared, you will never have to worry about it. As Members may recall, during the Question and Answer Session of the Chief Executive the next day after the delivery of the Policy Address, I put a question to Chief Executive Donald TSANG. He told me agitatedly, "Frederick, those 5 000 flats under the MHP Plan are what I have obtained with my own effort. I had to ask this department and that department, and I had to ask this Director of Bureau and that Director of Bureau in order to get these flats. This precisely shows that the Chief Executive is not well-prepared. Over the past year or so, he remained oblivious to the needs of the people, and he made enquiries only at the eleventh hour, which further shows that the Government is powerless and incompetent. Being the Chief Executive, he will always have the say. What else can the Directors of Bureaux say? What else can the Secretaries of Departments say? This has reflected that the entire governing team of Donald TSANG is neither aware of nor prepared for the fact that housing is the basic need of the people. When there are housing problems, why does the Government have not even a mechanism, not even a plan, and not even a policy? My amendment is once again telling the Government that it needs a long-term housing strategy. Whether the target is building 35 000, 55 000 or 85 000 flats, there must still be a long-term housing strategy. It must not react only at the eleventh hour and tackle a problem only when it has emerged. This is entirely not something that a government of the people and a government which governs and cares about the people should do. Thank you, President.

MR WONG KWOK-KIN (in Cantonese): President, since the Legislative Council resumed in the new session, the housing issue has actually been discussed many times. Today, this issue is under discussion again and there are still so many Members proposing an amendment to this motion. I can see that there are six amendments which basically cover the views of various major political parties in the Legislative Council. This is proof that, insofar as this issue is concerned, Members have remained dissatisfied and are calling on the Government to continue to work harder.

Regrettably, I found that the Government seems to have turned a deaf ear to us. We can clearly see the Government's attitude now. The Secretary was still in the Chamber earlier on and just when we mentioned the housing issue, she left and simply refused to listen. She may think that we will be repeating just the same old arguments and so, she does not see the need to listen to us. We can guess that the reply to be given by the Secretary later may also be a repetition of what she has said before, that she will be rehashing all the details once again.

The housing problem has actually been plaguing Hong Kong society. Even the Chief Executive has said that he watches the property market every day. But what does he watch? He watches the property prices in the market rising. There are now broadly two kinds of housing problem in Hong Kong. One concerns the private sector, and the other is about subsidized housing. The problem in the private sector now is that prices have surged and in fact, we all know that this is the result of an imbalance between supply and demand. The situation has now developed to a state where home ownership is even beyond the means of a middle-class family. Let us look at the standard middle-class housing estates. In Taikoo Shing, for instance, the price has risen to over \$10,000 per sq ft. From a press report that I read just now outside this Chamber, a "haunted apartment" in a certain major housing estate on Hong Kong Island has been driven up to cost over \$7,000 per sq ft. Nobody would buy a "haunted apartment" before, and this is the situation now. Indeed, we can see that speculation on private residential flats has developed to an alarming state. In watching the property market every day, the Chief Executive is actually watching how people are speculating on property.

I am personally more concerned about subsidized housing, for this concerns the grassroots and the sandwich class. The problem with subsidized housing now is that a high threshold is set for the allocation of housing units, and

there are inadequacies in the housing ladder for subsidized housing given the Government's cessation of the production of HOS flats, resulting in the sandwich class being caught in the middle. The sandwich class that we are talking about mainly refers to those people who make an income barely in excess of the limit for applying for public rental housing (PRH) but do not have the means to buy a flat in the private property market. What should be done for this group of people now? The Government seems to be clueless as to how assistance can be provided to them, as it has just told them to turn to second-hand HOS flats. As to whether the payment of premium is required for second-hand HOS flats, as a Member has said, this question has not yet been sorted out. So, do they have the means to buy second-hand HOS flats? The wind of speculation has already blown to second-hand HOS flats, and even to PRH units put up for sale under the Sale of Flats to Sitting Tenants Scheme. According to newspaper reports in the last two months, the price of a PRH unit of some 500 sq ft in Tin Ping Estate, which is located in remote Sheung Shui, was surprisingly pushed up to cost \$1.58 million, let alone HOS flats. Under such circumstances, how do these people in the sandwich class face the housing problem? This is not a question of home ownership. The point is they have encountered difficulties even in meeting their basic housing need.

Let us take a look at the 137 000 applicants on the PRH Waiting List. We can see that 43% (or some 56 000) of them are non-elderly singletons. Many of these wait-listed singletons are young and have higher education qualifications. Why do they have to apply for PRH? Because they think that they cannot possibly afford homes in the private sector. I think this problem does warrant concern in society. In our times back then, people sought to improve their lot and move out of PRH by all means but now, people want to move into PRH by hook or by crook. This society does have problems.

Although the Chief Executive has put forward a number of initiatives in this Policy Address, such as the use of saleable floor area for first-hand completed flats, controlling the floor area of "inflated flats", and so on, and we agree to the introduction of these initiatives, do these initiatives have any practical effect on suppressing property prices? We can see that property prices have continued to spiral after the delivery of the Policy Address. This is exactly the comment that some buyers and members of the public have made with hard cash on the policies introduced by the Government. It is because they think that the Government's

policies are just fancy poses which have no bearing on the property market and they have, therefore, purchased properties boldly. This is the true comment of the people.

As regards the MHP Plan proposed in the Policy Address, our view is that the Plan is introduced to evade the demand made by the Legislative Council and the public for the resumption of the HOS. This is sheer stalling. The Government can put this off for four years because the first batch of 1 000 flats will be provided only four years later. A Member said earlier that the Government is relying on pure luck. I think this is exactly the mentality of the Government now, as it is hoping that in the course of waiting in the next four years, major changes will take place in the property market and the pressure will hence disappear automatically. But will this luck come by? I think nobody can tell at this point in time.

In the normal operation of society, the Government should formulate a long-term housing policy as soon as possible based on the size of population and changes in the demographic structure. This housing policy should not be affected by cyclical factors and should cover all strata in society. The housing problem in each social stratum should be taken care of and this includes the resumption of the HOS for which we have demanded for a long time. During the consultation, the Government has clearly received the message from the community, that everyone is asking for the resumption of HOS. Why has the Government still rejected this reasonable demand and put forward this MHP Plan to deal with us half-heartedly? We do not oppose this MHP Plan. Frankly speaking, we think the Plan and the resumption of HOS are not in conflict, and they can be implemented in parallel.

We consider that the HOS has its unique functions which cannot be replaced by the MHP Plan. We consider that the HOS is a ladder for the sandwich class to achieve home ownership and resolve the difficulties they face in housing. This approach has been proven and is widely accepted by the community. Why is the Government still unwilling to resume the HOS despite calls from so many people? Another more important function of the HOS is that it can serve as a "revolving door", a way out for some well-off PRH tenants.

I have attended residents' meetings in the communities successively over the last couple of days. Many people have complained about losing the

"revolving door" after the ceased production of HOS flats. When their children have grown up and their household income increased, they become well-off tenants and are required to pay double or 1.5 times of the standard rent, but there is no way for them to break away from this situation. If they delete the names of their children in the tenancy register, they will become under-occupied households and have to move to a smaller unit. Worse still, they have to bear the trouble of undergoing a means test on a biannual basis. They, therefore, call on the Government to give them a door to pull out and to give them a way out. The resumption of the HOS is a way out for them. If the Government does not resume the HOS in a short time, can it resume the sale of PRH flats? This scheme of selling PRH flats was also proven in the past and allowed this group of well-off tenants to move out through this "revolving door". This is also a demand of society.

In my amendment I also made another request and that is, if the Government cannot provide some flats for rent or sale in a short period of time, can it first allocate some flats out of housing units under its control for rent or sale by, for instance, holding discussions with organizations such as the MTR Corporation Limited and the Urban Renewal Authority on which it can exert some influence? Certainly, there must be strings attached, such as prohibiting the resale of such flats or setting eligibility criteria for renting or purchasing such flats, in order to address the needs of the public, rather than making the public wait for four years, because no one knows what developments there will be in the course of four years. We hope the Government will run into this luck.

With these remarks, President, I hope Members will support my amendment.

MR CHAN KAM-LAM (in Cantonese): President, in the Policy Address delivered last month, measures were proposed to arrest the spiralling property market but as these measures are not strong enough, the market has gradually digested the message of these measures as property transactions in the private sector have become active again and property prices have continued to rise. So far, the measures proposed in the Policy Address seem to have failed to effectively help the public achieve home ownership by buying their first homes.

The Government has also released some worrying statistics some time ago. But during the past two years, the property market appeared to move upwards

continuously, recording a cumulative increase of over 47%, and some statistics have even pointed to an increase of over 50%. But if we look at the wage level of the general public, there is not even an increase of 4.7% per year. Property prices are obviously disproportionate to their affordability, showing even more clearly that the asset bubble has formed. This has made people feel that the continual rise in asset value has eroded the benefits of economic growth shared by people in the lower-middle class.

Both Financial Secretary John TSANG and Chief Executive of the Hong Kong Monetary Authority Norman CHAN have time and again openly stated that the risks of the property market bubble have been intensifying and the damages that can be done must not be neglected. The Chief Executive also mentioned in the Policy Address that there are "greater downside risks in the global economy and increased risks of asset-price bubbles in Asia resulting from the fragile recovery of the United States economy and the lingering sovereign debt crisis in Europe." Even though the Government has long noticed the risks of the asset bubble, it has failed to take any resolute actions in the face of the bubble, especially the property market bubble; nor has it taken any initiative to make any adjustment to the property market. This does warrant our concern.

As there are still a lot of uncertainties in the international financial market, the problem of bubble in the Hong Kong market will only be fuelled rather than mitigated. The Hong Kong market has managed to safely survive the first round of quantitative easing policy of the United States. But as the second round of quantitative easing (QE2) is impending with the United States attempting to drag the international market into the vortex of its own economic crisis, the influx of hot money will be inevitable. To what extent will this deal a blow to the financial markets of Hong Kong? This remains unknown for the time being. If the Government still sits by and takes no action to provide against the impact of the influx of hot money, the property market bubble in Hong Kong will be intensified and property prices will run farther away from the purchasing power of the people. How can this very simple MHP Plan and a slight increase in the provision of land put the people's minds at ease? When the dream of home ownership of Hong Kong people is eventually dashed, I believe serious problems will certainly arise in society. Persistently high property prices have not only brought along the risks of a bubble, but also directly led to higher rentals, followed by a surge in prices, which will pose a great potential threat to the people's livelihood. I think the current situation is disquieting. Everybody

knows that the bubble is there and that risks do exist, but nobody is willing to take the initiative to pierce this bubble. Because everyone knows that the bursting of the bubble will trigger knock-on effects in the economy and no one can take this blame. So, the bubble can keep on growing. The Government has only proposed some mild measures to slightly reduce speculative activities. Even the MHP Plan will produce 1 000 flats only in 2014. Although the Government has not frankly spoken its mind, I think we all understand that the Government expects the property market to adjust downward on its own some time in the future as property prices gradually come under pressure. However, the market manipulators on the other side are all the more reluctant to adjust property prices downward because this will cause the market to slide, resulting in a situation like "people trampling on and killing one another", and in the end, they will only find themselves trampled on by others. If we can understand this, we will know why the Government has all along been unwilling to take any initiative to tackle the problem at root. In the final analysis, the problem of the property market is a supply and demand problem.

President, in view of this dilemma, I still have to say that the Government has not been sensitive to the property market over the past few years. The Government should bear the greatest responsibility for what has happened today.

Turning to the MHP Plan again, is it scientific and reasonable?

The United Kingdom took the lead to introduce a five-year Rent to Buy Home scheme in 2008, with 7 000 families having joined it so far. But when these families can exercise the right to buy their flat upon the expiry of a two-year tenancy, only 2% of the participants have purchased their flats. Analyses show that in many cases, participants had a lukewarm interest in purchase because they had to buy the flat at the market price but they could not afford it because the prices had risen.

Witnessing the poor response of the rent-and-buy scheme implemented by others, it is indeed impossible for us not to worry about the MHP Plan. The Government must sum up the experience of failure of other places and incorporate the views of the community, with a view to improving the Plan.

It is estimated that about 140 000 families in Hong Kong can meet the income limit to be eligible for the MHP Plan introduced by the Government.

But as the Government has stated that only 5 000 flats will be made available in five years under the rent-and-buy approach, we can imagine that competition will surely be very fierce. If the authorities are genuinely committed to helping the public achieve home ownership, they should improve the MHP Plan by all means, so that the public can feel assured in buying the flats. The authorities should increase the number of flats to be provided and expeditiously launch these flats onto the market, in order to help more people.

Moreover, the MHP Plan will span a period of three to seven years and there will be many uncertainties during this period. How can the people feel assured? In this connection, the DAB proposes that when the MHP Plan is open for applications, the rent and price levels of the flats should be made public, so that eligible applicants can assess their own affordability against the rent and price levels before deciding whether or not to participate in the Plan. This will pre-empt the situation where even the number of participants can be a problem in the event of fluctuations in property prices five or seven years later. This is an indicator of success or failure of the MHP Plan. We propose that the prices of the flats should be set right at the beginning, and the participants can pay rents as mortgage payments during the tenancy period. Five years later when he decides to buy his flat, all the rent paid by him will be taken as his mortgage payments. It means that five years later, he will only need to top up the shortfall of the down payment being 30% of the properly price and he can continue to make mortgage repayments for his flat. We consider that this entirely will not incur additional expenses to taxpayers because the developer, namely, the Hong Kong Housing Society, only needs to work out the land and construction costs as well as the foregone interest on the property for five years. We, therefore, consider that the Government should actively consider doing this to improve the MHP Plan, thereby enabling the public to truly benefit from the Plan.

President, a lot of other issues are certainly involved in the solution to the housing problem. Colleagues of the DAB will later on explain in detail our views on other aspects.

I so submit. Thank you, President.

DR PRISCILLA LEUNG (in Cantonese): President, in view of a drastic surge in housing demand and spiralling property prices, the continuous influx of hot money and repeated attempts by the United States to print banknotes, there has been a strong call in the community asking the Government to provide more subsidies to address the needs of many members of the public who are not allocated with housing units. In this connection, since last year, whenever I see the Chief Executive and whenever the housing policy is discussed in the Legislative Council, I have always asked the Government to expeditiously submit a population policy for the next five, 10 and even 20 years to dovetail with the supply of housing in both public and private sectors, and to develop new towns such as Tsuen Wan and Sha Tin in the past, which can meet the market needs and tie in with the development of the demographical structure. Therefore, a population policy and the future demographic structure should form an objective basis for the Government in determining how and many additional public and private housing units will be provided.

It is now common in the community and among political parties to call on the Government to build an appropriate number of HOS flats. Why an appropriate number of these flats? Because nobody is confident enough to say how many units are appropriate. Providing too many of them will create knock-on effects, and everyone is afraid that once an actual number is proposed, it would smash the property market and create a group of negative-equity property owners, sparking off demonstrations by these people, just as what happened back in 2003. But if the number of flats provided is too small, how can this meet the public demand for home ownership and for the allocation of housing units?

Here, I must reveal once again that I am a small owner who has let my property for rental income. Small owners in the middle class like us can see immediate benefits from a rise in property prices. But I still support the development of HOS flats by the Government. That said, I will not suggest a number casually, or simply say that an appropriate number of HOS flats should be built. In suggesting the provision of an appropriate number of HOS flats, the intention is merely not to put bets on the number, so that one will win no matter how many HOS units the Government is going to build. Suggesting the provision of an appropriate number of HOS flats is tantamount to passing the buck back to the Government.

I think the Government must make a decision, and this decision and the number of flats to be provided must be premised on the future demographical structure in Hong Kong. All along, the Government's housing policy is not founded on demographic planning and structure in the long term. In paragraph 69 of the Policy Address, the Chief Executive has positively responded to the question of a population policy which my team and I have been talking about over the past two years, in that he mentioned the work of the Steering Committee on Population Policy chaired by the Chief Secretary for Administration, and also the approximately 30 000 children born in Hong Kong to Mainland women in recent years. But in spite of this, mentioning this issue in just a few lines shows that in respect of the housing policy and demographic structure, the Government still lacks a direction and is merely skimming over the issue. It is not the case that the Chief Executive has not taken note of our proposal, only that he has not considered it in greater depth. For instance, firstly, the structure of the migrant population. With regard to the resumption of HOS under discussion now, assuming that this can be completed only three years later, what will be the demographic structure at that time? This will cover the number of new arrivals, how many migrants will emigrate overseas and how many of them will settle in Hong Kong, what changes will take place in the population, and in the migrant population in Hong Kong, how many people are living in poverty and in need of public housing, HOS flats, the MHP Plan, and so on, provided by the Government, and how many of them are rich people who have the means to make investments in the property market. Secondly, the trend of child-bearing in Hong Kong. If young people in future do not like to get married or give birth to children, how will this decline in population affect the needs for housing in the public and private sectors? Thirdly, the question of population ageing. Many elders hope that the Government can grant a subsidy for them to age in their hometowns, which is also what many of us have been striving for. In recent years, the transport arrangements between Hong Kong and Mainland have made travelling between the two places far more convenient. If a majority of the elderly choose to permanently stay in the Mainland to spend their twilight years, or if the Government approves of granting this subsidy for the elderly to age in their hometowns, how should we handle the public housing units to be vacated by these elders who have returned to their hometowns? What is the population size of these elders in the next five, 10, and 20 years?

Within 20 years, many people in the Chamber now should have become elders. Population ageing will certainly be the biggest problem confronting

Hong Kong in the next two decades. How many people will choose to return to their hometowns to spend their old age? If the Government really provides this subsidy, what will be the plan of the Government? Like the housing policy, the education policy also cannot be changed overnight. The Government cannot suggest building schools at one time but scrapping them at another. The policy must be forward-looking and scientific, and it must dovetail with the demographic structure.

We agree that the Government should provide HOS flats, but the Government must make commitments for that. It cannot suggest a number casually; instead, a number should be proposed on a scientific basis. I do not support the sale of public rental housing (PRH) units, for I think this will continually carry the need to carry out extensive repairs on dilapidated PRH units and also problems relating to their management. Moreover, as the elderly may continue to live in PRH units, if PRH units were put up for sale, we might not be able to maintain the present standards in caring for their needs and management. I still hold that the PRH should be a means to solve the housing problem of the poor households most in need of a housing unit allocated by the Government. Therefore, a certain degree of turnover should be maintained. The Government should not adopt the mentality that it can pay no heed to these units once they are sold. On the contrary, I think the HOS is, after all, an option to address the needs of the sandwich class. The situation before us now is we do not have the confidence to determine the number of flats that should be provided, and we seem to be caught in a quagmire. In this respect, the Government does have responsibility. It can actually make a decision, but it will need to provide more scientific statistics to answer the questions raised by us just now.

If the Government does not want to be called a lame duck government or a caretaker government, it must not think that the case is settled by just writing a few words in paragraph 69 of the Policy Address and paying lip service to our demand. The Government should pluck up its courage. Two years are neither a very long nor a very short period. There is actually still a lot that it can do. With regard to the population report, I believe the Government should have a clear idea about it, and it is unlikely the case that the Government is unable to submit it. If the Government intends to address only the immediate problems just because it has merely two years left in its term, acting in a way like it is living from hand to mouth, we might as well save our breath.

In fact, members of the community have been racking their brains and discussing very carefully the housing problem in the public and private sectors. With regard to some new ideas, I wonder why it seems that we have never heard of the Government raising them for discussion or making reference to the proposals in other countries. There is the suggestion of a dual regime for the provision of housing. One type of flats is to be developed on land granted by the Government or with subsidies provided by the Government, and the small and medium flats thus completed will be sold to Hong Kong permanent residents exclusively, targeting the market of Hong Kong people. As for the other type of flats, there is no restriction on the identity of the buyers or sellers, and these flats are regulated completely by the free market. This proposal is not put forward by me. If my memory has not failed me, it should be proposed by Mr SHIH Wing-ching, and I am not going to draw a conclusion on this proposal. But I wish to point out that many people are actually proposing a diversity of ways to enable the property market to develop more healthily.

Take property prices in Australia as another example. Between April 2009 and March this year, their property prices have risen by 20% and in view of this, the Australian Government has announced a policy to prohibit non-Australian nationals from buying second-hand properties. These people can only buy properties in the primary market, while foreign students and non-permanent residents are not allowed to invest huge sums of money into property speculation during their stay in Australia, and they are required to undergo a process of vetting and approval before they can buy a property. The case is the same in Singapore. Although their Government has not imposed restrictions on foreigners in purchasing properties, stipulations are made to the effect that non-Singaporean nationals can only buy residential flats in multi-storey buildings and that they cannot purchase detached houses. In addition, more regulatory control and an additional tax have been imposed on the resale of property within one year. In the Mainland, besides rumours about the Government imposing control on profit, there is also an instruction to restrain the purchase of property by foreign capital, which serves to impose restrictions on property buyers who have worked for less than one year in a municipality. I am not suggesting that Hong Kong should copy these measures since we have all along upheld the beliefs of a free market. But as so many people have proposed new ideas, and as there should be many talents in the Government, they should be able to gain insights from these ideas and then put forward better proposals to convince the Legislative Council to support their passage. It is indeed not our

wish to see a lot of "fatalities" in the property market. I trust that nobody would wish to see this. We all hope that the property market can achieve healthy development. I, therefore, hope that the Government can pluck up its courage and put forward more proposals for us to study and ascertain which one of them is more suitable for Hong Kong. Thank you, President.

MR RONNY TONG (in Cantonese): President, when an asset bubble begins to form in the property market and when the grassroots have to pay exorbitant rents or even fail to find any accommodation, the problem we face is no longer a problem in economics or in the market, but a social problem related to people's livelihood. If this is a social problem related to people's livelihood, the Government will be duty-bound to help members of the public who are in most need of help. This is not market intervention, although I do not think any government in the world can rightly say that it has never intervened in the market. Actually, every government of the world has intervened in the market, only that they differ in the extent and level of intervention. Many people would use the expression "influence the market" instead of the expression "intervene in the market". However, regardless of "influence" or "intervention", if the Government is convinced that it has the responsibility to handle the issue of housing supply, it should face up to the problem boldly, instead of making certain trivial moves and pretend that the problem is solved.

President, I am referring to the measures on housing proposed by the SAR Government in the Policy Address. Generally speaking, the Chief Executive has proposed two measures. The first is to increase land supply. He pledges that land for the production of about 20 000 flats a year will be supplied to the property market over the next 10 years. Second, he proposed a rent-purchase housing scheme called the MHP Plan which is very controversial. The Plan is mentioned by many Honourable colleagues today. The Plan is criticized for being unable to put the mind of participants at ease, as its Chinese name suggests.

Why do I say that such moves are minor moves that do not reach the core of the problem? Because the two proposals do not focus on how efforts should be made to exert an influence on the market to enable them to serve the greatest interest of the public. We have to address two problems if any influence should

be exerted on the market. The first is certainly that of supply and demand and the second is on the principles to be used to help those in need.

With respect to the question of supply and demand, we should note the policy of high premium which has all along been upheld by the former colonial government and the present SAR Government. The policy is meant to raise the revenue of the Government. It is believed that this policy will not be changed in the near future, but its harmful effects can be mitigated by the adoption of certain balancing measures.

President, this high premium policy is founded on the fact that land is scarce in Hong Kong while the population is huge, and as the largest landowner, the Government hopes to obtain a sizable income through the auction of land at regular intervals. The nature of an auction is that the product put up for auction will go to the highest bidder. So by nature auction is a basic factor that pushes up property prices. This is also a structural and inherent factor as well.

However, can the problem of demand and supply be affected by putting up more land for auction? President, I do not think so. Why? Because we still have to rely on the developers for bidding. And no matter how they will bid, it will affect the price of the end product, that is, the flats to be sold. There were a number of good examples in the past. Once the Government had set aside a lot of land in Shau Kei Wan for sale, but as the developers showed no interest in it, the lot had to be withdrawn eventually. Recently, because of the measures to address the problem of "inflated buildings", the developers are not very much interested in the lot put up for sale. The result is that property prices have dropped to about \$20,000 per sq ft and it is considered an exceptional achievement and blessing. But in any case, when properties are priced at \$20,000 per sq ft, this is very expensive indeed.

President, how are we going to free ourselves of this control on the supply of flats by the developers? This is a problem we badly need to address. What the Government is saying is that, in the long run, there is this policy on the supply of land for the next 10 years. This is a good thing, something we have been asking for. But that is not good enough, because we do not know what is meant by land enough to build 20 000 flats. Does it mean luxury flats or inexpensive flats? What methods are there to force the developers to build inexpensive flats?

What incentives are there to induce the developers to show an interest in bidding land for such development? No solution has come from the Government. If the Government cannot meet the demand of the market on this question of demand and supply of flats, the Government is obligated to become a player.

President, by becoming a player I mean the Government should not just play the role of a supplier of land, but it should also play the role of a supplier of buildings. Of course, what we advocate is the Government playing a restricted role. We are not saying that the Government should build luxurious flats. The Government should be a player and supply some inexpensive flats. President, this idea is not novel at all. This is because the colonial government had established this policy for a long time with its building of resettlement estates and low cost housing estates. The SAR Government maintained that policy after the reunification until 2003. It was in 2002 or 2003 that this policy was abandoned. Why can a policy not be reinstated once abandoned? The Government has never given a clear explanation. Is it because by doing so it will lose face? Or if once that has become a thing of the past, it is irreversible and can never be introduced again? I would think that such an attitude should never be held by any responsible government.

On the other hand, the Government should think that since it has a responsibility to help those in need, then how should they be helped while not producing the least harmful effect on market development? What the SAR Government fears most is, I believe, that if it really plays a part and supplies some inexpensive flats, it will induce a market collapse, and more people from the middle class will find themselves in the situation of owning negative equity assets as was the case a few years ago. But I think this worry is undue. For if this problem is handled with flexibility, it will not go to the extent of causing a crash in the property market, and specifically concerning the flats owned by the middle class.

What we are saying is that the production of an appropriate number of HOS flats should be resumed. We are not doing what Dr Priscilla LEUNG is saying, that we do not want to stake our chips on the number, but a flexible approach should be used and the demand in the market should be taken into account.

President, there is a law which everyone will understand, and that is, when the prices of luxurious flats soar, property prices in general will rise in tandem. This is because the prices of flats in the medium price range will rise and when this happens, the prices of flats at the lower end will also soar, unless there is a substantial supply of such flats at the lower end of the market.

But will a supply of flats at lower prices directly affect the prices of flats with a higher price tag? I think that it would not necessarily be the case. It is because the kind of market for such flats and those who demand such flats are very different from those who demand flats at higher prices and flats at medium prices. What we are saying is that the Government should provide certain "no-frills" flats, instead of medium-priced flats. So I think when an appropriate number of HOS flats are launched, it will not lead to a crash in the market of flats for the middle class.

President, I must use the remaining time to talk about the My Home Purchase Plan. Can it solve and address the problems mentioned by me just now? The answer is no, because it can never meet the huge demand. For we are talking only about some 1 000 flats and they will only be available four years later and market rates are used to set the rent and prices when they are offered for sale. With such an amount, it can never produce any impact on property prices overall. Since no impact will be produced on property prices and as its supply cannot meet the demand, this Plan can never hope to cause the prices of flats at medium-to-lower prices to fall to an acceptable level. So this policy can never meet the demand of the market and the needs of the people of Hong Kong.

President, I hope Honourable colleagues can lend their support to our amendment.

MR LEUNG KWOK-HUNG (in Cantonese): President, once an old gentleman ran into me and said that he had something to give the Chief Executive. He wanted me to tell the Chief Executive that he should go to Hunghom when he had the time, and then he should go to Cooke Street, and to that funeral parlour adjacent to Cooke Street. That was how he put it. I thought he was cursing the Chief Executive. I know the reason. I am only relaying what he said. This old gentleman was surnamed CHOW. Actually, he was cursing the Chief

Executive, saying that he would die a dog's death. Why was he saying these things? Because he was homeless.

When the Chief Executive was running in the election against Alan LEONG or at the time when he had got the approval from the Mainland, he said that he was a politician. When he filled the item on occupation, he put down the word "politician". Of course, his English was very bad and he thought he was a politician of a lofty kind.

Just what are politicians in ancient times like? There was one who was put on exile and he lived in a cottage with a grass roof in the city of Chengdu. But the roof of that cottage was shattered by the sheer force of the autumn gusts. And he wrote a poem about his own displaced and forlorn state. He said, "If I could have ten thousand mansions, I would house all scholars poor and make them beam with smile, in wind and rain these mansions would stand like mountains tall and strong. Alas! Should these mansions appear right before my eyes, frozen in my unroofed hut, contented I would die." He was saying that if there is really a day when people are like this saintly poet, living in an unroofed hut at the mercy of the elements, though his hut is unroofed by the autumn gale, if there are houses for poor scholars like him to live, he would rather die a happy man. Buddy, this is what is really meant by a politician. This is why he could have written a poem like this.

Now this Donald TSANG is saying that chance will fall on those who are prepared. Buddy, of course things are prepared. He has got this Application List and at first it was meant to prevent people from joining forces to bid land at a low price when there was a downturn in the property market. If he keeps on using this Application List system, it is like people speculating on and pushing up the price of flour to make bread. Buddy, just what is this Donald TSANG fellow? He says there is preparation, of course things are prepared. He supplies land to other people and so do the Urban Renewal Authority, the MTRCL, and so on. They used to have no land but now they have lots of land. So chance will fall on those who are prepared. Chance will be given to those who are prepared, that is, those who have the blessing of his policy and are ready for it.

Now what is happening in Hong Kong? The people are too poor to afford a home. The rich and powerful are greedy to an indecent extent. The officials are helping them oppress the people. Property prices are always hitting new heights. These four sentences aptly depict the situation. I wish to tell the Secretary, now you have heard so many views and mine is the most special. It is: a total of 35 000 units of PRH should be built every year. That is it. You people always talk about singling out the best and attending to the basics. This is what you will say when we ask you to do something. Attend to the basics first. This old gentleman tells Donald TSANG to go to Cooke Street in Hunghom and then to the funeral parlour there. This old gentleman is furious. He said, "I have worked like a dog for so many years and when I get old, I have to live in a partitioned room and worry about how I should live the rest of my life. And all along this Chief Executive is saying that he will take care of my problems."

Members, what are the problems we are discussing today? In 2007 when I was interviewed by the *Newsweek*, I was asked how I would view the 10th anniversary of the SAR. I said Hong Kong was practising casino capitalism then and everyone was gambling. What is meant by gambling? I said already when I saw those structural financial products that when people were gambling like that and when the bubble was that large, it would burst one day. It did burst in 2008. I have already said it. When I was saying it at that time, people were laughing. At that time, everyone was laughing. They said, "How could there be a thing like that?" Now everyone is talking about when the bubble will burst, and how it will burst. They were all laughing at that time. But they are not laughing now. President, it is no longer casino capitalism, but mafia capitalism or gangster capitalism. Do things not like the mafia and the gangsters? These four giant developers are threatening the Chief Executive. The Bureau of the Secretary wanted to take the measurements of the flats, but it was rejected. These developers can say in public that Eva CHENG is a moron..... no, it should be low in IQ.

MR WONG YUK-MAN (in Cantonese): It is not polite to use the word "moron".

MR LEUNG KWOK-HUNG (in Cantonese): No, it should be low in IQ.

Members, what have we got today? That is the developers have abundant land resources and theirs are more than double than those of the Government. Now they are hoarding all the flour, so to speak, and waiting for the best time to strike gold. The Government tells us that high property prices may not affect the income of the lower class. That is true. Build 35 000 PRH flats first and all those who do not want to buy a home or cannot afford one can live in these PRH flats, and that will solve the problem. What the people want now is the right to accommodation. I have looked up the United Nations International Covenant on Economic, Social and Cultural Rights. It says nothing about the right to own a property but just the right to accommodation. Buddy, I do not know why Members of this Council will want to add the right to home ownership. When you talk about other rights with them, they do not sound so advanced, now what they are doing is all for the benefit of the developers, for the middle class. All they are doing is to flatter these people.

Now when so many people do not have a place to live, why can we not build some PRH flats first? WONG Kwok-kin even talks about the Sale of Flats to Sitting Tenants Scheme. The prices of those PRH units have been pushed up to \$1.98 million a unit because of speculative activities, how can this thing have happened? It is because you people say that the PRH flats should be sold. Or else how come there are such rampant speculations? Now WONG Kwok-kin is citing examples, saying that such speculative activities are getting out of hand. You turned a welfare item into a commodity and then asked people not to speculate on it. This is like giving a cat a tasty fish, fried to mouthwatering taste and throwing it before it and forbid it from eating. Are you out of your mind? What kind of socio-economic agenda are you people going by? On the one hand you condemn speculation while on the other, you tempt those who got housing welfare to sell and speculate on their flats. I really find these political parties in Hong Kong sick. The League of Social Democrats has been forced to buy your ideas. But we want to add a prerequisite and that is, the Government should provide 35 000 PRH flats and that will be okay. We do not need this My Home Purchase (MHP) Plan. In this way the people can live better and rest assured.

Members, it is not that difficult to deal with these developers. President, we can just relinquish this Application List system. That is to say, the developers will not be able to pick a lot from that List for bidding if and when they like it. But that there should be a policy on land grant and the Government

should have a housing policy, and even a comprehensive urban planning policy, before it should grant any land.

People often say that I provoke hostility towards the rich. I am not hostile to the rich. I just hate those rich people like LI Ka-shing. If those rich people think that they have to pay society back and if they aim at a 5% or 6% return in doing business, then they should build flats in great numbers. Let the Building Society do it. Since you have got such a huge amount of surplus in foreign exchange, then let this become a kind of credit agency and offer more mortgage loans to the public. Can this not work? You are not adopting a policy on land grant, but what you are doing is like letting the developers give approval to the hell government — no, this hell of a government, not the government in hell (*Laughter*) — to give approval to this Government to take out lots for them to bid. This is in actual fact letting them speculate on the flour, so to speak. Or they are just hoarding land when there is a downturn in the market. This is the crux of the problem. There is no policy at all on the part of the authorities on land supply. How are they going to confront this QE2 from the United States? The United States cannot afford to see a double-dip recession and it must engage in quantitative easing and China is following its footsteps and engage in its own quantitative easing. When the market is flooded with cash, and if no restriction is imposed on commodities, how can the surplus money be prevented from buying up commodities?

Members, build more PRH flats, grant more land. It is as simple as that. Land should be granted to meet the needs of society and collect tax from the developers for the exorbitant profits they make and to impose a tax on the appreciation of assets. These are what we from the League of Social Democrats advocate. All the other things you hear are nothing but lies aiming at cheating voters. They will say whatever pleases different kinds of people. When they see the middle class, they will talk about the MHP Plan. When they see the petty bourgeoisie, they talk about HOS flats. When they see us, they talk about PRH (*The buzzer sounded*) Thank you, President.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I wish to thank Members for their concern for the housing issue which is closely related to people's livelihood, and for the views they have expressed on

the issue. As the Secretary has another official commitment, so I am here to speak on behalf of the Secretary for Transport and Housing and to listen

MR LEUNG KWOK-HUNG (in Cantonese): I wish to know what matters of importance the Secretary has got, for according to the Basic Law, she should be here to be subject to our monitoring. May I ask her to submit her schedule after the meeting?

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please sit down. The Government has informed the Secretariat in advance that during this time slot Mr YAU Shing-mu will attend this meeting as the designated public officer in the capacity of the Secretary for Transport and Housing.

MR LEUNG KWOK-HUNG (in Cantonese): I am not trying to argue with you. I know that you have been informed. I just want to know the reasons. I implore you to ask the Government clearly what other public duties which Secretary Eva CHENG has got that are considered to be more important than coming here to be subject to our monitoring.

PRESIDENT (in Cantonese): I understand the Member's question. Secretary, please continue.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I will now speak on behalf of the Secretary for Transport and Housing and listen to Members' views.

Earlier on during the consultation on subsidizing home ownership as well as after the delivery of the Policy Address, the Government has heard a lot of views from the public on housing policy. Now I would like to reiterate and elaborate further the objectives of our housing policy.

With respect to our housing policy, it remains that as set out in the *Policy Statement on Housing* announced by the then Secretary for Housing, Planning

and Lands in November 2002, that is, "providing subsidized rental housing for families in need must continue to sit at the very heart of the Government's housing strategy". This is an important commitment, and the Government will continue to hold firmly onto this commitment to the provision of public rental housing (PRH).

The Government will continue to withdraw from housing assistance programmes other than PRH to minimize intervention in the market. That said, the Government is firmly committed to ensuring a fair and stable operating environment to enable the healthy development of the private property market, and to enhance the transparency of sales information and fairness of transactions of first-hand private residential properties to protect consumers' rights. That does not mean that the Government disregards the home ownership needs of the public. The Government will increase the supply of land in the light of demands in the market in order to address the problem at root.

Home ownership is a matter of personal choice having regard to individual circumstances and affordability. The Government is keenly aware that any type of assistance should not erode the "can-do" spirit of Hong Kong people as this is the key to Hong Kong's success and the core of Hong Kong's values. Hence, instead of going back to the property market, the Government will facilitate the provision of different housing options for different sectors of the community, including co-operation with the Hong Kong Housing Society (HKHS) to implement a new form of assisted home ownership premised on the concept of "rent-and-buy". This new scheme, known as the My Home Purchase (MHP) Plan, together with measures introduced to enhance the transparency and fairness of first-hand sales in the private sector, and the revitalization measures for the HOS Secondary Market Scheme will increase choices on a continued basis to meet the different housing needs of the community.

Overall, there will be a cascade of housing options available to people with varying affordability. At the lower end are subsidized PRH flats for low-income families that cannot afford private rental accommodation. At the next level are flats for sale to Green Form applicants with premium not yet paid under the Secondary Market Scheme. Beyond that are mass market flats at the lower end of the private sector market (including premium paid HOS flats in the open market), and the "no-frills" flats to be built under the MHP Plan by the HKHS for

those who do not qualify to apply for PRH flats, meet the prescribed income and asset limits, and are unable to purchase units in the private sector in the short term. Above these levels, the private sector market will continue to perform its role in providing flats at market price to meet the diversified needs of those who have the means.

To achieve such policy objectives and solve the housing needs of the people, the Chief Executive has announced a series of measures in the Policy Address this year for the short, medium and long terms. These measures are not only aimed at the present situation of high property prices, they also approach the housing problem from land supply, hoping to address it in the long run and at its root while providing a buffer for the public in home ownership in the short run.

First of all, PRH is an important pillar underpinning social stability. At present, our policy on subsidized housing is aimed at providing PRH to those low-income families which cannot afford private rental housing. According to the five-year production programme of the Housing Authority (HA) for public housing, in the five years from the year 2010-2011 onwards, it is estimated that there would be about 75 000 newly completed PRH units. This translates into an average of about 15 000 units each year. Adding to this the PRH units resumed every year, the HA estimates that this production volume would be able to maintain the average waiting time at about three years.

With respect to the private market, in order to ensure its healthy and steady development, the Government has drawn up a land supply target to provide land for the production of about 20 000 private residential units in each of the next 10 years. The Financial Secretary will head the Steering Committee on Housing Land Supply to co-ordinate related work of the departments and handle problems related to housing land supply to ensure that a steady and sufficient housing land supply for PRH and small and medium residential flats.

I would like to point out that prices of private housing are affected by all kinds of factors such as supply and demand for such flats, the economic environment, and trend in interest rate, and so on. All these may rise or fall according to the economic environment and supply and demand situation. Our experience tells us that the subsidized sale flats cannot solve the problem of

economic cycles. For example, during the period from 1996 to 1997, we rolled out about 46 000 subsidized sale flats. But the prices of private flats still rose by more than 50% during the same period. Since 2007, we have sold the surplus flats under the HOS in six phases, totalling more than 16 000 flats. In the meantime, property prices in the private sector continued to rise. So any form of subsidized home ownership scheme can only provide a buffer and it cannot be seen as a means to curb property prices. We notice the wording in the motion and the amendments which says that after the Government had put forward the MHP Plan, private residential property prices still continued to rise. This shows that there is a need for us to explain the positioning of the MHP Plan.

During the period from May to September this year, we conducted a public consultation on subsidizing home ownership. We heard different voices from the community in the exercise. After making a careful analysis of the views expressed by the public in the exercise and weighing the arguments and worries of all quarters, we have decided to reactivate a subsidized housing programme. The former initiatives in subsidized home ownership were adjusted and fine-tuned to make them more effective, pragmatic and specific in addressing the needs of people in the community in most need of assistance in home ownership. A buffer is provided to them. The Government will work with the HKHS and introduce the MHP Plan under the guiding principle of helping people with the need and means help themselves, ensuring gradual and orderly progress and offering a flexible buffer.

Under the MHP Plan, the Government will provide land to the HKHS to build "no-frills" small and medium sized flats for lease to applicants who have the means to repay mortgage in the long term and have plans of home ownership but are prevented by the short-term fluctuations in the property market from saving enough money as down payment. They can lease these flats and continue to make savings during the five-year tenancy period in which the rental will not be increased. Tenants joining the Plan may choose to purchase a flat during the maximum period of up to seven years, that is two years after the first admission of tenants and within two years after the expiry of tenancy. They may choose to buy the flat they rented, another flat under the Plan, or a flat in the private market. If they do so, they will receive the Purchase Subsidy which is equivalent to half of the net rental they have paid during the tenancy period. The amount can be

used as part of the down payment. This Plan gives participants sufficient time to think through their housing plan and obviates the need to make hasty decisions on flat purchase when there are transient fluctuations in property prices or heated market sentiments.

The Government has already earmarked sites in Tsing Yi, Diamond Hill, Sha Tin, Tai Po, Tuen Mun and other areas for the construction of a total of some 5 000 flats under the Plan. The first project will provide about 1 000 flats on Tsing Yi by 2014, and applications for pre-letting may start in 2012. If the response to the Plan is good, the Government will consider identifying more sites for the purpose. The Government is currently discussing with the HKHS on the details of the project in Tsing Luk Street and arrangements for other projects. We will keep in touch with the HKHS with respect to the Plan. I also welcome constructive suggestions on the Plan from Members.

Finally, I wish to emphasize that one single measure cannot be expected to address the prevailing problem of high property prices. The Policy Address has put forward a number of measures focused on addressing the roots and land supply is used as a means to tackle the housing problem. The Plan aims only to provide a buffer to prospective home buyers; it is not meant to be a measure to curb rising property prices.

I would also like to take this opportunity to make an appeal to the public. I understand the anxiety of prospective home buyers in the face of rising property prices. But this phenomenon of rising property prices is to a large extent owed to the fact that a combination of unusual conditions of a super-low interest rate, massive liquidity and stringent supply working in the property market. When coupled with the new round of quantitative easing measures introduced by the United States, some of the hot money will flow into the Hong Kong property market. Members of the public should be wary that once there are changes in these factors, the outflow of hot money will induce risks of a downturn in the local property market. Home ownership is a long-term commitment and in the face of this highly volatile property market, I appeal to the public to exercise great prudence when they consider buying a flat in the private sector. They must do so within their means and assess the impact on their mortgage repayment abilities caused rising interest rates before making this investment decision which may be the greatest in their lifetime.

I know that Members will speak more on the topic. I will draw a conclusion after listening to the speeches made by Members in the motion debate and I will make a consolidated response to the various issues of concern and suggestions raised by Members. Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, I am sure Members are all aware of what is happening in the property market recently. Using a jargon often used in the stock market, it can be said that property prices are always hitting new heights. I attended a march of the shell-less snails and many prospective home buyers told me that there were not many small units in the urban areas with a price tag of around \$2 million. It is very difficult for them to buy their first homes. It is obvious that the many measures proposed by Donald TSANG in the Policy Address will not help curb property prices at present. They are more of poise than concrete actions.

Both the Government and analysts have pointed out that the soaring property prices are due to the influx of hot money and a super-low interest rate. The remote cause for that is the sharp drop in the volume of housing production both in the private and public sectors over the past 10 years. Information from the Census and Statistics Department shows that the volume of flats completed fell from 89 000 units in 1999 to 29 000 units in 2009.

To be frank, I do not dispute these facts. But the Government only knows how to make an analysis and state the causes, it stops short of thinking up ways to address the causes and prescribe the right remedy to the problem.

I do not think I have to go into details of the many proposals made in and out of this Council over the past year. These include the territory-wide demand for the resumption of the production of HOS flats and increasing the volume of PRH flats produced. I am sure the Government must have heard this demand. It is not that it cannot do it, only that it does not want to do it. So I do not want to waste my time arguing with the Government. I just hope that the Government can consider this suggestion seriously and accept it and that it will not indulge in fancying that this My Home Purchase (MHP) Plan is the only solution to the problem of housing.

I have to mention that the current income ceiling for a two-person family applying for a PRH flat is \$11,660, and that of a four-person family is \$16,070. Compared to last year, the amounts are only raised by \$60 and \$270 respectively. Then what about property prices? Compared to the time before the onset of the financial tsunami, there is a nearly 40% rise in property prices. I would like to ask the Under Secretary, for a four-person family with an income of \$20,000, since it cannot apply for a PRH unit, can it afford to buy a suitable home at the prevailing market prices? I am sure they will have a lot of hardship when it comes to housing because they have to pay such exorbitant rents.

If the Government thinks that this course of action will affect the waiting time for PRH, it should build more PRH flats and resume the production of HOS flats. Then these problems can be solved. This problem of housing is invariably linked to many other areas and the SAR Government should therefore look farther ahead and show greater commitment. Only by doing so can these conflicts in society be eliminated.

We know that new flats cannot be built overnight. Therefore, if speculative activities are to be curbed, certain measures will have to be introduced instantly, such as a tax on asset appreciation which aims at taxing the differences in property prices earned by speculators earn at selling a flat. Besides, the stamp duty for individuals who purchase a second flat can be raised so as to add to the costs of speculation. I believe these measures can serve to cool down the overheated property market.

In the long run, the Government should re-examine the existing housing policy and reposition itself in the housing market. It should cease playing the role of a puppet for those giant developers. Moreover, with the ageing of the population, the Government should carry out sound planning for the future, taking into account the directions of development in society and the needs of the people, including the introduction of priority measures to encourage children to live with their elderly parents and to make changes to the design of flats such as making the door frames of the washrooms and bedrooms wider to facilitate the movement of elderly persons in wheelchairs. This is also in line with the spirit of the policy on "ageing at home" as propagated by the Government.

Under Secretary, whether a policy is practical and serves its purpose depends not on how the people who launch it blow their own trumpet. For often they will do nothing more than speaking. A policy will only work when it is recognized and approved of by the public. For if not, it will only backfire and people will sneer at it, saying that it looks good in appearance but does not work in actuality. I hope the Secretary can rein in at the edge of a precipice and consider the views we have expressed in this Council. And even if we cannot fulfil the home ownership dream of the people of Hong Kong, at least they can have a home to live comfortably.

President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): President, we are no strangers to expressions like "a snail's home", "mortgage slaves", "even doctors and lawyers cannot afford to buy a flat" as well as a huge amount of clips and photos on the Internet like the one called "Even HITLER cannot afford to buy a flat" which are simply mischievous pranks. We even know about them very well. This shows that the property prices in Hong Kong are so high that they are beyond the affordability of the grassroots and even the middle class. It also shows that this resentment against high property prices has filled and can be found in every social stratum.

As for the present situation of people finding it hard to buy a flat or expensive to rent one, Chief Executive Donald TSANG has proposed in the Policy Address to introduce the My Home Purchase (MHP) Plan and measures like ensuring a supply of land enough to build 20 000 flats of small and medium sizes every year, but it takes time for these measures to be implemented and their strength is not strong enough. Therefore, the DAB demands that this MHP Plan be improved by increasing the number of flats under the Plan, launching it expeditiously and resuming the building of HOS flats at a rate of 5 000 flats a year.

Currently, there are 320 000 HOS flats in Hong Kong, of which some 60 000 are premium paid and can be traded in the free market. And there are 250 000 HOS flats for which premium is not yet paid and they can be bought by green form PRH tenants. Although these holders of green forms can buy

premium unpaid second-hand HOS flats by paying the premium at a preferential rate and enjoy the mortgage guarantee equivalent to 95% of the flat price provided by the HA, they are subject to the constraint of having to deduct the age of the building concerned from 25 years as the maximum repayment tenure for their mortgage. As most of the age of the HOS buildings is more than 10 years, these green form holders will have a repayment tenure for their mortgage standing some 10 years only if they so wish to buy a second-hand HOS flat.

Last week, I met a local resident who was enraged. He said that his children had grown up and so his household income exceeded the ceiling for PRH tenants and so he was forced to pay the double rent. He demanded that the production of HOS flats be resumed. The Secretary may think that if first-hand HOS flats are no longer available, people can buy second-hand HOS flats. But this man thought that due to the constraints of the mortgage repayment period, this would lead to a doubling of the normal monthly mortgage repayment amount, which would simply go beyond people's affordability. Hence his family was stuck in a quagmire. So he demanded that the production of HOS flats be resumed. The authorities should consider the situation of these people. We also think that the Government should provide a ladder to home ownership for these people from the lower and middle classes and tenants of PRH units, thereby meeting the home ownership needs of these people from the lower and middle classes, as well as promoting social mobility.

President, although Secretary Carrie LAM is not present today, I would reiterate the stand of the DAB with respect to imposing restrictions on "inflated buildings" and tender exercise for development of the superstructures of stations along the West Rail.

We agree with the measures proposed by the Chief Executive in the Policy Address, namely the enactment of laws to impose a 10% concession cap on the "inflation" of newly completed buildings, as well as speeding up the tender exercise for properties in the new towns and on the superstructures of West Rail stations. These measures can increase the supply of small and medium flats and meet the huge demand of the public for first homes. They can also enable the people to buy some "no-frills" flats, thereby facilitating home ownership.

However, the measure of imposing restrictions on "inflated buildings" will be rolled out only next April. So the plans of first-hand buildings submitted to the authorities before next April will not be regulated. The DAB has reservations about this. We know that Hong Kong as a place which upholds free market principles should respect the contractual spirit and market flexibility. However, the MTRCL and the Urban Renewal Authority (URA) of which the Government is the major shareholder should take the lead and practise the relevant policies, hence setting an example for the private sector market. Therefore, the DAB thinks that as regards the superstructure developments of the MTRCL and urban renewal projects handled by the URA, even if the plans have been submitted, they should be subject to these new measures since tenders have yet to be invited.

At present there are six such projects from the MTRCL for which plans have been submitted but tender exercises have yet to start. These include those at the Long Ping North Station, Tin Shui Wai Station, the Tin Shui Wai Light Rail Station, TW5 (Bayside), TW5 (Cityside) and TW6 of the Tsuen Wan Station of the West Rail. Altogether they involve about 9 200 units.

In five of these projects, the MTRCL only plays the role of an agent and the actual title is still held by the Government. Therefore, the Government should require the MTRCL to re-submit the plans for these projects to meet the new requirements regarding "inflated buildings", reduce the scale of the developments and minimize the walled effect, as well as increasing the number of small and medium flats.

Of these projects, the two at TW5 are the largest in scale, involving 3 300 flats. In these projects, there are 11 blocks of residential buildings of 41 to 54 floors and two blocks of 11-storey hotel developments, as well as podiums of six to seven floors which serve as car parks and large clubhouses.

When we look around the waterfront in Tsuen Wan, we may find there are many high rises already. And buildings with some 40 floors already created a walled effect. If the situation continues, it will aggravate the heat island effect. Therefore, we think that the MTRCL should fulfil its obligation and re-submit its plans to reduce the scale of development at the Tsuen Wan Station of the West Rail. We therefore hope that the Secretary can reconsider this anew.

MR LEUNG YIU-CHUNG (in Cantonese): President, recently the Public Opinion Programme of the University of Hong Kong conducted a new opinion poll and it was found that the popularity rating of Chief Executive Donald TSANG had dropped to 52.7%. This is a return to the popularity level before the Manila hostage incident. Forty-one percent were in support of Donald TSANG as the Chief Executive while 47% were against him. The difference is as great as 6%. At the same time, the popularity of the Chief Secretary for Administration and the Financial Secretary dropped last month like that of Donald TSANG.

President, I believe this fall again in the popularity rating of the Chief Executive and the top officials is related to the failure of the Policy Address to answer the aspirations of the people. And I am convinced that the housing problem which has caught the attention of most Hong Kong people certainly accounts for a large part. As property prices scale new heights and speculation getting unruly and out of hand, the series of measures introduced by the Government only backfires. There are grievances and discontent in the public against the Government and the developers. What is more outrageous is that although the majority view favours the resumption of the production of HOS flats, the Chief Executive flatly denies in the Policy Address that it is the case and rejects it. I think the Government has been acting like an ostrich. An ostrich likes to bury its head in the sand. The Government pretends to be blind to public opinion and regards it as trash. This runs counter to the Chief Executive's claim of sharing the people's hearts. The public wants to see the Government resume the production of HOS flats so that people from the lower and middle classes can own their homes at a reasonable price. But the Government is doing another thing, trying to pacify the people by perfunctorily proposing the My Home Purchase (MHP) Plan. I can really say that using this Plan to respond to the demands of the people is entirely out of place, totally blind to the aspirations and needs of the people.

President, I must warn the Government that this MHP Plan can never help solve the problem of high property prices at present. I think this Plan is doomed to failure. Many members of the public have raised queries and they say that the Plan cannot do what it sets out in its Chinese name to do, that is, to put the minds of the people at ease. Actually, this Plan will never put the minds of the people at ease because it has the following shortcomings. First, the Plan does not help curb the high property prices. Even if government subsidy is given in the form

of a rebate at half of the total amount of rents paid to meet part of the down payment later, as we all know, when the flats concerned are offered in future, their prices will be set at the prevailing market value. In other words, when the people want to buy a flat later, they will have to pay the market price. That means when property prices are high, those participants will have to buy expensive homes. So in fact the Plan will not offer much help. Also, even though the Plan participants will have half of the rents paid as part of their savings, we know that the problem is if property prices are not curbed and rise all the time, this amount being half of the total rents paid will not be able to offset the rise in property prices. Therefore, it would not help things at all.

Second, the Plan cannot make the people feel that the rents they pay are reasonable. As we all know, rents are rising all the time and the rate of their increase is shocking. Talking about the increases in rent, those people who now find it hard to rent a flat will feel all the more harder later. So the current problems cannot be solved. This is because the rents payable under this Plan are linked to the market and the problem of market fluctuations will not be addressed. So the Plan cannot solve the problem of the difficulties experienced by the tenants.

Third, the Plan cannot guarantee that those who join it will have enough money to buy flats under the Plan. As I said just now, even if we have the down payment, we still have to face the greatest problem, and that is, the possibility that we may have made the wrong decision. What is the wrong decision? We may decide to buy a flat at a time when property prices are high and banks may raise the interest rates. The greatest worry to the people is the inability to repay their mortgage loans. If that is the case, then the Plan will become the source of their greatest sorrow. What will happen if people cannot repay their mortgage loans? The result is that they are forced to own negative equity assets perhaps not necessarily the case, but they will certainly face problems if they want to sell the flats. So these are not necessarily good ways.

All in all, the Plan will only do a disservice. It cannot help the people realize their dream of home ownership in the short, medium or long term. I hope that the Chief Executive will not make any more delays. He should not think that he only has one or two years left in his term of office and he can just walk away after that. He still has to govern this society in these one or two

years. Now that his popularity ratings have plummeted, it shows that he will meet difficulties in governance. He should turn back and heed the voice of the people. He should approach it by resuming the production of HOS flats. We think that the resumption of HOS flats production will provide flats at stable prices so that people who cannot afford flats in the market can buy these flats. In addition, tenants of PRH units will have a revolving door, which is more important. Finally, President, I wish to say that the Government has kept talking about making the wrong choice to buy a flat all the time. But history tells us that people who buy HOS flats seldom make the wrong decision and get on the wrong train. In contrast, there are more people who may have made the right decision and got on the right train. I hope no one will say to us again that the production of HOS flats will not resume because it is feared that people will get on the wrong train. This is only an excuse, and it can never be justified.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, the focus of my speech is on condemning the Government for thinking that it is always right and for going back on its words and refusing to resume the HOS.

Since the Government has decided not to enforce this benevolent policy so effectively implemented for eight years, there is a serious disruption of the normal family structure of PRH tenants. According to government statistics, there are 698 019 families living in PRH flats. Due to this wrong government policy, distortions are caused to the family structure. Of these tenants, 14% or 98 000 households, are all elderly tenants; 6.58% or 45 900 households are housed in the so-called spacious units. By spacious households, it means children with an income have been forced to delete their names from the register, leaving the elderly persons all by themselves. Thus spacious households are formed. And there are 23 700 households or 3.4% which are the so-called well-off tenants. These three types of families account for 167 600 or 23.98% of the total number of households. So the problem as well as the situation is very serious indeed.

President, when the Government was promoting the Sale of Flats to Sitting Tenants Scheme, it claimed on various occasions and through different channels that the Scheme had eight major advantages. First, the people could rest assured

there would be no rent hikes, eviction or annual assessment of their income assessed. Second, all members of the family could live under one roof. Third, the elderly members of the family could be attended to and the family could play its role in caring for the elderly. Fourth, this would make people living in public housing estates care more about the buildings in which they live. Fifth, the people could store their wealth and a revolving door could be offered to PRH residents to start to improve their accommodation from the lowest rung of the ladder. Sixth, society could be made more harmonious and stable and a greater sense of belonging would be fostered. Seventh, expenses on maintenance and management paid by the Government for PRH estates could be reduced. Eighth, this Scheme could offer some sort of "no-frills" flats to the residents. Thus the Government had talked about these eight advantages on various occasions. But it has given up and forgotten them all nowadays. It even goes to the point of denying and refuting these remarks it made. This is just another case of the Government saying whatever it likes.

I think 10 disadvantages or negative results will be caused by the Government's refusal to reconsider resuming the Sale of Flats to Sitting Tenants Scheme. First, the people will think that government policies always change and there is no credibility in the Government. Second, the people will think that the Government does not attach any weight to public opinion and care about their hardship. There has never been any public consultation on modifications made to this policy. Third, this is destroying the long-term housing policy pivotal to social stability while causing chaos to the housing policy. Fourth, this destroys the image of the Government, making the people think that there is collusion between the Government and business. Fifth, such a move splits up families in PRH estates because the Government forces the tenants to drive away those children who have an income and the latter will have to leave their parents. Sixth, the elderly people in the PRH estates will be isolated, detached from society. We have just mentioned the relevant figures. A total of 98 000 households consisting of all elderly persons have been created. Seventh, expenditure in other government departments on providing support to the elderly is increased as a lot of remedial work has to be done in welfare and healthcare. Eighth, the housing policy now is in conflict with the elderly care and attention policy advocated by the Government. Ninth, the grass-roots families are denied a low start or a revolving door to improve their lot. Tenth, the Government is

being self-contradictory in adopting a double standard to handle this issue of selling flats to tenants.

I hope that the Secretary or the Under Secretary can respond later as to whether they admit that there are these 10 disadvantages or negative results. The Government now advocates selling flats to tenants and the Sale of Flats to Sitting Tenants Scheme, but there are already hundreds of thousands tenants living in PRH units and they also want very much to Those tenants living in Y-shaped or linear-shaped PRH blocks should have a chance to buy the flats in which they live after some time as promised by the Government. Why does the Government adopt a double standard and disallow these tenants who are living in PRH units to buy the units in which they live. Why are they denied this option? This is the first point.

During the past eight years the Government has allowed PRH tenants of six phases and 12 lots, that is, altogether 120 000 units to make applications under the Scheme. And a total of 64% of the PRH tenants chose to buy their units. Why are tenants of the same types of PRH units be subject to discrimination, not given an equal opportunity? I therefore hope that the Government can respond as to why other PRH tenants are not treated equally and that a double standard is adopted? Since the Government wants to go ahead with this rent-and-buy MHP Plan, why does it refuse to resume the Sale of Flats to Sitting Tenants Scheme which is proven and time-honoured? Now there are some 50 000 single persons applying for PRH and many of them originally come from families of PRH tenants (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr WONG, speaking time is up.

PROF PATRICK LAU (in Cantonese): President, the motion today on "Helping needy persons acquire their homes" plus the amendments proposed by Members total 36 items. It may have set another record, in much the same way as land auction prices shattering records frequently.

First of all, President, I support the proposal raised in the motion to allow eligible white form applicants to purchase HOS flats with premium not yet paid. This is an important point, for there are no HOS flats now. But these people are allowed to buy HOS flats with premium paid in the secondary market, and there is absolutely no market for HOS flats. These people can find a flat in the market instantly which is priced at under \$2 million at the lower end, which is affordable to them. And they can own a home this way. Moreover, when the owners of HOS flats do not have to pay a premium of some hundreds of thousands dollars before they can put up their flats for sale, it would encourage more owners of HOS flats to move upwards and buy flats in the private sector market. In this way, the turnover of those 250 000 HOS flats with premium not yet paid can be speeded up.

I would think that before the production of a suitable amount of HOS flats is resumed in future, this policy of premium payment should be abolished completely in order to prevent the prices of HOS flats from being pushed upwards in the free market due to speculation. Like the case of some premium HOS flats in better locations, their prices have been pushed up to more than \$3 million because of speculative activities. The price per square foot is some \$6,000 to \$7,000 and people genuinely in need are not able to afford such flats.

President, the My Home Purchase (MHP) Plan as set out in the Policy Address has the words "prevailing market rent" written under it. This worries a lot of people. Perhaps you will recall I once asked the Chief Executive in a Question and Answer Session what was meant by market price. Is it like \$15,000 per sq ft at Queen's Cube and that is called market price? Then who would be able to afford it, right? Even though the Chief Executive replied in the Session that land would be granted to the Hong Kong Housing Society at a concessionary rate for the building of some "no-frills" flats, then the property prices by that time should be affordable to the public. But that is after all a problem. It is because if only 1 000 units will be available in 2014, this is really too late to solve a pressing problem. Also, I wish to do some calculations and I hope the Under Secretary, Mr YAU, can listen carefully to see if my computations are correct. If I make any mistakes, please correct me.

The income cap for this MHP Plan is \$23,000 for single applicants and the income cap for family applicants is \$39,000. If we take a flat with a size of some 400 sq ft in the Tsing Yi area as an example, I have checked and found out that the prevailing market rent monthly is \$8,000. With this income cap of

\$23,000, it will mean more than 35% of the income. Although five years later a sum of \$240,000 can be obtained as a rebate, these applicants will have to find a sum of \$360,000 before they can pay for the down payment at 30% of the property price. That means apart from paying a rent of \$8,000 monthly, they have to save up another \$6,000 before they can save up just enough for the down payment of \$600,000. For a single person with a monthly income of \$23,000, deducting the rent paid and the saving for the down payment, they have just \$9,000 left for their meals and transport expenses every month. That is to say, \$300 a day. Will that be enough? Moreover, these people may need to pursue some further studies or date a girl. So you have got to think about whether or not they can bear this burden.

The most important thing is that the rise in property prices has yet to be factored into this. If we take the close-to-60% rise in property prices in Tsing Yi over the past three years as an example, a flat which costs \$2 million now would have risen to \$3.2 million three years later. Then the down payment would not be \$600,000, but \$960,000. Just how much money a person needs to save each month if his monthly salary is \$23,000? President, it is at least \$20,000. How can he possibly pay for the transportation fees and water and power bills with the remaining \$3,000?

This is really very important. You have got to do sums right. After this year, these people who meet the \$23,000 income cap would see their salaries go up. Then will they be eligible for the Plan and buy the flats? We do not know. If by that time they cannot buy the flats and cannot get the rent rebate, and the flat they are leasing will be repossessed, this is really asking people to put in money but getting nothing eventually. The above example uses the case of a person earning a salary at the income cap. Does it not show that it would be very difficult for that person to meet the basic living expenses? I really fail to understand how this MHP Plan can make the mind of the people at ease as its Chinese name suggests. For families with children, the income cap of \$39,000 is even more unrealistic.

I think we do not really need that name of the Plan which means people will have their minds at ease when they can live like that. Its name gives people a wrong impression that their minds will only be at ease if they cannot buy a home. Actually, provided that prices and supplies are steady, irrespective of self-owned properties or leased properties, people can live there with peace of

mind. So I support the idea that the Government should not help the people buy their homes by lending them money direct. It is because by so doing, the overheated property market would only become more fuelled and the bubble would only grow.

Lastly, I think the most important thing is to formulate a long-term and sustainable housing policy, one that allows upward mobility in society. The Government should look into the supply and demand of different types of housing and solve the problem of an imbalance in supply and demand. It must stabilize property prices through an adequate supply of land. It must try its best to allocate land to non-profit-making organizations like the HKHS to build more housing units for the middle class at cost. It must not allow a market-led situation to develop and restrictions must be imposed to prevent small and medium units from becoming luxurious flats. It must ensure a sufficient supply of affordable housing. At the same time, it should increase market transparency so that the people may know and be educated on how to weigh the risks of buying a flat (*The buzzer sounded*) Thank you, President.

MS AUDREY EU (in Cantonese): President, the motion topic today is "Helping needy persons acquire their homes". I know many people will say that the Government does not have any responsibility to help the people buy their homes. But I would think that this is a question of degree. It is because as the situation now stands in Hong Kong, and as Mr TAM Yiu-chung has said, even doctors and lawyers are unable to buy a home. I do not think I need to cite the examples of doctors and lawyers, for citing just the ordinary people as an example will suffice. They work very hard and society expects them to raise a family and if they do not have any hope of buying a home with their own means, it will actually affect the social ladder of upward mobility. And people will think that there are a lot of injustices in society and people cannot own a home and live comfortably. This will affect social stability. And so when things have developed to such a state, the Government cannot say that things will all have to be left to the market and that it has no responsibility to help people buy a home.

Hong Kong has actually come to a situation like that. I remember last year when the policy address was released, there were professionals who called into the radio programme and questioned the officials. They said that they were

a couple and both were professionals, but they could not afford a home. At that time, the Chief Executive said firmly that property prices were very stable and they had not reached the level of 1997. Now one year later when the Policy Address was released, although we had all hoped that the Government would put in more efforts to help the needy acquire their homes, we find that only this My Home Purchase (MHP) Plan is proposed.

Many of the Honourable colleagues who have spoken before me have explained why this MHP Plan is unable to make the people feel at ease. President, I think that insofar as this issue is concerned, the Chief Executive should make the public see that he has really done what he calls "Sharing prosperity for a caring society". Sometime ago he announced in a high profile that a five-month consultation exercise would be conducted to gauge public opinion on the prevailing property market. But when the mainstream view had come out and people all thought that the production of HOS flats should resume because it was a well-established and successful policy, things took a drastic turn and as Secretary Michael SUEN told me the other day, the Government is executive-led and this means no matter what we have said and no matter how uniform public opinion is and that a consensus has been reached, they will still take this executive-led approach. They will tell us that this MHP Plan is an improved version, which is better than the HOS. If the Government is so adamant, there would be nothing we can do as Members to help it.

President, of course and to a certain extent, I know that there is much hot money flowing around in the world today. This applies especially to the launch of the QE2 and the American Government is acting so irresponsibly in prints US Dollar notes crazily and issuing federal bonds. And our currency is linked with the US Dollar. In addition, the Renminbi is appreciating all the time and, with many people coming from the Mainland to speculate on the local property market, it is only certain that it will be overheated. So I understand very well that this is a problem beyond the control of the Government. But coming back to the issue of property prices, it boils down after all to a question of supply and demand. The Government has admitted that land supply in recent years has dropped. This leads to a decrease in the number of flats people can buy in Hong Kong. Hence property prices are pushed higher.

On the motion topic today, I would like to state the position of the Civic Party. Our position is clear. We support the original motion, that is, the original motion proposed by Mr LEE Wing-tat. This applies especially to the proposal on resuming the production of HOS flats which is very important. Moreover, the Civic Party also agrees that PRH units should be sold to sitting tenants and the practice of allowing eligible white form applicants to purchase HOS flats with premium not yet paid in the secondary market for HOS flats should be re-examined.

We also support the amendment proposed by Mr Frederick FUNG. But it would be difficult for us to lend our support to the amendment proposed by Mr WONG Kwok-kin. Of course, we want to see what is said in that amendment, that housing protection should be provided to the middle and lower classes and that interim measures should be launched to help people in need before the MHP Plan is introduced. But we find it hard to support the idea espoused in that amendment to request public bodies like the MTRCL to allocate some of their flats for sale or lease to eligible white form HOS applicants and the MHP Plan participants at a cheaper price. President, we find it difficult to support this idea because the MTRCL has small shareholders, too. We think that this proposal would affect the interest of these small shareholders. We cannot force the MTRCL to dispose of its flats at a cheaper price. Certainly, we agree that it is necessary for the MTRCL to increase the supply of flats, and also to avoid causing any walled effect. So we will support the amendment by Mr CHAN Kam-lam. As for the amendment by Mr WONG Kwok-kin, we can only abstain from voting.

As regards the amendment by Dr Priscilla LEUNG, we feel hard to support it because we think that the amendment would be fine if she just adds the part on asking for a review of the long-term housing policy or putting into practice a population policy to the end of the motion. But the most important thing is that she has deleted some very important items, some concrete measures which I think should merit support. These include resuming the HOS, relaunch the Sale of Flats to Sitting Tenants Scheme, and allowing eligible white form applicants to purchase HOS flats with premium not yet paid, and so on. She has deleted all these proposals, and we think this is not acceptable. So we will oppose the amendment by Dr Priscilla LEUNG. As for the amendments by Mr Ronny TONG and Mr LEUNG Kwok-hung, we will support them. Thank you, President.

DR RAYMOND HO (in Cantonese): President, from the housing policy mentioned in the Policy Address newly released this year, it seems that the Government appreciates more of the difficulties encountered by the public in home ownership than before.

I recall in the Question and Answer Session of the Chief Executive held in October last year, the Chief Executive cited some examples on property prices then prevailing. At that time the Chief Executive said to this effect: "In respect of residential flats for the general public and middle-class people throughout the territory, the current prices are still around 25% or 26% lower than the peak-period prices in October 1997. From our observations, even the price per square foot of Chi Fu Fa Yuen on Hong Kong Island is still 18% lower than the highest price years ago; the price is 32% lower in Heng Fa Chuen; 24% lower in South Horizons; 11% lower in Taikoo Shing, and 48% lower in some residential buildings in the New Territories. In other words, there is a certain gap between the current prices and the original prices back then." That was what he said at that time. In a radio programme, he made a suggestion to the young first-time home buyers, that they should consider flats of a smaller size or those in relatively remote areas. I do not know what the Chief Executive would think now of this view on housing at that time. Because the prices of flats in the housing estates cited by him are close to or have even surpassed the levels of 1997. Besides, property prices in remote areas are not affordable to the ordinary people either. There are reports lately about the price per foot in Su Kwun Wat, Tuen Mun, having broken the \$10,000 mark. This is of course an extreme example, but it shows the difficulties faced by home buyers.

In recent years, the Chinese economy has been developing rapidly and many rich mainlanders are very fond of investing in Hong Kong properties. Hence property prices in Hong Kong have been pushed higher. Although the Government has decided to remove real estate from the investment asset classes under the Capital Investment Entrant Scheme, the effect is limited. The US Federal Reserves have recently announced a new round of quantitative easing measures, that is, the QE2. This will mean a greater influx of hot money into Hong Kong and property prices will be pushed even higher. This spiral in property prices is not limited to the luxurious flats, and it has spread to properties in the medium and lower price ranges. Recently, top officials and the Chief Executive of the Hong Kong Monetary Authority, Mr Norman CHAN, have

issued warnings on asset bubbles and they tried to cool down the overheated market. But the effect is also not so satisfactory.

The problem of home ownership has spread to the middle-class people and professionals. As the rise in property prices in recent years has far surpassed the rise in salaries, many young professionals are facing the problem of home ownership too. Although the Chief Executive has proposed the My Home Purchase Plan in the Policy Address just released, the Plan can only provide about 5 000 flats and it is only in 2014 that the first 1 000 flats would be available. Undoubtedly, this Plan can offer another option of home purchase to the eligible persons, but it is very doubtful that the flats provided by the Plan can satisfy those in need. When the first batch of flats under the Plan is completed only three or four years later, this gives people an impression that it is case of water from afar failing to put out a fire nearby.

All along the housing needs of the low-income earners are met by PRH. The middle class and the professionals are the mainstay of our society, but the Government has never paid any attention to their housing needs. Acquiring a home is more than a personal wish, for it can also be a stabilizing force in society. So the Government must offer assistance to those in need and resume the HOS and sale of HOS flats of an appropriate number. This is a more desirable proposal. The Government should give serious thoughts to it. The HOS can help people from the lower and middle classes to acquire a home and past experience also tells us that the HOS can help speed up the turnover of PRH units.

Increasing the supply of land is a long-term solution to the problem. The Government should put up lots of various sizes at regular intervals for bidding and development by interested parties or developers. They should be encouraged to engage in residential development projects of various kinds to meet the diversified needs in society in a balanced manner.

President, acquiring a home will not just provide more stable living conditions to the people, but it will also increase their sense of belonging to Hong Kong. In this way, they will become more committed to making contribution to the future development of Hong Kong.

Thank you, President,

DR JOSEPH LEE (in Cantonese): President, the motion topic today is "Helping needy persons acquire their homes". I have listened to the speeches of various Members and they emphasized very much the fact that there are many people who need to buy their homes and that the Government should help them. I noticed Mr LEE Wing-tat talked very well at the beginning of his speech when he said that the Government had failed to do a lot things. And that refers not just to helping the people buy flats, but how speculation should be curbed. Mr LEE Wing-tat has raised a number of good suggestions. Honourable colleagues from the Democratic Party have already asked a long time ago about what the Government can do to curb speculation and hence stabilize property prices.

I think that the most important question now is that I believe the Government With respect to housing, I do not know whether there are many people in Hong Kong who do not have a place to live, but the fact is that there are many people in Hong Kong who want to buy a flat but cannot do so. And in terms of property prices, the Government has really done nothing. I fail to see in the Policy Address or in any of the existing policies that the Government can really make property prices stable, so that aspiring home buyers can buy a flat. Of course, we can see that any government which is responsible should do something to make property prices stable and it also has a responsibility to make sure that the people of Hong Kong can have a dwelling place. But does it mean that the Government has a need and a responsibility to enable everyone in Hong Kong to acquire a home? These are two different views.

My view on this is that the thrust of this motion debate today is that the Government should roll out some measures both in the short and long terms to stabilize property prices and curb speculation. The Government must not stand aloof and let property prices soar. When property prices rise, they may lead to numerous problems, and one of them is inflation. Many people, including those who live in PRH units, may have to bear a heavier burden when inflation sets in. This is not just a problem of property prices. The motion debate today points to another problem that the Government should address squarely.

As to the problem of home ownership, I am sure many people would say that this My Home Purchase (MHP) Plan is not too good. This is actually a plan devised by the Government itself. I have mentioned in the debate on the Policy Address that as to the pros and cons of this Plan Actually, if the people want

to buy a flat, they may as well try this Plan. But how will the Government attract them to this Plan? I have already said that the Government should not use this Plan to lure people into buying flats. This is because with the low interest environment, if other economic factors emerge and as a result, people find it impossible to repay their mortgage loans, then they will blame the Government for luring them into buying their first homes. Perhaps let me repeat a solution that I mentioned in the debate on the Policy Address, and that is, consideration can be given to making some arrangements in the MHP Plan such that, for example, when someone can buy a flat after four years, he can choose to buy a flat one year later, that is five years later. And he may choose a flat which is cheaper. So people can be attracted to joining the Plan in this way. It remains, of course, that this is a question that depends on public money and resources and the Government can consider taking forward the MHP Plan in this manner.

As for the HOS, actually, we have always said that this is a question about a revolving door. Just now some Members have mentioned that resuming the HOS can solve many problems in housing and home ownership. In fact, is it the case that the Government cannot provide any figures now to show that there are many well-off PRH tenants who want very much to buy HOS flats but cannot buy one (it is more so the case with private residential buildings)? When so many of these people are stuck in the PRH units, other people who need to wait for their turn to be allocated a PRH unit will find their waiting time long. If that is the case, there would be a need for the Government to examine if it should resume the HOS in some measure, so that this revolving door can work again. Or else I fail to see how this proposal on resuming the production of HOS flats will solve problems of property prices and home ownership. If the Government resumes the HOS and increases the quota for white forms substantially, thus rendering the green form applicants a minority, that would be tantamount to the Government encouraging home ownership. This would incur spending in public money. I have great reservations about that and the resumption of the HOS.

The case of selling PRH units is the same. If these units are sold, those people who buy these units will own them and they will not move out. If they do not move out, would the Government have to inject a huge amount of resources to build more public housing blocks so that those on the Waiting List can be allocated a flat?

Because of all of these reasons, I believe there is a problem with home ownership. Can the Government tell us its plan in its entirety so that we can know what kind of assistance in home ownership will be given? But I think that unless there is any change to the Government's policy position, so much so that it hopes that everyone in Hong Kong can have a place to live and own a home, there may not be any need for it to help people buy their homes. It is because these days all the people are saying that want to buy a flat, but when the economy turns bad as is the case in 2002 and 2003 when property prices plummeted and the jobless rate ran high, people may accuse the Government of luring them into buying a home, and hence their plight. That would be very bad indeed.

On the other hand, with respect to the housing problem, apart from home ownership and PRH, there is something about which the Government has not done anything. It is the leasing of flats. In retrospect, when the law on tenancy control was amended in 2003, the Government did one thing, namely amending the relevant law. At that time, there was the problem of rogue tenants whom the landlords found very difficult to drive away once a lease agreement was entered into with them. The law was amended because the Government said that the landlords should be protected. After this amendment, a landlord can resume the flat on any ground after the one-year period has expired. Now that property prices are soaring, a landlord may say, "When I let the flat, the rent was \$20,000 a month. But property prices are rising so much these days, I can now let it at \$40,000 a month. And I can resume the property on any ground. If I live in that flat, I can afford it and I may have personal reasons to live in that place." The impact would be great if landlords drive tenants away in this way, and the tenants would be made homeless.

With respect to the leasing of flats, I think the Government has not done anything to protect the tenants. These tenants may not want to buy a flat and they may just like to rent one. But the Government is making them unable to rent a flat. Moreover, their situation is made even worse for the Government has not done anything to curb real estate speculation. I hope that the Government can consider introducing some matching measures, instead of just proposing the MHP Plan and think that the problem is solved. It does not do anything about property prices nor produce more flats, and it does not deal with the problem of leasing flats. The result is that those people who may be living rather happily in rented flats may be driven away by their landlords because of some changes in

the macro economic environment. They will be made homeless. It is said that these homeless people may perhaps buy a flat and they are asking the Government to build this and that, and to subsidize them in one way or the other. But the fact is that there is no clear vision from the Government. I believe that, with respect to the problem of housing as a whole, the Government should review the tenancy control law to see if it has caused any grave impact. The aim is to protect both the tenants and the landlords and prevent these things from happening.

Generally, insofar as some of the amendments and the original motion are concerned, I have reservations about the part on the HOS. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, I recall in the 2009 policy address, the Chief Executive said that the real estate market would be closely monitored. He also said in a radio programme that if one read the newspaper, he would still find many flats offered for sale at a price of \$4,000 per square foot. Although the Policy Address this year has announced many measures aiming at curbing property prices, when I looked up the newspaper this week, I found that the price per square foot for the 30 indicator housing estates has gone beyond \$5,000 per square foot. Flats in the large housing estates fetching a price of under \$2 million have almost disappeared and such flats are only found in five housing estates out of 20 housing estates all over Hong Kong. Changes in the two policy addresses show that the Government has finally woken up to the fact that soaring property prices are a grave problem. But unfortunately, the Government still fails to instil confidence in the people so that they believe that the Government is determined and able to handle this problem of soaring property prices.

President, the Liberal Party has all along held that increasing the supply of land is the only method to address the problem of soaring property prices. Unfortunately, although the Policy Address has set a goal of providing land for the production of 20 000 residential units in each of the next 10 years, what is worrying is that not all these lots come from the Application List. Such lots include those for which the developers are required to pay regrant premium, land in exchange, and tender projects of the MTRCL and the Urban Renewal Authority, and so on. To tell the truth, the Government does not have enough

land reserves. So how can the people be confident that speculations can be curbed by an increased supply of land?

Therefore, the authorities should prove to the public that the Government has enough land reserves to stabilize the supply of land. To do this, apart from convening again the Residential Land Supply Steering Committee to identify land, the best way is to reformulate long-term housing and land supply policies to prove that the authorities are determined. So the Liberal Party agrees to the demand raised in the amendments proposed by many Members today, namely the authorities should devise a long-term housing policy.

Also, we hope that the Government can produce more flats for first-time home buyers so that they can have their own homes. So, in terms of the supply of new flats, more flats of a limited size should be built to arrest this growing trend of making new residential properties uniformly luxurious, thereby increasing the burden of aspiring home buyers.

As for the My Home Purchase (MHP) Plan launched by the Government, there are only 1 000 flats in the first phase of the Plan. The total number is only 5 000. With this limited scale, it is hard to make people feel at ease. Therefore, both the Hong Kong Housing Society and the Government should increase this number. Besides, the first batch of flats will be completed only four years later. Even if the authorities strive to accept applications for pre-letting these flats in 2012, the effect in meeting the huge demand is limited. Therefore, the Liberal Party thinks that the Government should think of ways to expedite housing construction to meet the people's demand for home ownership.

President, although the Liberal Party agrees that the Government should assist needy people to acquire homes, I have reservations about the idea of a full — I emphasize "full" — resumption of the HOS. What I worry most badly is that many officials in charge of financial and economic affairs and many scholars have issued a warning, that the real estate market now risks a burst bubble. After the second round of quantitative easing measures was rolled out in the United States last week, this bubble risk has increased. Since resuming the production of HOS flats would take at least a few years' time, if unfortunately, the asset bubble bursts and the real estate market takes a sharp turn for the worse or even plummets, those completed HOS flats would be left idle. Then are we not falling into the same pitfall of the Hunghom Peninsula and the "85 000" units fiasco?

In 2008 when the sale of HOS flats resumed, Hong Kong was hit by the financial tsunami and the sales of that phase of surplus HOS flats at that time were bad. Of the 3 300 flats, 1 300 or 40% were left unsold. These poor sales of HOS flats in 2008 show once again that when there is a downturn in the real estate market, it is very likely that HOS flats would be left unsold. However, taking into account the almost crazy trend in the rise in property prices, we would not object to the production of a small number of HOS flats to make up for the insufficient number of flats under the MHP Plan.

As for the proposal on relaunching the Sale of Flats to Sitting Tenants Scheme and allowing white form applicants to purchase HOS flats with premium not yet paid, the Liberal Party holds that this proposal would reduce the supply of PRH units, hence over time, affecting the progress of allocating flats to the wait-listed applicants. So there would be more cons than pros.

In the case of allowing PRH tenants to purchase second-hand HOS flats with premium not yet paid, I would say that the original intention is to induce those PRH tenants to surrender their units, hence leading to a turnover effect. If eligible white form applicants can purchase HOS flats with premium not yet paid as well, it will certainly increase the number of potential buyers in the secondary HOS market overnight by hundreds of thousands. At a time when the demand far exceeds supply, the price of HOS flats with premium not yet paid will be pushed higher, which would not be a good thing to buyers. The number of PRH units that would otherwise be surrendered by tenants will be reduced as well.

Lastly, I wish to state that the Liberal Party supports the idea that more PRH units be built to ease the difficulties in housing experienced by the lower classes and shorten their waiting time for flat allocation.

President, I so submit.

DR LAM TAI-FAI (in Cantonese): President, I wish to explore with you the line of thinking shown by the Governments of these past few terms in respect of housing policy, to see if an analysis can be made to identify the causes of

overwhelming discontent among the people in regard to housing. This is because if such causes cannot be identified, the problem cannot be solved.

Just before the reunification in 1997, property prices were rising terribly as they are now. Many people in the lower and middle classes found that they could not afford a flat. So after Mr TUNG had assumed office, he hoped to do something in housing. But no one expected that he raised some idea which was the worst of the worst and, that is, the housing construction target of 85 000 units. It came with claps of thunder and great publicity. It was hoped that by delving a strong hand into the property market and by setting up certain hard targets, the market could be intervened. And we can see what happened subsequently.

Honestly, every one of us still has vivid memories of the miserable times then. We recall that there were more than 100 000 cases of negative equity assets in 2003. Some people jumped from a building to end their lives because of this policy. In the end, the Government had to withdraw completely from the market and revoked that policy. A U-turn was made and everything is left to the market.

In 2005, Chief Executive Donald TSANG assumed office and, frankly, he was scared of falling into the same pitfall. And he would not dare to introduce any policy that would cause fluctuations in property prices. So he adopted a liberal and non-interventionist policy and left everything to the market. The result is what we can all see today. Property prices are rising all the time, like an unbridled horse running wild. Many unscrupulous developers are using some unscrupulous tactics to make exorbitant profits. The result is that the public cannot afford homes and some of them even have bought some "shrunk flats" or flats they do not like. It is evident that the Government is short of measures to address this problem, not knowing how to tackle it. What is the result then? All the things we see today, plus deafening howls of discontent from the people.

Mr Ronny TONG pointed out earlier that the simple fact that Hong Kong is a small place with a huge population leads to the problem of supply. The Secretary, Mr YAU, has also told us that hot money is flowing into Hong Kong in great amounts and, given the low-interest environment, asset value will rise and so will property prices. He also told us with the best of intentions that when

buying a flat, we should manage our finances prudently, make ends meet and keep it within our means. Or else when interest rate rises up, or when the bubble bursts, it will be disastrous if we cannot stand it.

We are thankful to the Secretary and the Government for their repeated warnings. But these warnings cannot solve the problem at all. It is like the case of you saying to someone, the road ahead is dark and you got to be careful because you may trip over. Or that there is a fierce dog in front of you and if you can run faster than it, you may go ahead. But if you cannot, then you had better not go because you may be bitten by it. You got to teach people how to walk their way, like giving them a light or turning on the lights. It would be useless if you just warn them or scare them. The people will not be able to buy a flat and property prices will continue to spiral all the same. As they have said, hot money will come easy and go easy. Despite Hong Kong's being a free and open economy, you got to think of some way so that the hot money would not come and go so easily. There has got to be some measures. It would not do if you just say, I do not know what to do when you know full well that there are problems. The result is the appearance of negative equity assets. Then the situation would be even worse.

In this regard, I hope the Government can think up some effective measures and refrain from scaring us because that is useless.

The motion topic today is simple, "Helping needy persons acquire their homes". Actually, we all know that housing has all along been the greatest concern to people in Hong Kong and many would feel distressed all through their lives because of this problem.

There are a few types of people who want to buy a flat. One is the investors who hope to accumulate more wealth. Another is those who really want a shelter. And there are some others who do this for the sake of their face and they want to show off their wealth. This is the case with many upstarts. What we should help are of course those who want a shelter, not those speculators on real estate. But how can we tell one from the other? It is not easy at all.

I wish to state that buying a home and living comfortably have no direct correlation. If you buy a home, you will become a mortgage slave and you must live frugally to service the mortgage. We can see the figures on that — more than 40% to 50% of one's income is used to repay the mortgage loan. This means you may not lead a cozy life. You may own a home, but you do not lead a cozy life. I think a message should be struck home to the people now and to educate them on this. Recently, I learnt from the TV about this mentality. A young man said that his girlfriend would not marry him because he did not own a flat. I think we should all do something about this mentality and educate people on that. We should give them a correct message, that they are not marrying a flat, or you should not think that you have got everything in the world if you have a flat. There are a lot more values which are more important than that. I think the Hong Kong Government should do some work on that.

Actually, the people of Hong Kong already lead an extremely frugal life. They turn from property owners to victims. We have seen lots of such examples. Also, in economic terms, it would not matter as long as you buy something at a high price and sell it also at a high price. So when property prices are high, it would still be fine if you can afford to buy a flat. But the problem is, property prices are expensive and those who want to buy a flat cannot buy one. Why can they not afford it? Because it is hard to find a job in Hong Kong and there are few chances of moving up the social ladder. If you do not have any income, how can you buy a home? The business of the small and medium enterprises (SMEs) is bad and they cannot make any money. If they cannot run their business here in Hong Kong and go to the Mainland, they will come across many problems with the tax regime there. So they will be prevented from going to the Mainland. A bad business environment is thus formed. When the SMEs cannot make money and when workers cannot find work, they will have no income. So they cannot afford a home. I think the Government should address the economic problems and help the SMEs overcome their difficulties in business operation. It should also address the problem of unemployment so that people can afford a home. In this way, they will not be afraid of failing to catch up with the rises in property prices.

In addition, I think I have to talk about this My Home Purchase Plan. Everyone is talking about it and I am no exception. On this stroke by Secretary Eva CHENG, I think Members have heard a lot about it, like saying that it is like

a drop in the ocean or water from afar cannot put out a fire in front of you, and so on. I hope the Government after hearing these views, can really accept the good ones and see if this stroke will work. Or if it can save everyone with this single stroke? I think the Government should make some revisions to it. It should devise various initiatives and roll out a diversity of measures before this problem can be solved. These would include resuming the HOS, revitalizing the factory buildings, auctioning the land of these factory buildings, revitalizing the secondary market for HOS flats and opening up more land. There has got to be a diversity of government policies before the problem can be solved. It will never solve the problem (*The buzzer sounded*) if only one stroke is made.

President, I so submit.

MR JEFFREY LAM (in Cantonese): Now, the prices of first-hand properties are approaching the peak in 1997. Compared with the time of the financial tsunami in 2008, property prices have even risen by about 45%. To the general public, home ownership has inevitably become wishful thinking.

Therefore, I agree that the Government should, on the premise of ensuring that the public rental housing (PRH) safety net will not be affected, adopt a multi-pronged approach to help the sandwich-class people purchase their first homes and increase housing land supply in an orderly manner to rationalize property prices, thereby enabling the stable and healthy development of the property market, and helping the public achieve their expectation of building a comfortable home.

Among the various initiatives, the Policy Address this year proposed the My Home Purchase (MHP) Plan. Some people called it the "most depressing" plan and criticized it for its inability to meet the demand of society for subsidized home ownership. I consider the MHP Plan, which is more flexible than the conventional Home Ownership Scheme (HOS), desirable. Yet, there is still room for improvement.

In the past few days, the Economic Synergy has put forth a number of proposals, including that the Hong Kong Mortgage Corporation Limited (HKMC)

should provide mortgage insurance at 90% of the property value for residential flats under the MHP Plan to lower the threshold for applicants.

Besides, we proposed that the Government should look into capping the prices of residential flats under the MHP Plan and set a maximum purchase price for them in the light of such factors as inflation rates and interest rates, to prevent the prices of residential flats under the Plan from incessantly surging under the influence of the property market as a whole.

If the prevailing market price of a flat under the MHP Plan is higher than its maximum purchase price when a tenant purchases the relevant flat, the Government will in effect subsidize the difference. However, it is more flexible than the conventional HOS, under which the Government will provide a subsidy at a specific proportion of the premium, because when property prices drop, the Government does not have to provide any subsidy at all.

Besides, we proposed that more SMEs or new developers should be encouraged to participate in developing flats under the MHP Plan. Besides, the surplus under the Plan may also be used to establish a fund to enable the sustainable development of the Plan.

President, we hope the authorities will consult various sectors of the community and give thorough consideration to these proposals to further improve the MHP Plan. I believe this will enable members of the public who intend to purchase their first homes under this Plan to have more peace of mind.

However, the first batch of flats under the MHP Plan will not be available until 2014, and actually there are still some flats suitable for first-time home buyers in the market. At the end of last month, the Economic Synergy co-organized with three real estate agents an exhibition on first-time home buying known as "上車置業動力展" to provide information on flats valued at below \$2.5 million in different districts across the territory. These flats are suitable for young people and first-time home buyers who have a certain level of financial means and hope to purchase their first homes as soon as possible. The Government may offer them further assistance.

President, under the existing mortgage insurance offered by the HKMC, eligible prospective buyers need only pay a minimum at 10% of the property

price as down payment to become home owners. The mortgage insurance premium ranges from as low as 1% to about 4.5%. For a \$2.5 million flat, the insurance premium may range from a few tens of thousand dollars to over \$100,000.

The HKMC is now offering a concession of up to 30% of the insurance premium to first-time home buyers, provided that the price of the residential flat is under \$2 million. However, as property prices are soaring incessantly, I think the Government should provide more assistance to first-time home buyers.

I propose that the Government should offer a 50% insurance premium subsidy to first-time home buyers for purchasing residential flats priced below \$2.5 million. However, the buyers must undergo a stress test and must not sell the relevant flat within a specified period of time, or else they have to repay the relevant subsidy.

President, it is certainly important for the Government to assist the public in home ownership, but it is more important to maintain the stability of the property market. With the recent implementation of the second round of quantitative easing monetary measures by the Federal Reserve of the United States, there will be a massive influx of overseas capital into various markets in Asia, with Hong Kong being the first to bear the brunt.

In his article published a few days ago, Financial Secretary John TSANG described Hong Kong as now being caught "between ice and fire". "Ice" refers to the uncertain outlook for Hong Kong exports under the influence of the weak American and European economies, while "fire" refers to the rise in property prices with the influx of capital into Hong Kong from all parts of the world.

This double-whammy effect of "ice" and "fire" is certainly no good news to members of the public aspiring to home ownership. What is more worrying is that the increasing risk of asset bubbles will have an impact on the stability of our economy and the financial system.

I hope the Government will continue to closely monitor developments in the property market and make swift responses if and when necessary to steer a

soft landing of the property market. Otherwise, once a bubble is formed or even bursts, people, whether or not they have their own flats, will suffer a severe blow.

Recently, the Government has repeatedly issued warnings to the market. I urge the Government to, apart from such verbal reminders, announce corresponding strategies as soon as possible to pre-empt speculations in the community, thereby stabilizing the property market and the confidence of the people.

Besides, I also urge those young people who are considering buying their first homes not to do so rashly, otherwise they may face difficulties in repaying the loans when changes in the property market occur and interest rates rise in the future. As home ownership is a major decision in one's life, home buyers should be alert to the risk of over-stretching themselves financially.

President, I so submit.

MR CHAN KIN-POR (in Cantonese): President, sorry, I have to put on the microphone first.

The sharp rise in property prices this year has become a subject of great concern. As the Financial Secretary said, there is already a cumulative increase of 47% in property prices since the end of 2008. The surge in property prices may be attributed to a number of factors, including imbalanced housing supply, sustained low interest rates, investments made by Mainland residents in Hong Kong and the quantitative easing monetary measures implemented by the United States. As some real estate developers said, there have never been so many positive factors occurring at the same time.

In face of the property price spiral, many members of the public certainly hope that the Government will come to their rescue. In this regard, the Chief Executive put forth in the latest Policy Address a number of major initiatives, including the My Home Purchase (MHP) Plan, the undertaking that 20 000 residential flats will be provided annually in the next 10 years and a host of measures to regulate the sale of residential flats.

However, after the announcement of these initiatives, the market considered the Government's initiatives not strong enough, resulting in a further rise in property prices. Recently, the United States have indicated that the second round of quantitative easing monetary measures will be implemented, and the market anticipates that massive capital will continue to flow into Hong Kong. It is believed that property prices will continue to rise.

I think that not only a warning has been sounded in the property market, it has also become the most pressing crisis for the SAR Government. If not resolved in time, this crisis will cause Hong Kong to plunge into an abyss of agony again. Analysts queried why the Chief Executive did not take more stringent measures. Because he is worried that when stringent measures are taken and the bubble bursts, these measures will become the immediate cause of the burst and the public will hold the Government accountable for it. Therefore, the authorities can only launch some long-term measures, hoping that the bubble will burst by itself.

I wish to point out that if we really believe that the bubble will burst by itself, we are indeed too naïve. If we allow the bubble to inflate until it bursts, it will become a superstorm. If property prices continue to rise, panic purchase of properties will result in the end. This may cause some people who do not have sufficient financial means or even those who cannot afford a flat to take the risk of buying their own flats. By that time, if the hot money is suddenly withdrawn and fluctuations arise in the economy, or when a plague breaks out, it is possible that property prices will plunge. Then, many people will become negative-equity property owners.

Members may still remember the plight of negative-equity property owners in 1997. Back then, it was not the worst-case scenario if they had to work round the clock and tighten their belts to service their mortgages, and it was not uncommon at all for negative-equity property owners to see their flats forfeited by the banks, go bankrupt or even take the course of no return. In retrospect, these things still instil fear in me. To put it more seriously, these are painful and bitter lessons. Have we forgotten them so quickly?

Therefore, we should endeavour to prevent the recurrence of similar tragedies. The Government must take decisive actions to prevent the inflation of

the bubble, thereby steering a soft landing of the property market. The Government must not adopt the attitude of worrying that it would become the culprit. Rather, it should do its part and take whatever actions required. Otherwise, the Government will also have to pay a high price in case any undesirable incidents happen as a result of its failure to take proper actions.

I think the Government may start with increasing housing supply, resuming the Home Ownership Scheme (HOS) and clamp down on speculative activities.

The Policy Address stated that an annual supply of 20 000 residential flats would suffice, but the relevant calculation method is very problematic, as it was based on the average annual take up rate of first-hand private residential flats of 18 500 units in the past 10 years. But we must not forget that the two financial crises and the outbreak of SARS in the past had caused a significant drop in the demand for residential flats, and therefore this figure should not be used as the basis for calculation. Before the reunification, there was an annual supply of over 27 000 residential flats on average, but it was still not enough to meet the need. That being the case, how would this level of supply be enough now? Therefore, the Government must take active measures to map out the amount of land supply for the coming five years and ensure that there will be an adequate supply of residential flats.

I think the MHP Plan is a move in the right direction, but since the first batch of flats will not be available until 2014, such a distant solution is unable to solve this imminent problem, and the supply volume is too small. Actually, the Plan can never replace the HOS, which can help improve the living conditions of those grassroots who are eligible for the HOS but are unable to afford private residential flats. In particular, the HOS is an avenue through which people who are now living in public rental housing can upgrade their accommodation.

Besides, the Government should also actively take stringent actions against speculative activities in the property market. I have been given to understand that the Government is actively considering launching a number of measures to curb property speculation, including increasing the stamp duty on property transactions, banning the resale of uncompleted residential properties by way of company shares transfer and further reducing the loan-to-value ratio for

mortgages of residential properties. I think these are very effective measures, and I hope the Government will launch them as soon as possible.

President, I so submit.

MR ALAN LEONG (in Cantonese): President, last year — not this year — last year in his delivery of the policy address, Chief Executive Donald TSANG said a large number of residential flats priced at \$4,000 per sq ft were still available in the market. Back then, he even said that the overheated luxury flat market would not have any impact on people's livelihood. However, one year since, President, the prices of properties, be they public housing flats, HOS flats or private residential flats, have risen to a new high. Actually, a general consensus has been reached in society on the resumption of the HOS and stabilizing the property market, and it seems that Chief Executive Donald TSANG is the only one who still fails to realize the impact of the further rise of property prices on the livelihood of the general public.

The My Home Purchase (MHP) Plan proposed by the Government is not only unable to stabilize the property market but has even become a catalyst for the upward spiral of property prices, resulting in a continuous increase in the numbers of property transactions and inspections by prospective buyers and the share prices of property companies. Property prices have certainly hit a new high, and speculation in the property market has reached a fever pitch.

In the middle of this year, the Government put up for sale all the surplus HOS flats, and by July this year, 39 000 applications were received, representing an over-subscription rate of more than 11 times, which is a record high in the past 11 years. This figure has fully reflected the enormous demand for HOS flats in society. Many eligible white form applicants have pinned their hope for home ownership on HOS flats. The flat selection arrangements for the surplus HOS flats began in August this year, and all the 3 200 HOS flats were sold in the end. The Housing Department originally expected that these flats would not be sold out until next month, but now they were sold out much earlier. It is certainly good to know that some members of the public could "catch the last train" of home ownership, but for the remaining tens of thousands of eligible white form applicants, with the heating up of the property market, the MHP Plan is unable to

solve their imminent problem. It may be said that they will still be unable to achieve their dream of home ownership for a long time ahead.

President, I certainly agree with the point made by some Honourable colleagues, that home ownership and the basic right to housing are two separate issues, but the rising property prices have indirectly affected some people, rendering them unable to even rent residential flats to exercise their basic housing right. Therefore, although these two issues are not directly related, there is actually an indirect relationship between them. Hence, when the Government is unable to address the problem of the heating up of the property market, people's basic right to housing will be threatened.

President, these unsuccessful buyers will very likely turn to the secondary market, in which no concessions are available, for suitable HOS flats. However, the frenzied speculative activities have spread from the market of private residential flats to the secondary HOS market, and the transaction prices of HOS flats have reached new peaks time and again. Those residential flats priced at \$4,000 per sq ft mentioned by the Chief Executive one year ago are virtually non-existent now. According to the information of the Land Registry, as at October, the registration of HOS flats in the secondary market this year totalled 9 387 cases, second only to 2007 when there were 9 638 cases for the whole year. The sector believes that as there are still two months to go before the end of this year, the registration of HOS flats for the whole year will definitely exceed 10 000 cases and reach a new high since 1997 when such record was first maintained.

President, the Civic Party thinks that measures to cool down the overheated property market proposed by the Government in the Policy Address are actually empty shells. At present, eligible white form applicants need the help of the Government most. The Civic Party hopes the Government will consider according these white form applicants treatment on a par with that of green form applicants, so that they may also purchase HOS flats with premium not yet paid in the secondary market. Compared with the MHP Plan, President, this policy of revitalizing the secondary market of HOS flats will hopefully achieve more significant results, thereby enabling tens of thousands of unsuccessful white form applicants with limited financial means to buy a suitable flat in the market.

President, just now I heard some Honourable colleagues question whether allowing white form applicants to purchase these HOS flats will lead to an increase in the prices of HOS flats even before the premium is paid. President, I believe such a concern is undue because there are actually stringent requirements on the eligibility of white form applicants. As the affordability of buyers must be within a certain range, the prices of these HOS flats will definitely not rise beyond their affordability. This is simply impossible. Therefore, allowing white form applicants to purchase HOS flats with premium not yet paid in the secondary market will not have any impact on the property market trend at all. Besides, it will also be a benevolent policy that can help the community resolve many problems. I hope the Secretary will give thorough consideration to this and heed sound advice. I believe this will be welcomed and embraced by many people who are living in HOS flats and eligible white form applicants in Hong Kong.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Today, we are debating the public's housing need again. This shows we are actually aware that apart from the wealth gap problem in Hong Kong, housing is another major conflict. Now, the Government has proposed introducing the My Home Purchase (MHP) Plan ("置安心"計劃). I am not sure which Chinese character with the pronunciation of "zi³" should be used. The Government would certainly say that it should be "置", as in "安置", meaning to house; but the Chinese character which should actually be used may be "至", thereby rendering the MHP Plan "至安心", meaning rest assured. However, who can rest assured? Real estate developers can rest assured. Why should it be real estate developers instead of the public who can rest assured? And that is a big problem because the design of the Plan is linked to the market. It can be argued that the Plan will not be able to offer any help to the public but will only take advantage of them, misleading them into thinking that the Government has made some effort in this respect, while it is in effect shoring up the market in the end. Hence, real estate developers can rest assured.

Under Secretary, I think all of you must really think about it seriously. Why are you so strongly opposed to the resumption of the HOS or so unwilling to resume it? You said the MHP Plan is an enhanced version of the HOS, but it is

again a deceptive argument. As all of us know, the biggest problem with the Plan is that the people concerned will receive a subsidy equivalent to half of the rental paid by them during the five-year period to help them make savings for part of the down payment. However, we may realize the problem just by doing a simple calculation. For an average family, they may be able to save up \$300,000 in five years, but is \$300,000 enough for the down payment of a flat? Assuming that the price of the flat is \$3 million, 30% is already some \$900,000. In other words, they still have to save an additional \$600,000. Is it possible? For families with a monthly income of some \$20,000, their income is barely sufficient to meet their expenses — these are precisely the families we want to help — they are unable to save enough money to make the down payment in any case. The only benefit offered by the Government now is that their rental will not be increased during the five-year period. Nevertheless, they are only provided with rental flats within the five-year period, and the Government is unable to help them buy their own flats in the end.

Insofar as housing is concerned, the worst thing is young people nowadays have become nomads because now that rent control has been lifted, landlords may increase the rental every year. I know many young people, both single and married, who have to move to flats with lower rental whenever their landlords impose a rent increase on them. After the lifting of rent control, the landlord may, upon the expiry of the one-year contract with rigid provisions, require the tenant to move out of the flat at any time, provided that a one-month notice is given. These days, rents will only go up. If the landlord imposes a rent increase every year, these young people have to move homes every year. Under this circumstance, if the option of HOS flats is not available, they will still be denied secure housing.

Therefore, Under Secretary, I do not understand why the Government insists on not building HOS flats. Come to think about this. Most importantly, HOS flats are not offered at prevailing market price. They are subsidized housing and the public may buy them at a certain percentage, say 70% or 60%, of their market price. As the owners are not allowed to sell the HOS flats after receiving this subsidy, there is no question of speculation at all. Actually, there is no cause for concern for real estate developers. Since there is a separate market for these flats, real estate developers will not be affected. However, as the Government has to bring them the greatest peace of mind, it refuses to build HOS flats. In providing this subsidy, it is most important for the Government to

make the public feel that they can afford the relevant flats, rather than leaving them uncertain as to whether they will have the means to buy the flat they are living in after the five-year period within which the rental will not be adjusted under the MHP Plan. It is different with HOS flats in that the public will be able to work out, at the time of application, whether they can afford to pay the down payment and buy a HOS flat.

President, I wish to declare my interest. My first flat was a HOS flat. I was glad that my income back then was low enough — I do not know whether it was a blessing or not — anyway it was low enough to make me eligible for the HOS. Originally, I rented a flat, but as the rental kept rising to a point that I was unable to afford it, and it so happened that I was eligible for the HOS and I was even allotted my first priority flat, I moved to Tai Po. I moved out after living in the flat in Tai Po for 10 years, and my children grew up there, too. Therefore, with that HOS flat, I could rest assured for 10 years, which was quite a long period of time.

However, putting myself in the young people's shoes, HOS flats are not available to them now. They may earn low incomes and may be ineligible for public rental housing (PRH), just as in my case back then, but they do not have the option of buying HOS flats. Subsequently, I sold the HOS flat, but I sold it to a green form applicant. Therefore, I did not make any profits, and neither did I have to pay the premium. If I paid the premium, I could sell it in the free market, but I did not do so. Sticking to the rules of the game, I sold it to a green form applicant with premium not yet paid. Frankly, I did not sell the flat at a high price, and all that I gained was living there during those years without paying any rental, which was a win-win situation.

Besides, there is yet another merit of the HOS, which is that when HOS flats are put up for sale, the financial position of the Housing Authority (HA) will improve at once. What was the situation in the past? The HA had to sell HOS flats on the one hand and build PRH on the other. For the HA, its sound financial position back then was attributed to the revenue received from the sale of HOS flats. Its fiscal balance was maintained by selling HOS flats and building PRH. This way, the housing need of the grassroots and the sandwich class could be addressed, and there was no need to resort to such an unbecoming initiative as the MHP Plan. Actually, the MHP Plan is unable to help the public, and property prices will be shored up in the end because prices of the relevant

flats must be pegged with the prevailing market price. Therefore, the MHP Plan is actually unable to help anybody.

I think the Government will not be able to solve the problem by introducing the MHP Plan. The public will not be benefited at all, and the conflict will still exist. People will still be "shell-less snails", lacking a secure home. It follows that conflicts in society will persist and confrontations between the Government and the people will prevail. The Government keeps advocating harmony. To achieve harmony, it must truly solve this problem. There will never be harmony as long as this problem is not solved. I hope the Government will resume the HOS.

Thank you, President.

MR JAMES TO (in Cantonese): President, just now I heard Mr CHAN Kin-por's remarks in the Chamber. I very much appreciate them and fully agree to them. President, the United States has implemented the second round of quantitative easing monetary measures. There are many analyses every day about an imminent influx of hot money and asset prices surging incessantly, and one of the asset bubbles may emerge in the property market.

Recently, I have been listening to different views and visiting various experts to find out what feasible measures can be taken. When we were attending a banquet at Government House a few days ago, I also implored the Chief Executive to pay close attention to the quantitative easing monetary measures because the bubbles formed as a result may lead to serious consequences. He jokingly asked in response, while everyone were saying close attention should be paid to them, do you have any good ideas? He said if we did, we should raise them rather than simply saying every day that close attention should be paid, that it should be treated as a matter of urgency. Certainly, we will express our views to him in detail and continue to gauge different views.

Recently, we note that the first option is to block the inflow of hot money early at the initial stage. I am aware that many countries may block the inflow of hot money, but probably because of the requirements under the Basic Law, or because Hong Kong is a free port without any foreign exchange control, it is rather difficult or even impossible for us to block the inflow of hot money at the

initial stage. At the next stage when the hot money from outside is about to be used for acquiring assets, especially properties, do we have any means to curb it? Problems arising from the use of the hot money for buying stocks or other assets may not come under the scope of our present debate, but if the hot money is used to buy such assets as properties, do we have any method to deal with it? As a matter of fact, we do. Other countries have put in place many measures, such as imposing restrictions on the purchase and sale of the second flat, high tax rates on short-term property speculation or even a vacant property tax, or eligibility criteria on buyers. If these stringent measures were to be adopted in Hong Kong, we might face many problems and we might have to complete the relevant legislative process within a very short timeframe. However, as many Honourable colleagues mentioned just now or during this policy debate, why do we not at least separate the market into which the hot money flow from the one in which the public may acquire a comfortable home, subject to eligibility criteria on buyers and income limits? Therefore, the HOS is obviously a means to achieve this end.

The Democratic Party proposed allowing white form applicants to purchase HOS flats with premium not yet paid in the secondary market. This way, there will be an additional supply of a few hundred thousand flats at once without building new HOS flats. I have put forth this proposal to the Secretary before. Recently, I was indeed shocked while browsing through the property prices on the Internet, and I had also asked a number of government officials whether they would believe it. Just now, I learnt about a real case of a property transaction from the website of a real estate agent. The relevant residential flat was a flat in the Western Garden on Second Street. It is a "no frills" flat aged 29 years built by the Hong Kong Housing Society (HKHS). Why do I take the Western Garden as an example? Because we recently discussed the issues of "inflated" flats and huge bay windows large enough for people to sleep on. I did not intend to pick on this housing estate for I just wanted to take a look at it, but I was indeed very shocked. The flat is 29 years of age and 602 sq ft in size. Guess how much its sale price was — it was even \$11,000 per sq ft. It must be a very special flat, but I have no idea how special it is. However, when I took a closer look at more transactions, the sale prices of the relevant flats were also as high as \$7,500. We are talking about a block of "no frills" flats aged 29 years built by the HKHS. If this trend continues, I will really be concerned. The Government proposed to launch the My Home Purchase Plan, yet I am gravely concerned. Therefore, I hope the Government will really think clearly about it.

The problem is not only whether people can afford to buy their own flats but also whether they can afford the rental.

Recently, many analyses have been conducted. Some economists and participants in the real estate sector have pointed out that rents may increase significantly. The situation is indeed appalling. Recently, a social worker told me that some young people have to live in mini-storages — I have yet to verify it. When I said in response that people would not be allowed to do so because according to the provisions of the relevant contracts, people are not allowed to stay in mini-storages overnight, he replied that as mini-storages were just the size of a few cardboard boxes, with a length and a width of about four cardboard boxes, if people could make do living inside, they only had to pay a few hundred dollars per month, and the space available would be even bigger if they could pay \$1,000. When I said there was no toilet in there, he said there were some in the industrial building. Then, I asked him how these people would take a bath. He said they could simply do so in places with bathing facilities, such as public lavatories, or they could take a bath in their friends' places and leave afterwards. They would return to the mini-storages very late at night and leave early the next morning. Even if they are videotaped by closed-circuit televisions, it would not be a problem as long as no one complain about it. Their situation is so appalling. Although I am not sure whether it is true, I have actually heard such stories. I hope the Secretary will understand that if some people really have to live in mini-storages, it is indeed very sad.

Finally, President, I wish to point out that I am worried that some people will, as many economists said, make panic purchases of properties using part of their funds, as mentioned by some Honourable colleagues just now. How can we absorb some funds of Hong Kong people? Actually, the Government may offer inflation-pegged bonds. After looking up the relevant information, I found that such bonds are offered in many places, such as the United States, Canada, Korea, Japan and Sweden. They can serve as an outlet for people's surplus funds, so that they will not be left with the only option of investing in stocks, gold or other asset instruments. At least, they can be contented about catching up with inflation. There are actually few disadvantages for the Government to offer such bonds. Some people say the Government may have to underwrite the shortfall because the bonds may not be able to catch up with inflation. However, when the Government can use a substantial amount of capital for

investment, I believe the performance of its investment will be much better than that of small-capital investments.

MR ALBERT CHAN (in Cantonese): President, it can be said that this housing policy is the most confusing, illogical, unplanned, unpredictable, unwelcomed and disastrous policy for Hong Kong ever proposed by the HKSAR Government since the reunification.

Looking back at the time under the rule of the British-Hong Kong Government before 1997, in particular, during the two to three decades before 1997, the housing policy, which was formulated based on the people's demand, was relatively stable. In 1972, the Government set up the Hong Kong Housing Authority (HA). At the time of MACLEHOSE, the development of public rental housing (PRH) was mapped out, and the level of PRH flat supply was set annually in the light of population growth. In 2000-2001, which was exactly a decade ago, the number of public housing flats, including Home Ownership Scheme (HOS) flats, totalled 55 492. In 2006-2007, with the slash of "SUEN's nine strokes", the relevant number totalled 7 192. President, the drop from some 55 000 flats to some 7 100 flats was drastic, yet there was no significant change in population. Following an avalanche of criticisms, the flat supply has been increased from some 7 000 to about 10 000 at a snail's pace in recent years, and subsequently increased to some 11 000. Now, the Government has undertaken to provide 15 000 flats annually, but it is only one fifth that of over 50 000 flats a decade ago, while four fifths of the supply have gone.

President, in view of the present development, I already reflected and expressed my concern to the Transport and Housing Bureau a few months ago. My concern was that the Government would definitely use various administrative and unscrupulous means to enable the fulfillment of the so-called pledge of waiting time of three years for PRH units. Shortly afterwards, the HA announced, just a few weeks ago, the setting up of a special team to look into assets declarations by PRH tenants. Obviously, the Government hopes that, with stringent vetting under this declaration system, PRH tenants with a little financial means will move out of their PRH flats, thereby making available a small number of flats for households on the PRH Waiting List. Over the past few decades, the relevant regulation was not specifically enforced. It is enforced just because the Government insists on maintaining this long-established pledge of waiting time of three years for PRH units although it knows very well that

PRH production will be reduced. What the Government can do is to reduce the number of applicants and increase the supply of PRH flats. However, instead of increasing PRH production to achieve this goal, the authorities use this lowly ploy to drive away PRH tenants.

Let us revisit the fundamental questions. President, what is the purpose of housing construction? What are the criteria for such construction? My comment at the beginning was the relevant policy of the SAR Government in these few years was the most confusing policy since the reunification. Very often, the level of PRH flat production is determined by the extent of the pressure exerted by real estate developers or political pressure and the attitude adopted by the relevant Secretaries rather than the population policy and changes in population and demand. As Secretary Carrie LAM and Secretary Eva CHENG have adopted a more conventional public servant's point of view in handling housing matters, their approaches are relatively reasonable. However, they are still under the threats of real estate developers, considering their interests before making the final decisions, which are finalized by Donald TSANG.

Donald TSANG has been adopting an ideological framework of active non-intervention, and over the years, he has gradually pushed the public to the so-called free market. However, under the prevalent market situation, can the general public, particularly the so-called post-80s generation, afford the property prices? Home ownership is already out of the question unless their parents can offer them financial assistance. Nowadays, it would be wishful thinking for two young working university graduates who wish to build a family to purchase a flat on their own capability alone. However, just take a look at the rental market. The rental of a residential flat of only some 400 sq ft in a housing estate aged 30 years in Tsuen Wan was about \$4,000 a couple of years ago, but it has suddenly surged to \$7,000 this year. The rental of flats with a better living environment may very often be over \$10,000. Just come to think about this. According to a survey conducted by a university, the average monthly income of a university graduate is about \$10,000. It follows that the monthly income of two young people who have just started their career will be \$20,000, and the rental of some \$7,000 already takes up 40% of their total income.

President, the issue of housing demand and supply has already caused public indignation to run high. Housing is one of the daily necessities, which

include clothing, food, housing and transportation. From the economic point of view, residential flats are market commodities, but just like water and electricity, they are also part of our basic needs. Certainly, insofar as electricity is concerned, the relevant consortia are also reaping huge profits. As for housing, these unscrupulous, devilish consortia and devils which build "inflated" flats have even made the Catholic Church apologize to real estate developers, so you can imagine how great their force is. Therefore, President, the influence of these devils has overshadowed the Government and controlled the church, making the public's life difficult. Will the Government strive to free itself of the control of this enormous force and stop the devils from causing the general public to live in such agony that they would rather die than live? Will there be any display of good conscience?

DR PAN PEY-CHYOU (in Cantonese): President, it can be said that the surge in property prices has been a major concern to all the people in Hong Kong over the past six months or so. One may hear many discussions on this issue every day wherever one goes through various media, on the computer, in the press, in the street and everywhere else.

President, I do not know whether you have watched a certain video clipping circulating on the Internet. In case you or the other government officials present have not, I strongly suggest that you watch it. This video clipping is known as "Even HITLER cannot afford to buy a flat". If you are going to watch it, I suggest that you watch the foul language version. Vulgar as it is, and though it is inappropriate to relay the language used in it here in the Chamber, this version can really capture the essence of the reality it depicts. My wife and I have watched it again and again because it can indeed reflect people's suppressed fury, particularly that of the young people. In the face of the rising property prices, young people are just like doing the tortoise-rabbit race. Therefore, I strongly suggest that government officials present watch it.

I grew up in Hong Kong. Born in the 1950s, I witnessed the development of Hong Kong in the 1960s. As far as I can recall, the population of Hong Kong began to expand in the 1950s when there was a massive influx of refugees. Back then, everyone was poor, and so there were cases of the so-called "a family of eight sharing one bed", with the whole family living in a very tiny cubical. At

that time, people did not have the money to purchase a flat. Subsequently, society became better-off, and real estate developers began to introduce the hire purchase system for the purchase of properties, and so demand for flats began to rise. In the 1970s, people wanted to purchase their own flat but they could not afford it as property prices were exorbitant. In 1978, the Government introduced the Home Ownership Scheme (HOS), and the situation was slightly improved. In the 1990s, in the face of the reunification, the then Government launched the rose garden project, and the local economy, with substantial capital, became very robust. Coupled with the speculative activities of overseas investors in Hong Kong, the demand for properties began to rise and the property market was heated up. However, as many people were still unable to afford their own flat, the Government introduced the Sandwich Class Housing Scheme in 1993, and the situation was eased.

I always ponder over this: Did the colonial Government during the time of British rule not always say I remember Philip HADDEN-CAVE kept saying that: "We adopt an active non-intervention policy." Despite this active non-intervention policy, these schemes, whether it be the Sandwich Class Housing Scheme, the HOS and the public rental housing (PRH) programme, obviously meant intervention in the market. Why was the Government so keen on implementing them? The reason is simple. Come to think about it carefully. The reason lies in the fact that the Government has been upholding a high land price policy over the past few decades. In other words, it tightens the supply and puts land to the market gradually, as if dripping water drop by drop onto very dry land, which is certainly not enough, and the water drop will be absorbed right away. This is actually serious intervention in the market. Comparatively speaking, building PRH flats, HOS flats and the Sandwich Class Housing Scheme flats could only fine-tune the housing market. This is the cause of the situation now.

During the debate on the Policy Address sometime ago, I mentioned that the high land price policy is actually a drug for the Government. The Government always advises people not to take drugs. Coming here via the cross harbour tunnel, one may pass many flyovers where banners with such slogans as "drug use is life abuse" are hung. Actually, the Hong Kong Government is abusing this drug all the time. How can we prove that it is a kind of drug? During the reunification in 1997, the former Chief Executive "Uncle TUNG" put forth the policy of "building 85 000 flats", proposing that more residential flats be

built so that everyone would be provided with a flat, which was actually an attempt at cessation. However, no one would have expected that withdrawal symptoms began to emerge just after the proposal had been put forward, and these symptoms were so strong that there was no alternative but to repeal the proposal. Therefore, we have no choice but to admit that Hong Kong is actually addicted to this high land price policy. The Government does not have the courage to impose a tax increase, and neither can it introduce other taxes, yet public expenditure is enormous. Actually, the high land price policy is a kind of consumption tax imposed on property buyers, tenants and occupants of residential flats and all the people of Hong Kong.

Besides, I wish to talk about the quantitative easing monetary measures. These are towering, mega waves which started off in the United States — earlier, we talked about a superstorm. The second round of the quantitative easing monetary measures are precisely mega waves. What is so terrible about them? When waves of money strike, should one make a purchase or not? If one does not have the means to make any purchase, one simply needs not think about it, but even if one really has the means to make a purchase, one will not know when the money will be withdrawn; and when that happens, there will be dire consequences. Under such circumstances, people who have the need to purchase their own flat are caught in a dilemma. The high land price policy of Hong Kong, together with the quantitative easing monetary measures, has indeed rendered the general public very helpless.

Therefore, I think the Government — actually Members have talked about this so often that they are sick of it — really has to think about it. The proven housing policy in the past, with such schemes as the HOS and the Sandwich Class Housing Scheme, was able to help the general public because the prices set by the Government were able to protect the public from being devoured by the mega waves of the quantitative easing monetary measures. I so submit.

MR PAUL CHAN (in Cantonese): President, over the past year or so, the soaring property prices have made it difficult for the public to purchase their first homes. Countless discussions on this topic were held in the Chamber, and it can be said that we had spoken so much on it that our gums bleed. Today, I only want to speak briefly on four points.

First, real estate in Hong Kong is definitely not simply a matter of housing, and there is, to a certain extent, an element of investment in it. According to the information of the Census and Statistics Department, 53% of all domestic households own the dwellings they occupy, so property price movements are definitely a matter of concern to each one of us. On the one hand, we have to prevent the excessive surge of property prices, and on the other, we have to prevent property prices from plunging, thereby avoiding the recurrence of the bitter experience shortly after the reunification in which massive negative-equity properties emerged as a result of the rapid plunge in property prices. Therefore, any measure to address the issues of property prices and flat supply should be implemented gradually with great caution. Regarding this, I think there is actually considerable consensus in society. Therefore, views expressed both within and without this Council are not that the Government should build a substantial number of HOS flats.

The second point I wish to make is that in a newspaper article published sometime ago, Secretary Eva CHENG said to this effect "the Government does not necessarily have to achieve 'each household owns the flat it occupies', but it has the duty to make sure that 'each person is provided with housing'". Actually, we are making the same point here, that is, we hope everyone can live in peace and work with contentment.

I think in solving the problem of home ownership on the premise of preventing property prices from plunging rapidly, the practice adopted by Singapore is actually not bad. In Singapore, the housing market is categorically separated from the real estate investment market.

I believe Hong Kong people do not mind living in flats similar to the Housing and Development Board (HDB) flats in Singapore at all. People who have visited Singapore may know that these flats are very spacious and the living environment is not bad. However, I also understand that due to historical reasons and differences in our starting points, tax systems and mandatory provident fund systems, it is very difficult for us to follow their example. Nevertheless, I think Hong Kong people do not mind living in the Hong Kong version, namely HOS flats, because these flats may provide them with a comfortable home on the one hand and an opportunity of upward movement on the other. I think building an optimum number of HOS flats or Sandwich Class Housing Scheme flats may not only help fulfil people's aspiration for home ownership, but also avoid creating any significant impact on property prices. It

is definitely a desirable approach that can give people far greater peace of mind than the My Home Purchase Plan.

It is true to a certain extent that the HOS helps the public purchase their first homes by providing them with subsidies out of the public purse, but I think it does not seek to subsidize the public in engaging in property speculation, and neither will it make them rich. According to the statistics provided by the authorities, among the 330 000 HOS flats, those with premium paid account for less than 20%. In other words, most people purchase HOS flats for self-occupation rather than speculation. I think helping the public acquire their own flats so that they will have a permanent asset will naturally give them peace of mind. Actually, it is conducive to the development of society in the long run. Given our sound financial position, I think this social investment should be made.

President, the third point I wish to make is about the sale of public rental housing (PRH) flats. I have some reservation about it because when some flats are on lease while others are owned by the occupants, considerable conflicts in management will arise. For example, when carrying out maintenance and repair works, some people have to pay for them while others do not. I think various practical considerations are required. However, based on the general spirit of the motion, this concern will not prevent me from supporting the motion.

Fourthly, the final point I wish to make is about curbing property speculation, especially when some foreign people may probably leave Hong Kong after making profits through property speculation without paying tax. Actually, I have repeatedly proposed that the Government should impose a responsibility on law firms which handle property transactions for people from outside the territory or offshore companies to withhold part of the profits made in the sale of properties, so that the people concerned in these transactions will file a tax return with the Inland Revenue Department (IRD) and make tax payments as required, and the amount withheld should only be returned to them after all tax matters are settled.

President, let us take a look at the statistics provided by the Government. In 2008-2009, after screening by the computer program, the IRD identified about 4 300 suspected cases of property speculation, and investigation was conducted into 3 600 cases in the past 18 months. Among these 3 600 cases, no anomalies

were found in 1 600 cases; while tax was chargeable in 2 000 cases; and 700 cases are pending investigation. Among the 2 000 cases, only 350 of them had a tax return filed by the taxpayers on their own initiative. In other words, a tax return was filed in only 10% of the 4 300 cases. For the rest of the cases, the IRD sent tax demand notes to the relevant people after investigation, and the amount involved was over \$400 million.

However, as this \$400 million was only the amount stated in the tax demand notes issued by the IRD, I asked the relevant authorities how much was actually recovered. The authorities said they could not give a reply as no statistics was available. Actually, were the authorities unable to give a reply, or were they afraid of doing so? Have some of these people fled after making profits? I think the Government should indeed consider the issue of speculation on Hong Kong properties by non-Hong Kong residents and non-Hong Kong companies, and examine ways to ensure that tax on the profits so made can be collected. I propose that part of the profits be withheld by the relevant law firms. Actually, this will not impose an additional tax burden on the people concerned. If no tax is chargeable, they can recover the full amount in the end; if tax is chargeable, they certainly have to make tax payments. This proposal only seeks to ensure that our coffers will be able to collect the due amount of tax.

I hope that after this meeting, the Under Secretary will relay this view to the Financial Secretary again, apart from relaying it to the Secretary. I hope Hong Kong will not become a place where people can plunder at will and leave without fulfilling their responsibilities.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, in the latest Policy Address, the Chief Executive adopted a self-deceptive approach by acting flagrantly against the mainstream thinking and firmly believing in the already changed principle of "big market, small government" and continued to tilt heavily towards the business sector. The SAR Government categorically refused to increase the production of public rental housing (PRH) and resume the Home Ownership Scheme (HOS). It also advanced a straw argument and distorted the relevant policy by proposing a scheme known as the My Home Purchase Plan. By

making home ownership as the ultimate goal of the housing policy and continuing to spread the myth that "one can only live in peace by acquiring one's own flat with one's personal effort", it uses both stick and carrot to make the general public purchase their first homes and then transfer the wealth to real estate developers. This has revealed the insular vision and shortsightedness of the governing team of the SAR Government. It has ignored the demand of the general public for resuming the HOS and increasing the production of PRH flats and rolled out its crap, stopgap measures one after another. To shirk its social responsibility of enabling the public to live in peace, the Government has distorted this as purely a personal matter. This is precisely the characteristic of the Government's housing policy in Hong Kong society where the most unhealthy capitalism is practised.

Members may know very well why the British implemented the public housing programme in Hong Kong back then, right? Nowadays, people always talk about the issue of how university graduates can afford to purchase their own flat. For those of us who were born in the 1950s, as Dr PAN said just now, even those who got five "bare passes" in the Hong Kong Certificate of Education Examination (HKCEE) could get a good job at that time, YAU Shing-mu. Those who got Grade A or B in English Language in the HKCEE could even become a police inspector, okay? Comparing the income of a university graduate then with that of a university graduate now, one may find that the income of a university graduate now is not proportionate to property prices at all, assuming that a university graduate nowadays earns some \$10,000 monthly. Frankly, we have to invest considerable resources to nurture a young man to become a university graduate. Some poor families have to cut their daily expenses and invest a considerable amount of money on the young people. However, they would not have expected that the first thing these young people have to do after graduation is to repay their loans, right? They have to repay their loans and credit card loans. Therefore, whenever I saw bank staff promoting credit card services while I was making appeals through the loudspeaker in Sai Yeung Choi Street, I would scold them loudly. When some young people asked what gifts would be offered, the bank staff would say that they would get the credit card without proof of income, and the credit limit would be a few tens of thousand dollars. After these young people have received their credit cards, they would use up the credit limit in one go and keep making the minimum monthly repayment to repay the loan with interest rates as high as those charged by loan sharks. Those who are unable to make their repayments would

be visited by debt collectors in person. Their prospect is bleak, is it not? How could they ever think of acquiring their own flat? We used to say that "while the father supports his son, his son will support his own son", and one should not harbour any wishful thinking that the son will support his parents. The situation is different now. Apart from supporting his son, the father also has to support his grandson. How could he possibly purchase his own flat? Do you realize that these people are also disadvantaged? The disadvantaged may not necessarily be people with disabilities or elderly people who have no one to take care of them. University graduates are also disadvantaged. What kind of society is this?

Should the Government maintain its current public housing policy? It keeps claiming that the waiting time is only three years, while showing people some fake figures to prove it. However, this is certainly not the case in reality. Once I visited some cubical apartments in Sham Shui Po with Mrs Regina IP. We climbed the stairs all the way to the seventh floor — she is physically quite fit and we are used to taking the stairs. We had to climb seven to eight flights of stairs to visit the cubical apartments, and I do not know what would happen if a fire breaks out. I would not say that the former Secretary, Mrs Regina IP, is naïve, and she is really nice to people. Many of the tenants there came from the Mainland, where the living environment is now very good. She asked those tenants why they would come to Hong Kong to live in those cubical apartments — some bedspaces there were on three-level bunkers, and the rental for a bedspace was \$1,100 — and they said because they could earn more money in Hong Kong. They came from the villages to Hong Kong to earn more money. They live in such a poor environment in order to send their savings to their family members in their hometowns to improve their lot. They are those people, buddy, right?

However, many people who were born in Hong Kong or have obtained a Hong Kong Identity Card have to study and take their meals in a bedspace. They have to do their homework and everything else in the same bedspace. There are 100 000 people leading such a life, living in such conditions, buddy. Under the points system of the relevant authorities, some singletons have yet to be allocated a PRH flat after waiting for years, and there are also the elderly people and single mothers, right? All of them belong to the socially disadvantaged groups. Apart from these disadvantaged groups, the university

graduates I mentioned just now are also disadvantaged. Therefore, the demand is very clear. Not much can be said in seven minutes, but the demand for increasing the production of PRH flats and resuming the HOS is very clear. The League of Social Democrats is even more leftist in ideology. For me, I would definitely oppose the sale of PRH flats. We certainly hope that the authorities will use all the resources available to build PRH flats, right? The question is: Now, which group of people should the Government help first? Should the Government's housing policy aim at helping the public or providing a free market to them? It should certainly aim at helping the public, buddy! This is welfare, and the housing policy has always been part of welfare.

Therefore, it was funny to see Mr Frederick FUNG making every effort so painstakingly here today to say that the Government lacks a long-term housing strategy. I will not refute Frederick for the issues he raised. He has been following up these issues for several decades, and that is why he was so furious. He is very nice, and his relationship with the Government is not bad. Yet, whenever it comes to the housing policy, he will become overacted, right? Because he has been following up this issue for over two decades, and no one knows it better than he does. Mr Frederick FUNG knows most clearly whether the Government is backtracking now, Frederick, right? It surely is backtracking. Under the present economic environment, and given our fiscal surplus, such a housing policy is backtracking and antagonizing the public. The doctor advised me not to speak so loudly, or I may become overacted with "fires in my eye". There is such a phrase as "fury in the eye". President, have you ever experienced "fury in the eye"? You have eye problems, too, right? But now that I am talking about it, I am furious and I really got "fury in the eye". It is backtracking and antagonizing the public. Subsequently, the Government also played a game of figures with me, and it went so far that it reached the point of absurdity. The overall land supply is obviously controlled by the Government, right? Now, the Government and real estate developers are consorting with each other and doing evils in collusion. Then, they will reap huge profits and seek their own gains at the expense of the public, right? The Government seeks its own gains at the expense of the public. After collecting the tax money, it intended to allocate the money to the public, yet it failed to do so properly under this land policy, real estate developers and the Government will reap the most benefits. Do not ever hope that real estate developers will give you more money, right? Yet, after receiving the money, the Government did a very poor

job in distributing it, which has resulted in seething public discontent. Thank you, President.

MR FRED LI (in Cantonese): President, I can only see it this way: whether it be surveys conducted by political parties or views expressed by Members here in the Chamber, regarding the HOS which has been in place for 30 years and under which some 300 000 HOS flats were built in Hong Kong, all these views point to the same direction. Our request is actually very humble, and we are talking about building such a small number of HOS flats as 2 000 to 3 000 to start with. One should bear in mind that at its peak, more than 10 000 HOS flats were built within a year.

The mainstream view, whether it be reflected in surveys or whatsoever, is that the HOS should be resumed, but the Government's response in this regard was minimal. Its justification against the resumption of the HOS was very weak, and it has been using the My Home Purchase (MHP) Plan as a shield to fend off pressure from different sectors. Regarding the MHP Plan, I would like to discuss it with the Secretary. While the income limit under the HOS is \$27,000, the income limit under the MHP Plan proposed by the Government is \$39,000.

Let us take a look at the latest statistics provided by the Government. In the second quarter of 2010, there were 114 800 households with a monthly income below the maximum limit of \$27,000 and above the maximum income limit for public rental housing (PRH) applicants. These people are eligible white form applicants who can meet the requirement on the maximum income limit of \$27,000 for HOS applicants. The number of households with a monthly income of less than \$39,000 stands at 173 100. In other words, there are certainly more households with a monthly income of less than \$39,000, and the number is 173 100. Deducting 114 800 from 173 100, we will get the number of households with a monthly income between \$27,000 and \$39,000. These households are eligible tenants or buyers under the MHP Plan, and their monthly income is over \$27,000 but below \$39,000. The number of such households ranges from 30 000 to 40 000. If only 1 000 flats are provided, I really have no idea how they can help.

How about those people who can meet the income limit requirement for HOS applicants? They cannot possibly do anything. Households with an

income of \$10,000 to \$20,000 and \$27,000 simply do not have the capability to participate in the MHP Plan unless they have savings of a few tens of thousand dollars and do not intend to spend any money on renovation, even though the flat is for self-occupation. The MHP Plan is actually only able to meet the need of households with an income between \$27,000 and \$39,000, which amounts to a few tens of thousand.

The Government keeps talking about the sandwich class. I believe some sandwich-class people are high-income earners while others are low-income earners, and the HOS can precisely meet the need of those sandwich-class people with a low income. Mr Abraham SHEK, representative of the real estate and construction sectors, once asked why we could not adopt a two-pronged approach, that is, implementing the MHP Plan and providing HOS flats at the same time. While HOS flats can meet the need of sandwich class people with low income, the Plan can meet the need of those with a high income.

The question is why the Government has to adopt a unitary approach. This has inevitably caused some doubts in me. All statistics and views expressed by Members and political parties and those collected in public opinion polls show that the mainstream view is that the HOS should be resumed. We are now talking about public opinions. If the Government took on board public opinions, why did Donald TSANG express strong opposition and insist on not intervening in the market?

After considering it from different perspectives, I think there is only one reason. He must have made some undertakings to the real estate developers. However, it seems that there are also diverse views among real estate developers. While a small number of real estate developers are supportive of resuming the HOS, more of them are against it, and so are large real estate developers.

I only wish to put this question to the Government: Is it acting in the interest of the public's housing need? The Government has been talking about launching sites onto the market for more than half a year or even one year. It said some sites would be launched, and in particular, the site in Yuen Long would be used for building small residential flats with an area of around 500 sq ft, with no clubhouse or other facilities. The Government said the site would only be open for bidding by private real estate developers for building small residential flats to meet the demand of the market. It has been talking about this for a long

time, but only sites for developing luxury flats have been offered to the market so far, and there have been frequent reports in the market about record-breaking sale prices and the so-called prime sites in Kowloon. Now, all sites placed in the market are used for building luxury residential flats. The Government said that sites for building small residential flats with an area of 500 sq ft would be launched onto the market, but where are they, Secretary?

The site in Yuen Long has been discussed for a long time, and it has been one year now, yet nothing has been done about it. When the Government just pays lip service without taking actions, there is nothing the public can do but wait. The television advertisement of the Midland Realty or the Centaline (Holdings) Company is showing every day that the index is "slightly up" or "stable". People who have a television set can see that the index is "slightly up" or "stable" every day, and "the average price per sq ft is some \$4,700" — this is only the "average" price. It goes on like this every day.

The public thinks the Government can help, but why does it not do so? Are HOS flats so lame? Are they so horrible and devilish? It is indeed weird because the Government seldom acts against public opinions, except in the democratization of the constitutional system, because the "Grandpa" factor is at work. However, as housing is a local issue, I do not believe "Grandpa" will exert any pressure on the authorities to stop them from building HOS flats. So, the problem must lie with the Government itself. Are there secret agreements between the Government and real estate developers? Under Secretary, you may not know them either because you have not reached those ranks yet.

Therefore, I can only say that this is the public opinion, and many Members have already conveyed it just now. However, I still cannot help but repeat the opinions collected in a survey conducted by us, so that they will be recorded in the minutes of the meeting again; and I support the motion moved by Mr LEE Wing-tat.

MS CYD HO (in Cantonese): President, when the SAR Government was first established, Mr TUNG was the Chief Executive. At that time, his think-tank told him that in order to achieve social stability, there must be a solid middle

class. According to the definition provided by Prof LAU Siu-kai back then, the middle-class people are those who own a residential flat and have the time to play mahjong. Therefore, Mr TUNG assisted the public in home ownership.

I admire his courage in cooling down property prices against the interest of the real estate sector. However, in assisting the public in acquiring their homes, the newly-established SAR Government was also trying to achieve some other purposes in addition to increasing the number of middle-class people in society. This was rather obvious because once people had acquired their homes, the mortgage tenure was very often 25 years. During those 25 years, they would definitely keep quiet about their discontent and take up a job with a stable income, reluctant to participate in any social movements, as they would not want to risk being arrested. This was indeed what happened. When more and more people were hamstrung by mortgage agreements, less and less people participated in demonstrations.

I remember that when the proposal of the \$16.8 billion home ownership loan to assist the public in home ownership was introduced, only two Members in this Council expressed opposition to it, and they were Dr Margaret NG and I — yes, it was the two of us again. Our rationale was that if people were obviously unable to afford to buy their own flat, and the Government insisted on offering them a loan of \$600,000, property prices would rise by \$600,000, right? Subsequently, as a result of the financial crisis, unfortunately many people became unemployed and property prices plunged, and thus these property owners were victimized.

We can notice that maintaining the high land price policy and the hegemony of the property sector will actually foster systemic disparity between the rich and the poor. Helping those people, especially young families, who are yet capable or ready to purchase their own homes using such unnatural means as home ownership loans or other similar methods will only fuel property speculation, which will indirectly lead to a further rise in property prices, thereby causing other people to face greater difficulties in housing.

President, the information paper I am now holding was published in October for the reference of the Legislative Council. It was about the site in Tsing Luk Street and Tin Shui Wai Area 115 under the My Home Purchase (MHP) Plan. Concerning the economic impact, it was stated that, and I quote:

As the Tsing Luk Street project will only provide 1 000 flats, it is expected that the project will not have significant impact on the private residential market. It is true that 1 000 flats will not create a significant impact, but if there will be no significant impact, it means property prices will not drop. In that case, except for those people who will live in these 1 000 flats, other people will still face great difficulties in housing. If the project will not create any impact, why does the Government implement it? Why does it not use these resources on other initiatives that can bring about a ripple effect? If providing 3 000 or 5 000 flats will cause a decrease in rental in the private market in an orderly manner and alleviate the burden of housing costs on the grassroots, why does the Government not do so?

President, the supply of public rental housing (PRH) will bring about a ripple effect. We keep saying that mobility should be enhanced. Actually, mobility is required in both the PRH and the HOS, but the Government only mentioned mobility in the private market. What we want to say is that PRH flats and HOS flats should be reserved for the grassroots who need housing subsidies. Now, the Government keeps saying that the sale of HOS flats with premium paid will not fuel property speculation because people will not be able to make any profit from it. However, it will not help address the difficulties of those grassroots who need housing subsidies.

Therefore, among the various amendments, I agree to Mr LEUNG Kwok-hung's amendment most. He proposed that 35 000 PRH units be constructed each year. According to the census data, the marriageable population will increase in each of the next 20 years. In other words, in the coming 20 years, there will be an annual demand of 49 000 flats from the 15 to 35 age group. However, the Government has only undertaken to provide 20 000 private residential flats and 15 000 PRH flats each year. So, there will be a shortfall of 14 000 flats. Besides, the Government will not provide land for building those 15 000 PRH flats. Rather, it will adopt a hardline approach against "well-off tenants" and require them to move to smaller flats so as to vacate some flats. Therefore, based on this calculation method, actually there will not be a supply of 35 000 flats each year.

The Chief Executive said he had identified the sites under the MHP Plan with his sole effort, and this paper also set out the source of the site in Tsing Luk Street. It was a HOS site granted to the Hong Kong Housing Society (HKHS) in

2001 for "Flat-for-Sale Scheme (FFSS)" purpose, and half the market premium was already paid back then. However, as the sale of HOS flats was ceased, the HKHS applied for land exchange and returned the site in Tsing Luk Street to the Government in exchange for Tin Shui Wai Area 115 for the development of the Integrated Elderly Community Project (IECP). This shows that the direction of ceasing the sale of HOS flats is wrong, and despite all the effort, now we are back to square one.

President, it is indeed hard to find land in Hong Kong, but we have some sites which are no longer used for military purposes, or there are military sites which have been relinquished for non-defense use. For example, there is a vast site in Shek Kong, and there is another one in Renfrew Road. I hope the authorities will really display their courage by requesting the Central Military Commission to vacate these military sites which are no longer used for defense purposes because the Hong Kong SAR needs them for housing purposes. Thank you, President.

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

(No member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may now speak on the six amendments. The speaking time limit is five minutes.

MR LEE WING-TAT (in Cantonese): President, first of all, I wish to thank the Honourable colleagues for proposing the amendments, which have enabled us to engage in an enthusiastic discussion on this issue of public concern, and I am also very grateful to many Honourable colleagues for their remarks. I support all the amendments, with the exception of the one by Dr Priscilla LEUNG. Dr Priscilla LEUNG did not speak on her amendment in great detail. First, she proposed deleting the proposal pertaining to the Home Ownership Scheme (HOS), and then she went on to propose building HOS flats required by the market. However, Dr LEUNG did not give a thorough explanation on what she meant by HOS flats required by the market. I am really puzzled because I do not know whether the prices of these flats will be as high as those under the My Home Purchase (MHP)

Plan. Besides, she also proposed deleting the part of my original motion relating to the Sale of Flats to Sitting Tenants Scheme, and thus I do not support her amendment. As for the other amendments, we are basically very supportive of them.

President, I think the amendments proposed by Honourable colleagues today have struck home a very clear message: the Government should make every effort to increase the supply of land and residential flats and introduce measures to curb short-term property speculation. I think the Government has given people an impression that it is slow in actions. Some people said to me, "No, the Government is quick in formulating administrative measures." However, the Government should not keep paying lip service time and again without taking actions. I have done some counting. Over these years, the Chief Executive, the Financial Secretary and the two Secretaries have talked about the emergence of property bubbles, their risks and their bursting for 11 to 12 times, but no concrete action has been taken. This has caused a bad headache to the public, and people would think that the Government just made these remarks casually without doing anything about it. Therefore, the Under Secretary is here today although he cannot give any comment on behalf of the Financial Secretary regarding these so-called measures to curb short-term property speculation, I hope he can relay to him our view, that the Government had better not make any remark if it is not determined to do something. What does it mean? It means the Government may well shut up and refrain from making brief remarks in public without taking any action. This will make people think that it is only making "verbal coercion", and when everyone is making "verbal coercion", people will think that government officials are dishonest. Therefore, I would rather the Government not make any remark about this, or it may well be straightforward and say, "Now, we do not intend to take any action, and we will only wait for the bubble to inflate beyond our control. Then, it will burst and cause fatalities. I warned you all before and advised you to refrain from purchasing any property, but you still chose to do so". However, I think the problem cannot be resolved this way. Therefore, I sincerely hope that the Government will not break its promises made to the public, or its prestige will go bankrupt. Thank you, President.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I am very grateful to Members for speaking on the motion and the amendments just now. Actually, the Government and all Members share the common objective of helping the people live in peace and work with contentment. In my opening remarks, I have given an account on the direction and spirit of the Government's housing policy. I agree with some Members that the existing problems in the property market cannot be resolved by just some brief measures. In the Policy Address, the Chief Executive has actually proposed a host of measures, comprising long-, medium- and short-term ones. I will now further expound on them and respond to Members' views.

I will begin by speaking on expeditiously increasing the supply of public housing. I agree to some Members' viewpoint that public housing is one of the most important cornerstones of social stability in Hong Kong. The Government's existing policy on subsidized housing is to help the low-income households which cannot afford private rental accommodation by providing public rental housing (PRH). The Government and the Hong Kong Housing Authority (HA) will provide PRH to low-income families in need, with the objective of maintaining an average waiting time of about three years. This is the basic achievement the Government must make. We must make great efforts and work in close co-ordination with the relevant bureaux and government departments to continue to identify suitable sites in different districts for PRH development. To make the best use of land resources, we will give consideration to sites of different sizes so as to provide sufficient PRH flats to meet the demand.

Regarding the request for review of the income and asset limits for PRH applications, some Members proposed raising the income limits for PRH applicants. Under the principle of fairness and effective use of limited public housing resources to help those with genuine housing needs, the HA determines the eligibility of PRH applicants by setting up the Waiting List income and asset limits. Under the existing mechanism, the Waiting List income and asset limits are calculated on the basis of the total household expenditure, which includes housing expenditure and various non-housing expenditure items. These limits are adjusted annually with reference to the latest housing expenditure figures and changes in Consumer Price Index (A). Applicants with incomes below the relevant limit are deemed unable to afford rental private accommodation, and hence are eligible for PRH.

Each year, the HA reviews the Waiting List income and asset limits according to the established mechanism to tie in with the latest socio-economic changes. In line with previous practice, we will report the findings to the Legislative Council Panel on Housing and submit comments made by Members of the Council to the Subsidized Housing Committee of the HA for its consideration. The next review will be conducted in March next year.

As for the waiting time, according to the latest programme of the HA's five-year Public Housing Construction Programme which will be rolled forward year on year, the anticipated new PRH production during the five-year period starting from 2010-2011 is about 75 000 flats. Together with the PRH flats estimated to be recovered from the existing stock every year, the HA reckons that the objective of maintaining the average waiting time for the general PRH applicants at around three years can be met.

Regarding private housing, since the announcement of the Policy Address by the Chief Executive last month, some Members said the My Home Purchase (MHP) Plan proposed by the Government would be unable to curb property prices and demanded the resumption of the Home Ownership Scheme (HOS). In the debate just now, a number of Members, including Mr LEE Wing-tat and Mr Frederick FUNG, expressed their views on the resumption of the HOS. I wish to stress again that the MHP Plan is a channel for subsidizing members of the public to acquire their own homes rather than a measure for curbing property prices. To tackle the problem of rising property prices, we have to, on the one hand, tackle the problem at root and administer the right cure through the supply of land, thereby enabling the steady growth of property prices in the long run; and on the other hand, we have to deal with the existing property asset bubble. I will first speak on increasing the supply of land and housing.

To ensure sufficient land supply, the Government will use the Application List system as the main axis and supplement it by a government-initiated land sale arrangement. Since the Financial Secretary announced that the Government would place specific sites on the Application List for sale by auction or tender to increase land supply, a total of 10 sites were sold, of which three were put up for auction by the Government and seven were triggered by developers from the Application List. Altogether, these sites have provided 5 000 flats.

We will continue to think out of the box to review existing land uses or explore new land resources. For example, we have completed a study on industrial sites across the territory and proposed to rezone about 30 hectares of land for residential use. We have also lowered the threshold for compulsory sale of land for redevelopment to facilitate the redevelopment of more old buildings. As for land supply in the medium to longer term, the development of the Kai Tak Development Area and other new development areas in the northern New Territories will provide land to meet housing needs.

Planning studies will also commence shortly in respect of quarry sites at Anderson Road, Lam Tei and Lamma Island to see if they can provide land for residential development in a timely manner. We will also work towards commencing as soon as possible the feasibility study on the proposed further development of Tung Chung, upon finalization of the detailed planning of the related infrastructure projects of the Hong Kong-Zhuhai-Macao Bridge.

Besides, regarding the issue of a property bubble, the Government has introduced earlier some measures to reduce the risk of a property bubble, which include prohibiting confirmor, sale of uncompleted residential flats approved for pre-sale under the Consent Scheme and increasing the cost incurred in cancelling transactions involving uncompleted residential flats, namely raising the forfeiture from the existing 5% to 10% of the transaction value. These measures have sent a clear message to the market, that the Government is determined to curb property speculation and maintain the stable development of the market. I can tell Members and the public that the Government is closely monitoring changes in the property market. If property speculation continues and the risk of a property bubble escalates, the Government will not turn a blind eye to it and will definitely introduce further corresponding measures to address the problem.

Regarding the resumption of the HOS, we understand that the HOS has all along been a subsidized housing scheme relatively familiar to the public and Members. Some people who support the resumption of the HOS think that HOS flats may provide an alternative source of affordable housing and cool down the overheated property market. However, we learn from history that there is no causal relationship between the HOS and property prices. I have already provided the relevant statistics in my remarks earlier. The Policy Address has re-activated our determination to subsidize home ownership. We have adjusted the method of subsidization, and we think this may better address the existing

needs of the sandwich class and give them more flexibility in home ownership. I wish to reiterate that any form of subsidized home ownership scheme will only serve as a buffer and should not be regarded as a means to curb property prices.

As for the MHP Plan, Members have raised a series of questions. After all, the Plan is a new scheme, and so it is normal that there are queries about it. Just now some Members said the number of residential flats provided under the Plan would only amount to a drop in the bucket and hoped that we would expeditiously increase the supply to satisfy the people's need for home ownership. It was also proposed that the MTR Corporation Limited (MTRCL) and the Urban Renewal Authority (URA) should allocate some of their flats for sale to participants of the Plan and white form HOS applicants.

Actually, the implementation of any subsidized housing scheme through the provision of completed flats may require at least three to four years for construction. The time required for building HOS flats will not be shorter than that required for building flats under the MHP Plan. As I said earlier, if the public response turns out to be satisfactory, the Government will beef up efforts to take the Plan forward. Most importantly, we have to identify suitable sites.

Under the Plan, a quota will be allotted specifically to PRH tenants and green form applicants. They may participate in the Plan as long as they give up their PRH flats, just as in the case of the HOS. Besides, the Plan may also serve as a revolving door.

Some Members said that under the Plan, tenants will still be unable to afford to purchase the flats and thus will not have any peace of mind because property prices may have increased when the five-year tenancy expires and the sale prices of the flats will be set at prevailing market prices. We believe that to ensure the healthy and stable development of the property market, we have to tackle the fundamental problem of supply. When there is sufficient supply, there will be stable and healthy property prices in the future. Therefore, the Financial Secretary will handle housing land supply matters personally, hoping that on average land will be made available annually for some 20 000 private residential flats in the next 10 years. I wish to say that 20 000 is actually an average figure, and the specific situation may vary from year to year in the light of circumstances then prevalent. Apart from sites on the Application List, land resources also include land of the MTRCL or the URA, land made available

through lease modification and land exchange and land for private-sector redevelopment.

I have said that the MHP Plan seeks to help the sandwich class by giving them an opportunity to acquire their first homes, rather than curbing property prices. The major characteristic of this scheme is that there is a buffer period of as long as seven years, comprising a tenancy period of five years and a consideration period of two years, during which tenants will be able to acquire a clear picture of the cyclical changes in the property market and build up their savings to purchase flats suitable for them without rushing into acquiring their first homes when prices are rising.

Some Members said that people who make mortgage payments this way may have to tighten their belts or become mortgage slaves. Actually, subsidizing home ownership is a most controversial issue. Responses collected during the public consultation show that a considerable proportion of the public are against it. They strongly believe that in acquiring their own homes, people should ensure that they have sufficient financial means and should be self-reliant. Therefore, the idea behind the MHP Plan is "receiving assistance and achieving self-reliance". Participants also have to make an effort in building up their savings because the Government will only play an assisting role.

Just now, Prof Patrick LAU cited the example of a singleton with a monthly income of \$23,000. According to our calculation, the relevant singleton can actually afford the flats under this scheme. Certainly, Hong Kong people may have to live frugally when servicing mortgages on their own flats, but they can actually manage it and participate in this scheme. The spirit of the Plan is "receiving assistance and achieving self-reliance", and the relevant individuals must also make an effort.

Some Members asked whether the Government could set the sale prices of the flats under the Plan at the beginning of the tenancy period, because if these prices can serve as the ceiling prices, the risk that tenants will have to pay high prices for their flats will be reduced in case property prices continue to rise in the future. We have reservation about this proposal because locking the prices of the flats under the Plan too early may easily lead to other problems. If the ceiling price is lower than the prevailing market price of the relevant flat in the future, the actual effect is that the Government will have to provide another

concession to the owners. Careful consideration is required in this regard. For example, will this practice turn out to be offering double benefits in housing subsidy? We have to exercise prudence in the use of public money. Therefore, if a ceiling price is set, the Government will have to impose new restrictions on the resale of these flats, resulting in the loss of flexibility of the scheme. Therefore, the so-called prevailing market price of flats under the Plan will actually reflect various factors in relation to the flats, for example, they are "no frills" flats already let for a few years.

Besides, some Members asked whether the full amount of the rental paid can be used for the down payment. Actually, this will also be tantamount to providing a higher subsidy. Is it fair to other taxpayers? Some Members mentioned the experience of the rent-and-buy scheme or the tenant purchase scheme in the United Kingdom. We have tried to understand these schemes implemented in the United Kingdom and found that their operation is actually very complicated. They are much more complicated than the MHP Plan. Therefore, we think their experience is not relevant to our scheme at all.

To address the shortage of first-hand small and medium flats, we have already reserved a site at the former Yuen Long Estate and will, as a trial, specify in its sale conditions the minimum number of units and unit size restrictions. We will sell the site by tender at the end of this year. In the light of experience so gained, we will explore applying this arrangement to other sites. Besides, we will continue to discuss with the URA and the MTRCL the provision of more small and medium flats in their urban renewal projects and residential developments along the West Rail respectively.

Mr TAM Yiu-chung mentioned just now the imposition of a cap on the "inflated area" for the above-station property development projects along the West Rail. As the Secretary for Development said in her speech delivered in the debate on the Motion of Thanks on the Policy Address, we will follow up this proposal closely after listening to the views of the public and Members in this respect.

As for relaunching the Tenant Purchase Scheme (TPS) mentioned by a number of Members, I hope Members will understand that the TPS was introduced in early 1998 with the objective of assisting the Government to achieve its policy objective of reaching a home ownership rate of 70% in 10

years' time as set out in the 1997 Policy Address. Subsequent to a full review of the Government's housing policy in 2002, the objective of achieving the home ownership ratio no longer exists. Therefore, there is no longer any justification for continuing to implement the TPS. In fact, since the introduction of the TPS, some problems with housing estate management have become complicated. Furthermore, recovered PRH flats form an important source of supply of PRH flats for applicants on the Waiting List. Selling PRH flats to sitting tenants will affect the supply of PRH flats and the achievement of the target set by the Government and the HA to maintain the waiting time of three years for PRH applicants. Therefore, the Government will not consider re-launching the TPS for the time being.

In fact, the TPS currently covers 39 housing estates. More than 60 000 flats under the TPS are still not sold, and sitting tenants may still purchase these flats. Furthermore, PRH tenants and members of the public may also purchase second-hand flats under the TPS in the HOS secondary market or private market.

Besides, a number of Members also proposed that, given that white form applicants are allowed to participate in the MHP Plan, the Government should also consider allowing eligible white form HOS applicants to purchase HOS flats with premium not yet paid in the secondary market of the HOS and the Sandwich Class Housing Scheme.

At present, PRH tenants and green form applicants on the PRH Waiting List are allowed to participate in the HOS secondary market so that they will be provided with a channel to acquire their own homes, thereby releasing more PRH flats for allocation to people and households in genuine need. Allowing white form applicants to purchase secondary HOS flats with premium not yet paid is tantamount to using public money to subsidize more people to acquire properties. We must consider whether the relevant proposal can really help people in genuine need of home ownership. Besides, there is also the problem of fairness. For instance, which categories of people should receive subsidy? Moreover, consideration should also be given to whether the supply can effectively cope with the demand for HOS flats. We must deal with and examine this issue carefully.

Dr Priscilla LEUNG also mentioned that Australia has imposed restrictions on the purchase of local properties by foreigners. Actually, there are many differences between Hong Kong and Australia in terms of the social system and

background, and it is not appropriate to draw a direct comparison between both places. Australia has all along been imposing stringent statutory regulations on investment on local real estate properties by foreigners, which include requiring all non-Australian residents to obtain approval from the relevant Australian authorities before purchasing real estate properties in the country. This measure was further tightened in April. Hong Kong has all along upheld the free economy principles and allowed the free flow of capital and free investment. Imposing restrictions on investment of foreign capital in the property market will affect the status of Hong Kong as one of the freest market economies in the world, producing far-reaching implications. Therefore, we think this is not an appropriate approach to deal with the short-term fluctuations of the property market.

President, it is the Government's objective to enable the public to live in peace and work with contentment. Now, we already have a clear position and a stable long-term housing policy to help the public achieve this objective in either public or private housing. We will continue to maintain the stable and healthy development of the residential property market and provide PRH flats to low-income people and households in need through the HA to enable different sectors in society to live in peace. We will also continue to listen humbly to views of different sectors, including those expressed by Members, and carefully consider the views received so as to better take forward and implement our initiatives to address all the demands or aspirations of the people. Thank you, President.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

MR FREDERICK FUNG (in Cantonese): President, I move that Mr LEE Wing-tat's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To delete ", as after the Government" after "That" and substitute with "the housing problem has been plaguing the development of Hong Kong society for years, and after the Chief Executive"; to add "in the Policy Address" after "My Home Purchase Plan"; to delete "and" after "rise" and

substitute with ", reflecting that"; to add "let alone solve the housing problem of Hong Kong in the long run; in this connection," after "home ownership,"; to delete "and" after "Sale of Flats to Sitting Tenants Scheme,"; and to add ", and formulate a stable and sustainable long-term housing policy to satisfy the public's genuine housing need, and to build an environment in Hong Kong where people can live and work in contentment" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Mr LEE Wing-tat's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr Priscilla LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 15 were in favour of the amendment and five abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 were in favour of the amendment and one against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion "Helping needy persons acquire their homes" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Helping needy persons acquire their homes" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr WONG Kwok-kin, as Mr Frederick FUNG's amendment has been passed, you may now move your revised amendment.

MR WONG KWOK-KIN (in Cantonese): President, I move that Mr LEE Wing-tat's motion as amended by Mr Frederick FUNG be further amended by my revised amendment.

Mr WONG Kwok-kin moved the following further amendment to the motion as amended by Mr Frederick FUNG: (Translation)

"To add "; this Council also urges the Government to rebuild an integrated housing ladder, and shorten eligible applicants' waiting time for public rental housing, and comprehensively review the income and asset limits for public rental housing applications, so as to also provide housing protection for the middle and lower classes with difficulties in acquiring their homes, and, before the completion of the subsidized housing units under HOS and the My Home Purchase Plan, the Government should also hold discussions with public sector organizations such as the Urban Renewal Authority and the MTR Corporation Limited, etc. on allocating some of their flats for sale or renting to eligible white form HOS applicants and the My Home Purchase Plan participants with conditions, so as to provide immediate assistance for them" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr WONG Kwok-kin's amendment to Mr LEE Wing-tat'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.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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 Raymond HO, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr IP Kwok-him and Mr Paul TSE 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 WONG Kwok-hing, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG voted against the amendment.

Mr CHAN Kam-lam, Ms Audrey EU, Mr CHEUNG Hok-ming, Mr Ronny TONG, Ms Starry LEE, Mr CHAN Hak-kan, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 10 were in favour of the amendment and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the amendment, one against it and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, as the amendment by Mr Frederick FUNG has been passed, you may now move your revised amendment.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr LEE Wing-tat's motion as amended by Mr Frederick FUNG be further amended by my revised amendment.

Mr CHAN Kam-lam moved the following further amendment to the motion as amended by Mr Frederick FUNG: (Translation)

"To add "; this Council also urges the Government to expedite the development of new towns and the tendering exercises for the above-station property development projects along the West Rail on the premise of adhering to the cap of total floor area concession put forward in the Policy Address and avoiding any wall effect and heat island effect in design; at the same time, the Government should expeditiously legislate for the regulation of the sale of first-hand private residential properties

and increase the transparency of the sale of such flats, so that needy persons can acquire their homes in a fairer environment" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Kam-lam's amendment to Mr LEE Wing-tat'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): Members have been informed that since Mr CHAN Kam-lam's amendment has been passed, therefore, Mr LEUNG Kwok-hung has withdrawn his amendment.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, as the amendments by Mr Frederick FUNG and Mr CHAN Kam-lam have been passed, you may now move your revised amendment.

DR PRISCILLA LEUNG (in Cantonese): President, I move that Mr LEE Wing-tat's motion, as amended by Mr Frederick FUNG and Mr CHAN Kam-lam, be further amended by my revised amendment.

Dr Priscilla LEUNG moved the following further amendment to the motion as amended by Mr Frederick FUNG and Mr CHAN Kam-lam: (Translation)

"To add "; this Council also urges the Government to review the public rental housing policy, with a view to enabling needy persons to move into public rental housing units more expeditiously" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr Priscilla LEUNG's amendment to Mr LEE Wing-tat's motion as amended by Mr Frederick FUNG and Mr CHAN Kam-lam be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for one minute.

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 Raymond HO, Mrs Sophie LEUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr IP Kwok-him and Mr Paul TSE voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che and Dr Samson TAM voted against the amendment.

Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted for the amendment.

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, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, eight were in favour of the amendment, six against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, five were in favour of the amendment, 20 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, as the amendments by Mr Frederick FUNG and Mr CHAN Kam-lam have been passed, you may now move your revised amendment.

MR RONNY TONG (in Cantonese): President, I move that Mr LEE Wing-tat's motion, as amended by Mr Frederick FUNG, be further amended by my revised amendment.

PRESIDENT (in Cantonese): Mr Ronny TONG, you should be moving that Mr LEE Wing-tat's motion, as amended by Mr Frederick FUNG and Mr CHAN Kam-lam, be further amended.

Mr Ronny TONG moved the following further amendment to the motion as amended by Mr Frederick FUNG and Mr CHAN Kam-lam: (Translation)

"To add "; this Council also urges the Government to increase the transparency of the regular supply of land, study how to avoid over-relying on real estate developers as the sole housing suppliers, and allow eligible white form applicants to purchase affordable homes in the markets of Sandwich Class Housing Scheme" 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 LEE Wing-tat's motion as amended by Mr Frederick FUNG and Mr CHAN Kam-lam be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Vincent FANG rose to claim a division.

PRESIDENT (in Cantonese): Mr Vincent FANG has claimed a division. The division bell will ring for one minute.

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 Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Mr Timothy FOK voted against the amendment.

Mrs Sophie LEUNG, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 11 were in favour of the amendment, one against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 were in favour of the amendment and one against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may now speak in reply. You still have one minute and five seconds.

MR LEE WING-TAT (in Cantonese): President, I will just discuss one point. The Secretary queried whether or not allowing white form applicants to purchase HOS flats in the secondary HOS market would become double benefits in housing subsidy in disguise. This argument is incorrect. As we all know, insofar as the purchase and sale of HOS flats in the secondary market is concerned, the Government has a certain percentage of stake before the premium is paid. Suppose someone with a family income of \$27,000 buys an HOS flat, such a stake held by the Government still exists. If a new prospective owner wants to purchase the flat concerned, he has to pay the premium. So how can

there be double benefits? Therefore, I hope the Secretary can be more comprehensive when he considers our views. Besides, the relevant proposal will not incur any heavy loss to the Government, but conversely, it is good for the white form applicants.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Wing-tat, as amended by Mr Frederick FUNG, Mr CHAN Kam-lam 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): Second Motion: Work incentive transport subsidy scheme.

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

I now call upon Dr PAN Pey-chyou to speak and move the motion.

WORK INCENTIVE TRANSPORT SUBSIDY SCHEME

DR PAN PEY-CHYOU (in Cantonese): President, "living from hand to mouth" is the portrayal of the living of many wage earners at the grassroots, but this is not because they are spendthrifts, rather, it is because their wages do not enable them to make ends meet. If we look at the figures for the second quarter of this year, we would find there were over 190 000 families of in-work poverty throughout Hong Kong and the number of people involved was 660 000, so it can be seen that the problem of in-work poverty is quite serious in Hong Kong.

There are many causes for the problem of in-work poverty and one of the major factors is the fairly high cost of transport in Hong Kong. People who spend \$20 or as much as \$40 daily, or even higher amounts, on transport fares are numerous. After the Transport Subsidy Scheme (TSS) had been introduced into four districts, we interviewed some employees who had to travel to work from Island East to Fo Tan by bus, train and then minibus. Their expenses on transport amounted to almost \$800 monthly, accounting for 12% of their income. A resident of the North District had to work in other districts and his transport expenses accounted for over 30% of his income, so it can be seen that the problem is quite serious.

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

Since the introduction of the TSS, the Federation of Trade Unions (FTU) has been requesting the Government to conduct a review because far too many grass-roots workers are excluded from the scheme and cannot enjoy the benefit. For example, before the review in 2008, the transport allowance was offered only to people in four remote districts who had to cross districts to work. Consequently, in the first review, we were successful in our lobbying and as a result, people who work in their own districts (that is, they do not have to cross districts) are also eligible to apply and the time limit for receiving the allowance was also extended to 12 months. After 2008, we also demanded persistently that the Government improve the relevant initiative, including extending the scheme to all 18 districts. Although we have waited far too long, in the end, we have made it. The Policy Address proposes that the existing TSS be replaced by the

Work Incentive Transport Subsidy Scheme (WITSS) and finally, it also promises to extend the allowance to all the 18 districts in Hong Kong. We welcome this.

However, this is not enough and we have to enable more grass-roots workers to receive material assistance. The new scheme must plug the loopholes in the original scheme and the system must be improved. For this reason, a number of proposals are put forward in the motion I proposed on behalf of the FTU, including setting the ceiling of the total value of applicants' personal assets at a level higher than \$44,000 and the ceiling of applicants' monthly income should also be higher than \$6,500.

What do we make these proposals? Because with rising inflationary pressure and transport fares, the living expenses of wage earners have increased substantially, so there is also an increasing need for a transport allowance. The economy of Hong Kong in the first half of this year had shown some improvement, but what followed was high inflation and soaring prices. The prices of commodities have all increased and public utilities such as bus companies, the MTRCL and tunnel companies all hastened to raise their fares and tolls. And the rates of increase were substantial. For example, the Kowloon Motor Bus Company (1933) Limited increased its fares by 8.6% and the Long Win Bus Company Limited by 7.2%. The MTRCL increased its fares by 2.05% on average and the tolls of the Eastern Harbour Crossing will be increased by 40% next year. However, what about wage earners in Hong Kong? A survey found that employees in Hong Kong may get a wage increase of 3% next year, so it can be seen that it looks as though wages and prices were involved in a race between the tortoise and the hare. Wage earners at the grassroots must still tighten their belts.

We can see that the original TSS has too high an application threshold, so many grass-roots workers hard-pressed by inflation cannot get appropriate support. This runs counter to the original intention of this scheme, namely encouraging members of the public to become employed. Moreover, since the statutory minimum wage will be implemented soon, it is expected that the wages of low-income workers will see some improvement. If the restrictions are not relaxed, this is effectively to further narrow the scope of eligibility and raise the application threshold indirectly.

Apart from the foregoing proposals, the motion also proposes that people who work less than 72 hours in every four weeks may also receive the transport allowance *pro rata* according to the actual number of working hours. Why? Why do we put forward this proposal? Because we have come across many cases in which part-time employees were excluded from the TSS because they worked less than 72 hours. These people are mostly domestic helpers, cleansers, and the like, and it is difficult for them to have stable work each week and meet the requirement of working 72 hours in every four weeks. However, they are also grass-roots workers, who similarly need help. If these people, or those domestic helpers, set off from Kwun Tong and work in Ma Wan for three hours — we have seen quite a lot of such examples — the round trip takes them two hours and more than \$20 in fares, and such fares have to be deducted from the \$150 earned by them, so how much money is left?

(THE PRESIDENT resumed the Chair)

The Secretary said that he did not want to make the scheme too complicated. In fact, calculating the transport allowance *pro rata* is not complicated at all. If the allowance is granted *pro rata*, it will not be very troublesome either and the method can be very simple. We will give an example. For example, in order to facilitate calculation, one feasible way is to give each part-time employee applying for transport allowance an attendance card and each time after the worker has completed his work, he has to fill in the number of hours worked in the attendance card to record the number of hours he has worked each month clearly, then hand the card to the employer personally for signature and verification. The employee will then hand the attendance card to the authorities for calculation. Since the working hours and wages of these part-time workers are calculated mostly on a piece-rate basis, the process of calculation is not troublesome, nor can I see how it will create a heavy administrative burden. If the only ground cited is the fear of trouble and the Government is thus unwilling to implement this arrangement, this is all about laziness on the part of the Government rather than the inability to do so. Why can the Government not open its eyes and look at the needs of these part-time low-income workers? Why can it not feel with its heart the difficulties of these workers?

Of course, in order for the policy to work, the application of flexibility in view of the circumstances is indispensable. As pointed out earlier, the economic situation is ever changing and the rises in inflation, prices and transport fares are different each year. The level of minimum wage and the coefficient of wealth disparity will also change. For this reason, it is also necessary for the new scheme to make adjustments periodically according to various factors. It cannot remain inflexible and this explains why we in the FTU propose that no time limit for receiving the allowance should be set and that a system should be established for the conduct of regular reviews and periodic adjustments.

President, more than 10 000 people are receiving the Cross-district Transport Allowance and they are heavily reliant on this sum of money to enable them to come out to work. Thanks to this allowance, the pressure arising from the heavy transport fare burden is directly eased. However, the existing scheme, or shall we say, the past scheme, still has a lot of room for improvement. For this reason, I take this opportunity to urge the Government to take on board our views and include these proposals in the WITSS, so as to provide protection to more grass-roots workers and attain the goals of easing their financial burden and encouraging self-reliance.

When I was on my way here to give my speech on the motion, some union members working as domestic helpers from our FTU prepared this plastic bottle for me. It contains some black liquid and on it is written the words "黑心♥交津" ("黑心", or "black-hearted", meaning wicked and "交津", the acronym for "transport allowance", is pronounced the same as "膠樽", meaning "plastic bottle"). I think that in the general sense, no transport allowance can be considered wicked, but if you are a low-paid and low-income worker, seeing that such an allowance is available and yet you cannot get it, you would really find this allowance beyond your reach. In that case, would you not think that the Government is wicked? I think this is easily understandable and in fact, to those workers who work short hours but spend a lot of time travelling to and from work, as pointed out by me just now, they are precisely the ones in the greatest need of the transport allowance. Before I prepared this speech, I had had a forum with this group of workers and discussed many of their views. In fact, they long to work very much because not only does work bring them income to supplement their living, it also brings them dignity and self-esteem. They think that they can make contribution to society. To some women, particularly those living in the more remote districts, this is a very important form of mental

support. While I talked with them, I could feel their longings and needs strongly. They think that since the Government can propose such a scheme this time around, they hope very much that they can also benefit from it.

I believe most people in society will think that this transport subsidy scheme is desirable because one cannot get it just by sitting idly without working, rather, it encourages workers and members of the public to work before they can get this allowance. However, if the threshold is set too high, thus making many people in need unable to get this allowance, would this not become a so-called self-defeating situation, that is, one imposes constraints on oneself, thus defeating one's original good intention? For this reason, this black plastic bottle precisely reflects the thinking of this group of workers. The proposals put forward by me today are designed to take forward this scheme, so that more members of the public and people genuinely in need of this allowance can be benefited. Therefore, I hope very much that the Government and the Secretary can consider these proposals in earnest after listening to them. If they can be implemented, I believe I will have to put this black plastic bottle away and take out another one — this is a tonic and a bottle full of healthful drink, so I hope the Government can consider our views.

President, I so submit.

PRESIDENT (in Cantonese): Dr PAN Pey-chyou, please move your motion.

DR PAN PEY-CHYOU (in Cantonese): I move this motion concerning the Work Incentive Transport Subsidy Scheme.

Dr PAN Pey-chyou moved the following motion: (Translation)

"That, in order to relieve the burden of travelling expenses on low-income employees and encourage them to stay in employment, the Chief Executive has put forward the 'Work Incentive Transport Subsidy Scheme' (WITSS) in the 2010-11 Policy Address for application by all eligible employees in Hong Kong, and the Scheme will replace the 'Transport Support Scheme' (TSS); given that the existing TSS still has deficiencies resulting in some low-income workers not being benefitted,

this Council urges the Government to adopt the following criteria in formulating the specific details and eligibility requirements for WITSS, so as to enable a greater number of grassroots workers to receive assistance:

- (a) the ceiling of the total value of applicants' personal assets should be set at a level higher than the \$44,000 under the existing TSS;
- (b) the ceiling of applicants' monthly income should be set at a level higher than the \$6,500 under the existing TSS;
- (c) the amount of allowance for eligible persons should be calculated on the basis of 72 hours of work in every four weeks, and people who work less than 72 hours in every four weeks may also receive the allowance *pro rata* according to the actual number of working hours, with a view to benefiting part-time employees;
- (d) no application deadline should be set for the allowance; and
- (e) a mechanism should be established for regular reviews and periodic adjustments of the ceiling of the total value of personal assets, the ceiling of monthly income and the amount of allowance prescribed under WITSS."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr PAN Pey-chyou be passed

PRESIDENT (in Cantonese): Four members will move amendments to this motion respectively. The motion and the four amendments will now be debated together in a joint debate.

I will call upon Mr WONG Sing-chi to speak first, to be followed by Ms LI Fung-ying, Mr IP Kwok-him and Ms Miriam LAU, but no amendments are to be moved at this stage.

MR WONG SING-CHI (in Cantonese): President, today, the discussion on this motion on transport allowance is actually very timely because the Government has just announced that the minimum wage is set at \$28 per hour and based on the norm of working eight hours, workers earning the minimum wage can make less than \$6,500 monthly. Hence, so the Government probably foresaw that the living of the people would still be difficult after the introduction of a minimum wage, so it hastened to offer the transport allowance to supplement workers receiving the minimum wage, since their living has little security. If the Government really thinks this way, I call on it to raise the amount of minimum wage. In this way, the transport allowance would not have to be put in such a pathetic light. It is not over the top to call it pathetic because after the introduction of a minimum wage, one can only earn some \$5,000 monthly, not even \$6,000. I hope the Government will continue to supplement their living with the transport allowance.

Today is an excellent opportunity to discuss this subject on this platform, such that the Government can be enabled to implement this transport subsidy or the Transport Support Scheme (TSS) as soon as possible. Otherwise, the public will only face even greater difficulties.

When the Government introduced the TSS in 2007, the aim was to assist unemployed and low-income people and the principal objective actually was to help the socially disadvantaged groups become self-reliant. Subsequently, the Government accepted the relevant views and relaxed from July 2008 onwards the restrictions on the TSS and raised the income ceiling from \$5,600 per month to \$6,500. And the time limit for receiving the transport subsidy was also extended from the original six months to 12 months. Eligible people working in their own districts were also allowed to receive the allowance under the scheme, as it was hoped that their transport expenses arising from job seeking could be supplemented.

Concerning this course of action, at that time, all people considered that the Government was amenable to public opinion. Although it was not quite enough, it was welcomed by most people. However, so far, this scheme is implemented only in several districts, so obviously, the thinking of the Government in implementing the TSS is rather conservative and it cannot help people genuinely in need, in particular, those who live in the urban area but travel to work in the New Territories are also experiencing difficulties. In fact, all eligible members

of the public, regardless of where they live, all need the help of this transport allowance, particularly given that a minimum wage has now been approved. Although the pay of more people will be raised, it is not enough to resolve their situation of in-work poverty.

In fact, all along, the Democratic Party has persistently demanded that the Government expand the TSS to enable all eligible members of the public to apply for it. At the same time, we also hope that the Government can enhance the flexibility of the application procedure, so that applicants can choose to apply to join the scheme first, then submit their applications for the allowance within a specified period of time, so as to enable more low-income people or unemployed people to benefit from it. With greater flexibility, members of the public can have more opportunities to make applications and receive assistance, so this suggestion should be put into practice.

In view of the Democratic Party's position, this year, before this Session began, we had submitted our proposals on the Policy Address to the Chief Executive and the idea of expanding the TSS was made an important proposal under our labour and manpower policy. We hoped that the Government could give the large number of low-income wage earners and job-seekers a clear account. We welcome the response of the Chief Executive to the demands of the Democratic Party in the Policy Address this time around and his announcement that the Government has decided to launch the Work Incentive Transport Subsidy Scheme (WITSS) to subsidize the transport fares of all eligible workers in Hong Kong at \$600 monthly per person. As the Secretary said, the new measure will replace the existing TSS but so far, no clear account on the details or specifics has been given. I hope the Secretary can give an account on the details to the Legislative Council as soon as possible and after implementation, conduct a review at an early date to examine if there is a need to increase the amount of transport allowance and whether or not it can be used to provide greater support in view of the overall family needs of the public.

President, we think that this scheme is still sketchy in many aspects, so on the one hand, the Democratic Party requests the Government to give an account on the details to the Legislative Council and provide this form of support to all unemployed people and low-income employees in need throughout Hong Kong as soon as possible. On the other, we also call on the executive to listen clearly

to the views voiced by Members in the legislature today, so that the WITSS to be launched in the future can meet the needs of the public more closely.

President, concerning the original motion moved by Dr PAN Pey-chyou, the Democratic Party holds an open attitude towards many of its details and proposals. However, the original motion only focuses on low-income workers and I believe this is not the intention of Dr PAN. It seems we should continue to care about the needs of people who, through unemployed now, are actively looking for work.

President, "employment" and "looking for employment" are like two close brothers who cannot be separated. If one does not go out to look for employment, how can one become employed? If this new scheme does not include the component of a Job Search Allowance, how can it be called a "work incentive" scheme? I believe the Government should take this point seriously. However, I also wish to state more clearly here that I do not mean to criticize the Government. In fact, this Job Search Allowance proposed by us is not a new idea and we also know that under the existing TSS, this measure has already been implemented. However, we found that apparently, the Government did not raise this point when putting forward this proposal. Since the details are lacking, we are afraid that the Government may remove this item when the new scheme is implemented. If this is the case, there will be many problems relating to the names of the items proposed by the Government and the actual implementation of the scheme.

Therefore, we wish to reiterate this point in the amendment proposed today, and I believe what Members expect is not just support in transport fares for low-income people. Rather all people who have to find jobs can be given encouragement, so that they can receive this transport allowance of \$600 designed to encourage employment. Therefore, I hope the Secretary will give us a clear account on whether or not job seekers will actually be excluded from this scheme.

President, if the Government is unwilling to consider including the Job Search Allowance in the new scheme, I am afraid many job seekers will be forced to stay home instead of going out to look for jobs on account of transport fares and they may even be forced to simply give up interview opportunities that are not easy to come by. Therefore, the Democratic Party thinks that the SAR

Government definitely cannot pay lip service only, knowing only to rattle away without giving any assistance to members of the public in genuine need. We hope that this WITSS can really help those members of the public who wish to find work and enable them to take the first step.

Finally, President, apart from the original motion moved by Dr PAN and the amendment proposed by us, we are prepared to adopt an open attitude towards the details and views on the arrangements under the WITSS. For this reason, although different arguments, views and proposals are presented in the amendments to be moved by the several Members later, we believe all of them merit support and further examination. Therefore, I believe that today, all of us only hope to further protect the interests of the general public, so the Democratic Party hopes that before this scheme is finalized, the authorities can tap the wisdom of the public and listen to the view of various parties, in order that a more comprehensive and feasible proposal can be formulated. I also hope that all Members can support the amendment proposed by me.

I so submit. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, today, it is with great unease that I propose this amendment relating to the Work Incentive Transport Subsidy Scheme (WITSS). I feel uneasy not because my views are different from those in the original motion and the amendments proposed by various major political parties or because I may be forced to withdraw mine in the voting to take place later. I feel uneasy because if this motion concerning the WITSS is passed together with the proposals in the original motion, the proposal of not introducing any assets test will miss the opportunity of being implemented.

The drawbacks of the existing Transport Support Scheme (TSS) include its geographical restriction of being applicable only to four districts, including the Yuen Long, Tuen Mun, North and Islands Districts and the total value of an applicant's personal assets should be not higher than \$44,000. As a result, members of the public who have benefited from the TSS since its implementation in 2007 account for less than one tenth of all low-income people in Hong Kong.

I welcome the Government's introduction of the WITSS to replace the existing TSS but the replacement scheme must address the two foregoing

drawbacks. The coverage of the new scheme will be expanded from the four districts to the whole territory and this is already the consensus of society. As regards the eligibility of applicants, at present, I can see three possible options, one being to change the personal assets test into a family assets test, which is the Government's preference. I think this is the least desirable option. The second best option is to raise the personal assets ceiling, as proposed in today's original motion. This proposal is more desirable than the introduction of family assets tests but I think the best option is to dispense with the restriction of assets test altogether and this is also the thrust of my entire amendment.

In the letter issued by me to Members on Monday, I already presented my arguments for abolishing the assets test, so I will only give a brief explanation today. It is not easy to set an assets test line that is meaningful and can benefit low-income employees. Moreover, to require employees to declare their assets in exchange for the transport allowance would also injure the dignity of employees. In the letter, I cited the minimum wage as an example. The prescription of a minimum wage is meant to protect the basic living of members of the grassroots, but we would not introduce an assets test system for minimum wage to exclude employees who can make ends meet by dint of a minimum wage from the scope of protection.

If no assets test is required, my amendment must propose a set of specific criteria for making applications under the WITSS. I propose that the existing application criterion of earning a monthly salary of \$6,500 or less under the TSS should continue to be adopted and the element of an hourly rate be introduced by dividing \$6,500 by the number of working hours per day, so that employees earning an hourly rate of \$31 or less are all eligible for the transport allowance. There is only one reason for introducing the criterion of an hourly rate, that is, at present, many low-income employees are hard-pressed by their living and have to work more than 10 hours a day. They may earn more than \$6,500 in wages, but I think these employees should also benefit from the new scheme.

I know that some friends supporting minimum wage are very sensitive to this proposal of an hourly rate of \$31. The Federation of Hong Kong and Kowloon Labour Unions, to which I belong, also proposes that the minimum wage be set at \$35 per hour. It also proposes that I should set the hourly rate at \$35, that is, employees earning \$7,280 monthly can also be eligible for the

transport allowance, whereas friends who support a minimum wage of \$33 may also demand that the criterion for application be set at \$33, that is, a monthly income of \$6,846. However, in the end, I decided to adopt the Government's proposal under the TSS because the TSS cannot be equated with a minimum wage and they are not necessarily linked, nor do I wish them to be completely linked. This morning, Secretary Matthew CHEUNG announced that the Executive Council had approved the statutory hourly minimum wage level recommended by the Provisional Minimum Wage Commission, which is \$28 per hour. Therefore, I certainly do not wish to adopt an hourly rate of \$28 or a monthly wage of \$5,824 as the standard for granting transport allowance. I believe those friends who support minimum wage will not wish to see such a situation either.

President, although my amendment proposes to adopt the Government's income requirement under the existing TSS, I will still adopt an open attitude. Any proposal advocating an amount higher than the one in this proposal and accepted by this Council and the Government will also have my full support. In my letter to Members, I pointed out that it is hoped the amendment can balance the views of the Government and various stakeholders as far as possible. If friends supporting minimum wage voice criticisms because the hourly rate in my amendment does not amount to \$35 or \$33, I would gladly accept them. If Members negative my proposal on scrapping the means test system on this ground, I think they have lost sight of the priorities in making their judgment and I would find this most regrettable. However, I must stress one point, that is, the ceiling of the non-means-tested transport allowance should not be lower than a monthly income of \$6,500, or \$31 per hour. Otherwise, some members of the grassroots who are now benefiting from the TSS will be excluded from the new scheme and this would be a retrogressive arrangement.

President, concerning the issue of part-time workers receiving the allowance, in actual operation, if all low-income employees can receive the allowance *pro rata* regardless of how many hours they work each month, this would incur huge administrative costs. I propose that as a starting point, the number of working hours required per month should be half of 72 hours, which is the present requirement, that is, 36 hours, such that one can receive half of the amount of allowance. The simplest method of operation for the adjustment mechanism is to make reference to the adjustment in the minimum wage.

Finally, as I said in the letter to Members, in principle, I agree that no time limit should be imposed on the allowance and on this point, when Secretary Matthew CHEUNG was a guest in a radio programme, he already undertook to remove the restriction that the allowance can be granted only for a maximum of 12 months. The new scheme will be reviewed three years after implementation and this being a prudent proposal, we will still have the opportunity to express our views on the time limit for receiving the allowance.

President, according to the announcement of the Hong Kong Monetary Authority, the latest figure on Hong Kong's foreign exchange reserve has reached US\$267 billion, so the assets of the SAR Government can be described as being like the those of the property chaebols in Hong Kong, who are "so fat as to be unable to pull up their socks". In providing a petty transport allowance to self-reliant members of the public working elementary jobs in society, I really cannot see why such a thing as assets test should be imposed. I agree that it is not easy to make decisions on how to ease the heavy burden of living of the grassroots and how to choose between ideal and reality. It would be all the more difficult to do so when this choice would invite the criticism of sacrificing the rights of workers. However, despite all this, I will still do what is right without reservations.

President, some Honourable colleagues told me that they support the proposal of not introducing any assets test, but they also agree with raising the ceiling under the assets test. However, the problem is that, if Members support relaxing the assets test, the premise is that they agree with introducing an assets test system and that means they oppose my amendment. For this reason, if Mr WONG Sing-chi's amendment is passed, I will be obliged to withdraw my amendment. Here, I implore and call on Members not to support Mr WONG Sing-chi's amendment but to support mine instead.

Thank you, President.

MR IP KWOK-HIM (in Cantonese): President, the DAB welcomes the extension of the Transport Support Scheme (TSS) to the whole Hong Kong next year and the complete removal of the original time limit of 12 months for receiving the allowance, thus turning the scheme into a long-term and fully-fledged wage support measure. This is another major breakthrough in the

employment support policy, fully reflecting the commitment and determination of the Government in easing the employment difficulties of low-income earners.

However, recently, some news reports have pointed out that the authorities intend to change the unit of application to the family. The DAB holds that this measure will definitely make the application requirements relating to assets and incomes complicated. If this arrangement is implemented, in cases where a couple both work, they can only apply for one allowance grant and this will significantly reduce the number of eligible applicants. Since this measure will only effectively turn the scheme into a living supplement scheme, we have reservation about it. For this reason, we hope that the Government can clarify this point as quickly as possible to let us know how the Government's plan differs from the reports.

In fact, the wealth disparity problem in Hong Kong is getting ever more serious and this is an undisputed fact. Having come to the second half of 2010, after the passage of the constitutional reform proposal, the SAR Government has shifted its policy focus to issues relating to social welfare and support for the poor. The DAB strongly supports this. At present, no poverty line has been set and no clear definition of "poverty" drawn in Hong Kong, but if we accept the definition of "poor family" as one in which the income is less than or equal to half of the household median income in Hong Kong, then according to the analysis made by the Hong Kong Council of Social Service of the figures of the Census and Statistics Department, the poverty rate in Hong Kong has risen from 17.8% in 2001 to 18.1% in the first half of this year. There are a total of 1.26 million poor people in the population, a further increase of 64 000 people compared with that at the end of 2009.

Among various age groups, although the poverty rates among adults of working age and middle-aged people are not as high as those among elderly people and young people, they are still as high as 10.5% and 16.6%.

In recent years, the economy of Hong Kong has seen sustained growth and except in high-income groups, the median wage of workers has not seen any comparable increase for a long time. The general public is practically unable to share the fruits of Hong Kong's economic growth. This is related to the fact that Hong Kong's economy is heavily reliant on such high-value-added service industries as finance and various professional services, whereas the employment

situation of the general grassroots is deteriorating. For this reason, and given such circumstances, it is incumbent upon the Government, which is responsible for making adjustments to the overall economy and redistributing social resources, to ease the hardships of the socially disadvantaged groups.

President, as the name of the Work Incentive Transport Subsidy Scheme (WITSS) implies, it is a measure designed to encourage employment. For this reason, in addition to offering transport allowance to low-income employees, the DAB also urges the Government to ensure that job seekers can continue to benefit from the expanded new scheme and apply for the Job Search Allowance, so as to speed up job matching for workers and alleviate the problem of a mismatch of jobs.

Meanwhile, since the scheme will be expanded to cover all districts in Hong Kong, the number of applications will surely multiply quickly. For this reason, the DAB requests the Government to further streamline the application procedures under the scheme and expedite the vetting and approval process, as well as reducing the relevant administrative costs. At present, under the TSS, initial application processing is carried out through the 11 service centres operated by non-governmental organizations (NGOs) and after approval by the Labour Department, these NGOs are responsible for issuing both the Job Search Allowance and the On-the-job Transport Allowance on a reimbursement basis and as fixed amounts. We believe that the authorities should examine carefully if the original mode of operation should be maintained in the future or a more direct and simpler approach should be adopted instead, so as to enhance efficiency in processing, increase the speed and reduce administrative costs.

As regards the application threshold, the first problem is the personal assets ceiling for applicants. We know that when the Government initially set the level at \$44,000, it was based on the experience of the pilot Transport Support Scheme operated by the Employees Retraining Board and it was proposed that the amount be set at double the assets ceiling for able-bodied adult recipients of Comprehensive Social Security Allowance (CSSA). We believe that since CSSA is a social security net, a lower assets ceiling is appropriate, but regarding this ceiling of \$44,000 for the TSS, the DAB holds that there is room for a more substantial increase.

In addition, concerning the ceiling on the monthly wage of applicants, since the minimum wage level has been set and announced by the Executive

Council today and the legislation on minimum wage will also be implemented in May next year, the DAB believes that whether or not the ceiling on the monthly wage should be relaxed would depend on the definition of the group targeted by this scheme, that is, low-income people. Based on our contacts with the public, we found that members of the public in the districts generally accept making adjustments or increases to the present ceiling of \$6,500, and some even consider an income ceiling of \$7,000 per month a more appropriate level.

At the same time, the DAB also holds that after the implementation of a minimum wage system, it is expected that the number of part-time employees will increase because employers want to control cost. Many employees are forced to work part-time and they do not do so entirely of their own accord. For this reason, the DAB agrees that the Government should consider the proposal of relaxing the application requirement of working at least 72 hours in four weeks, so that elementary part-time or temporary workers can also receive the allowance *pro rata*.

President, we in the DAB support the original motion and most of the amendments. However, since the amendment proposed by Ms LI Fung-ying suggests removing the assets test and keeping the income ceiling at \$6,500, the DAB has reservation about it. For this reason, the DAB will not support Ms LI's amendment.

I so submit.

MS MIRIAM LAU (in Cantonese): President, inflation has continued to escalate and a surge of fees and charges is rising from all directions. Some government officials, who disagree with this view of mine, say that inflation is still mild according to official figures. In my opinion, these government officials are entirely blind to the actual circumstances in society. People buying vegetables in the markets, buying canned food in the supermarkets or dining out would have found that, over the past couple of months, the relevant charges and prices had continued to rise, with some of them even surging at an outrageous rate. Let me cite travelling expenses as an example. In June this year, the Mass Transit Railway Corporation Limited took the lead to raise fares at an average rate of 2.05%. The Kowloon Motor Bus Company (1933) Limited, the Long Win Bus

Company Limited and the tram company have also submitted applications for fare increases one after another. Subsequent to the earlier toll adjustment by the West Harbour Crossing, some cross-harbour public light buses have continued to adjust their fares upward. And then, the Eastern Harbour Crossing has also proposed raising its toll. All this has put additional pressure on the living of grass-roots families.

Considering that exorbitant travelling expenses will often aggravate the burden of grass-roots families, thereby stifling their desire of going out to look for jobs, the Liberal Party proposed a long time ago expanding the scope of the existing Transport Subsidy Scheme (TSS) from only four remote districts to all districts in Hong Kong, with a view to according equal treatment and offering assistance to all low-income people in the territory.

Therefore, the Liberal Party greatly supports the Chief Executive's announcement in the Policy Address this year of launching a territory-wide WITSS to replace the existing TSS to subsidize low-income employees to travel to/from the workplace. Given this objective, we think that it is no longer necessary to differentiate between applicants living and working in different districts and those living and working in the same district. So long as they are low-income employees, they should be eligible for the subsidy under the WITSS.

However, it must be noted that expanding the transport subsidy to cover the whole territory will still not benefit all low-income earners in need, because the ceilings of income, assets and working hours imposed under the present TSS will render many persons in need ineligible for the subsidy. Therefore, on behalf of the Liberal Party, I propose an amendment today in support of relaxing the income and assets requirements to allow more people to be benefited.

For instance, under the existing TSS, the monthly income of an applicant should not be more than \$6,500. However, the travelling and subsistence expenses in Hong Kong nowadays are not low. An applicant living in Yuen Long or Tin Shui Wai and working in Central will have to spend \$40 to \$50 daily on round-trip fares. Coupled with \$30 or some on lunch, the monthly expenses on fares and meals alone will already exceed \$2,000.

If we do the computation on this basis, an applicant will have \$7,100 at his disposal if his monthly income reaches the existing ceiling of \$6,500 and he

receives \$600 in transport subsidy. However, he will not have much money left after paying more than \$2,000 in expenses. Yet, he still has to pay rent and support his family. He can indeed be described as living in dire straits. Sometime ago, when I visited the districts to conduct a consultation on the Policy Address, I was told by a "watchman", Mr LAU, that he was originally very pleased on learning about the transport subsidy. However, he felt as if he was in hell on learning that there was an income ceiling of \$6,500. He was very disappointed as his income was a little more than \$7,000. He described himself as a "five nos" person, saying he could not possibly benefit from any of the initiatives launched by the Government over the past years. In his opinion, if the Government failed to make any adjustment to the income ceiling, it meant that the authorities had no sympathy at all for the plight of low-income earners like him and had no concern for them. He requested me to put forward a proposal on relaxing the ceiling of the applicant's income. For the same reason, we think that the existing ceiling on an applicant's assets, which is set at \$44,000 under the existing TSS, is also too strict, given that the TSS is aimed at helping low-income employees. Therefore, the ceiling should be relaxed suitably.

However, the wordings of the original motion read "the ceiling of the total value of assets should be set at a level higher than the \$44,000 under the existing TSS" and "the ceiling of income should be set at a level higher than the \$6,500 under the existing TSS". Although I believe the intention of Dr PAN is to relax the ceilings, the use of the expression "higher than" may give people the wrong impression that the relevant ceilings can be raised indefinitely, and as a result, even people not in need can also be benefited. Actually, my proposed amendment might not necessarily be different from Dr PAN's original motion in terms of meaning. However, it is less likely to give people a wrong impression if the expression "relax" is used instead.

In our opinion, the purpose of providing a transport subsidy is to help low-income people in need and encourage them to work. As public money is being used, we are obliged to ensure that it is put to good use. Therefore, regarding the proposal raised by Ms LI Fung-ying in her amendment of abolishing the item of assets test, we appreciate her intentions, but we cannot agree with her because removing all restrictions will inevitably lead to abuses of the mechanism. Neither should the Government act in this manner if public funds are used with prudence.

At present, part-time low-income earners cannot benefit from the TSS. I would also like to point out that during my visits to the districts, I was told by a part-time home helper that, despite her meagre monthly income of less than \$2,000, she was ineligible to apply for transport subsidy because her hours of work per month are less than 72 hours. As a result, her cross-district travelling expenses alone had eaten up a substantial portion of her income. Moreover, because of the exorbitant travelling expenses, she could not help decline some work opportunities as she was required to travel a relatively long distance. We can thus see that an exceedingly strict lower limit on working hours will make part-time low-income earners, such as home helpers, ineligible for the transport subsidy. For this reason, the authorities should consider suitably relaxing the requirements, in order that part-time workers can also be benefited.

To avoid a substantial increase in administrative work, I also agree with the proposal put forward by Ms LI that all applicants working less than 72 hours monthly can receive half of the allowance.

We also agree that the existing requirement that the granting of transport subsidy lasts only one year should be relaxed and a review be conducted after three years into the implementation of the new scheme.

In our opinion, the Government should now expedite the review and expeditiously announce the details of the transport subsidy scheme which will cover all the 18 districts in Hong Kong. However, we are also very concerned about the Government being quoted in the press as saying that the WITSS will regard a family, not an individual as under the existing TSS, as a unit for the purpose of making applications.

We are concerned that this will not only make the application procedures more complicated than the old scheme, thereby reducing the desire of applicants in submitting applications and further undermining their desire in seeking employment, but also run counter to the new scheme's original intention of encouraging employment.

Certainly, we understand that the Government is obliged to ensure that public money is used effectively. However, the Treasury is currently awash with cash. It is reasonable and sensible for the Government not to be too mean to the grassroots, or not to spend as little as possible with the help of the family

assets test, thereby resulting in an actual drop in transport subsidy and a substantial reduction of eligible persons.

As regards the Liberal Party's proposal on enhancing the social security safety net, we will leave it until the motion debate to be held next week for detailed discussion.

President, I so submit.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am grateful to Dr PAN Pey-chyou for proposing this motion today on the "Work Incentive Transport Subsidy Scheme". I also thank Ms Miriam LAU, Mr IP Kwok-him, Ms LI Fung-ying and Mr WONG Sing-chi for their amendments.

First of all, I would like to recap the background to the Government's launch of the Transport Subsidy Scheme (TSS). In order to implement a recommendation made by the former Commission on Poverty, the Government launched the TSS on a pilot basis in 2007 to provide time-limited transport subsidy to needy job seekers and low-income employees living in four remote districts, namely, Yuen Long, Tuen Mun, North and Islands districts, to encourage them to go out to find jobs and work across districts. One year later, the Government introduced a series of improvement initiatives, including raising the monthly income ceiling for eligible persons to \$6,500 and allowing eligible persons living and working in the same remote district to apply for allowances. This was in response to the aspiration advocated and initiated by Mr WONG Kwok-hing at that time. The duration of the subsidy period was also extended from six to 12 months.

It has been more than three years since the launch of the TSS in 2007, with the number of successful applicants exceeding 40 000 and a financial commitment in excess of \$300 million.

There have along been a lot of opinions in the community calling on the Government to expand the TSS to all districts in Hong Kong. We were also gravely concerned about the pressure exerted by travelling expenses on low-income persons. This was why the Financial Secretary clearly indicated in the Budget this year that the Government would study ways to reduce the burden

of travelling expenses borne by low-income employees and undertook to make suitable financial provisions upon the completion of the study.

After detailed studies, the Chief Executive announced in the Policy Address in October the introduction of the WITSS to subsidize eligible low-income employees throughout the territory in meeting their travelling expenses on commuting to and from work with a view to relieving their burden and, most importantly, encouraging them to stay in employment. Under the new scheme, each eligible person may receive a monthly transport subsidy of \$600. There will be no limit on the subsidy period provided that the recipients meet the eligibility requirements. While the duration of the existing scheme is 12 months, the duration of the WITSS will be subject to no limitation at all in the future. The WITSS will replace the existing TSS. A comprehensive review will also be conducted three years after the implementation of the WITSS.

We are currently actively formulating specific proposals and implementation details for the new scheme, with the undertaking that a detailed explanation will be given at the Panel on Manpower of the Legislative Council next month. I am pleased to listen to Members' views on the new scheme and will make a more detailed response again later on in the meeting.

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

Deputy President, I so submit.

MR WONG KWOK-HING (in Cantonese): Deputy President, there are three coincidences in the debate today. Firstly, the motion debate proposed today by Dr PAN on transport subsidy coincides with the minimum wage announcement made by the Secretary this afternoon. This is the first coincidence. Secondly, the Government's proposal of conducting a review at the end of this year coincides with the implementation of minimum wage on 1 May next year. Thirdly, the Government's proposed hourly wage of \$28 and its proposed transport subsidy of \$600 are actually another coincidence. These several

coincidences have actually set the stage for a social effect, that is, to achieve a soft landing for the implementation of minimum wage on 1 May next year.

Deputy President, we are dissatisfied with the Government's announcement today of proposing the hourly minimum wage to be set at \$28. We will consult the unions throughout the territory and solicit their mainstream opinions before making our choice. At this stage, I will not comment on this. As regards the Government's proposed transport subsidy, I only wish to explain why I think it is a coincidence with the Government's proposed minimum wage. Although the Government might not agree with my view, I think that if the transport subsidy scheme to be launched by the Government next month can perform the function as a "quantitative easing" transport subsidy policy, then the Government will be able to help provide more job opportunities for grass-roots workers. Recently, "quantitative easing" has become a trendy expression. By "quantitative easing" transport subsidy, it means the proposal in Dr PAN's motion. By "quantitative", it means that we hope the Government can really help more grass-roots wage earners by increasing, not reducing, their job opportunities. This is the most important indicator for evaluating the success of the policy.

Why is "easing" needed? By "easing", it means that it is unnecessary to impose so many hurdles. For instance, it is actually unnecessary to impose the \$44,000 assets ceiling. The Government has now proposed that the hourly wage be set at \$28. Let us do some computation. According to the Government's announcement, all workers receiving minimum wage can actually receive a monthly transport subsidy of \$600 because an hourly rate of \$28 times 26 and then eight equals \$5,824. This, if added to \$600, will become \$6,424. Compared to our proposal, whereby an hourly rate of \$33 times 26 and then eight equals \$6,864, there is still a shortfall of \$260. Therefore, the Government's proposed hourly wage of \$28 actually enables all workers receiving minimum wage in Hong Kong to be eligible for transport subsidy. This is actually what the Government has meant to do and wished to achieve. Anyhow, this is the effect thus achieved.

It is precisely for this reason that there is simply no need for the Government to conduct an assets test and, what is more, use family as the unit for applying for transport subsidy, as was reported in the media these days. If this change is effected, the Government will put the cart before the horse, or attend to trifles to the neglect of essentials, so to speak. The complete change in nature

will turn the transport subsidy into some sort of social welfare, such as CSSA, living allowance, and so on. It is totally wrong to do so because the transport subsidy is meant to be an employment assistance to enable employed wage earners to meet their exorbitant travelling expenses. Because of their low wages, they have to apply for the transport subsidy. The objective of the Government is to encourage them to work. This is why I hope the Government will not make any change. Should such a change be made, we will really oppose until the end.

On the other hand, why did I say that "easing" was necessary? We have really received a lot of opinions from wage earners, especially those doing part-time and casual jobs. A group of workers has brought along some "crispy egg chips²" to stage a petition, appealing for "protecting casual workers and abolishing the 72-hour requirement". Deputy President, actually, it is not that they do not wish to take on permanent jobs, just that they cannot find any. It is good that they are willing to do any jobs, even if it means working just a couple of hours a day. Despite their desperate wish to find 72-hour jobs, they have not managed to find any. They just wish to help meet household expenses and support their own living. Actually, they deserve praises and awards from the Government.

Honestly, if we look at the modes of public transport in Hong Kong, we will find that most of them are being run as monopolies or semi-monopolies. Moreover, the Government has offered them countless subsidies, hasn't it? When did the Government ever conduct any test on them? Or when did the Government impose any restrictions on their eligibility? Let me cite the railway as an example. The permission given by the Government to the railway corporation to build properties above its railway stations is actually tantamount to some sort of subsidy. At the request of the Government, the Legislative Council has also allocated funds to the corporation to build railways. This is known to everyone, right? Let me cite buses as another example. The Government has funded not only their fuel surcharge but also replacement of their fleets by more environmentally-friendly buses. As for ferries, the Finance Committee also endorsed last Friday the allocation of a large sum of funding to assist in the operation of ferries. We have seen all this. But why does the Government impose so many restrictions on the transport subsidy? Therefore, this is

² "crispy egg chips" (蛋散) in Cantonese rhymes with "casual workers" (蛋散工)

unwarranted. The Government must address the issue of transport subsidy with a "quantitative easing" approach.

Here I must appeal to the Secretary that, given the hourly wage of \$28 you announced today, I think the Government should, on the contrary, pay more attention to watching out for some unscrupulous employers who might exploit the hourly wage of \$28 to make more workers eligible for receiving the transport subsidy. What am I saying? I mean these employers will resort to dismissals or termination of contract to lay off workers whose hourly wages are far higher than \$28. In that event, these workers will become eligible for receiving the transport subsidy again. I hope the Government can do something about this (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR WONG KWOK-HING (in Cantonese): Thank you, Deputy President.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, in fact, we in the Hong Kong Confederation of Trade Unions (CTU) did fight for transport subsidy years ago. But honestly, we felt we were being wronged.

According to our stance, we have all along considered that the biggest problem facing Hong Kong after 1997 is the wealth gap. Why is there such a gap? It is because workers cannot support their families. Even though they go out to work, they are still poor. In the past, workers could support their families so long as they worked hard. They were also very pleased that they could at least bring up their children. But now, things have changed. After 1997 and following the Government's outsourcing of its work, the financial turmoil and a tide of closures and layoffs, some people who were previously employed have become jobless. People who were originally earning a relatively reasonable income saw their income spiral downwards and became low-income workers. I have no intention to mention those figures as everyone knows that during the past decade since 1997, the workers have seen a sharp drop in their wages to \$4,000 or \$5,000, and found themselves incapable of feeding their families. So, how should they make their living?

Recognizing this problem, the CTU has all long been advocating that two measures must be implemented in Hong Kong. They include, first, minimum wage and second, subsidies on living expenses for low-income earners, that is, helping low-income families through the levying of negative income tax (NIT). For the former, a minimum wage will provide a cushion for the working poor by preventing wages from falling to an exceedingly low level. Of course, it will not work if only a minimum wage is provided because one might still not be able to support a family of three or four persons even though his wage has been cushioned. We in the CTU have demanded that the hourly wage be set at \$33, but still it can only enable one to support a family of two. Therefore, even with the protection of a minimum wage, a person going out to work is still incapable of supporting a family of three or four persons.

What is the experience gained in other parts of the world? What do other places do to encourage people to go out to work and leave the unemployed ranks? The answer is people can earn a minimum wage if they go out to work. It does not matter even if they cannot support their families, as the government will subsidize their living by levying an NIT. By levying an NIT, it means that people above a certain line will have to pay tax, and those below the line will receive direct subsidies. As the Inland Revenue Department, not the Social Welfare Department, will take charge of the matter, people will have a high degree of dignity. Under this scheme, workers will be respected and have dignity.

Against this background, we have all along insisted that the Government should adopt these two measures. However, the Government behaved like a tube of toothpaste being squeezed. Nothing would come out of it even though it was squeezed again and again. In the end, we could only make a detour. Honestly, we made a detour by putting forth the transport subsidy proposal. We told the Government to this effect, "Now that you do not want to introduce subsidies on living expenses for low-income earners, why don't you offer a transport subsidy as the travelling expenses are so exorbitant at present." Following our lengthy communication with the Government, the Commission on Poverty was established and, eventually, came up with the idea of providing a transport subsidy. But unexpectedly, Henry TANG suddenly said, "No, we have to think it over again". I recall we were forced to splash red paint for the first time, demanding him to put the plan into implementation. After a series of meetings and confrontations between Members inside and outside the

establishment, the Government eventually decided to launch the transport subsidy. At that time, the Government made it clear the scheme would be implemented in four districts. Although we found it unfair for the scheme to cover four districts only, we had accepted everything because if we continued with our dispute over expanding the scheme to cover 18 districts, we did not know when the dispute would come to an end.

The Transport Subsidy Scheme (TSS) thus began with the four districts. Originally, the TSS was confined to the four districts and would last one year. However, this would give rise to a problem: What will happen after one year? According to our plan, we would fight for expanding the scheme to cover 18 districts within the year. This is why we fought for offering a \$600 transport subsidy to people with a monthly income below \$6,500 and personal assets below \$44,000. It was against this background that the transport subsidy came into being. Next, we fought for expanding the scheme to cover 18 districts and hoped that the scheme could be extended after one year. But unexpectedly, the scheme was terminated by the Government after one year. As a result, people who had received the subsidy for one year could no longer receive the subsidy. And then, the Secretary said that a review had to be conducted. If we have to hold someone responsible, it is because the Secretary said that a review had to be conducted, and then we were made to wait for one more year. Therefore, the payment of transport subsidy to some workers already ceased a year ago. It has been one year. The Government did not mention the review until then. Of course, we hoped the review could be completed expeditiously for the scheme to be activated again. During the interim, I splashed red paint for the second time because the Government still owed the workers an explanation.

Now that we have been delayed by the Government for one year, what sort of review is being conducted? What measures will be launched? No one knows. But Secretary, I find that you might have gone too far by coming up with some concepts that should not be linked to the transport subsidy. During my numerous discussions with you, I have pointed out that the Government has made it clear in the Policy Agenda that the target is employed members of low-income families. This is very much different from the case in the past when the subsidy was targeted at low-income employees. But now, it is targeted at employed members of low-income families. What is the difference? The difference lies in that all family members have to be vetted. In other words, the whole family must be defined as a low-income family before the employed

members of the family can receive assistance. But how would you define a low-income family? This would involve vetting all family members of an applicant for the purpose of defining whether the applicant is a low-income earner. The existing practice is different. Deputy President, according to the existing practice, an application is made by an individual in his own capacity, and only the applicant is subject to an assets test. But in the future, the information of an applicant's family members has to be submitted with the application. Hong Kong people are most afraid of submitting an application jointly with their family members. Honestly, if they are willing to do so, many of them might have applied for CSSA. But they do not want to do this. It will be too bad if the Government takes the wrong path and retrogress to vetting all family members of an applicant because many people will refrain from submitting applications for fear that his entire family will be vetted.

In view of this, Secretary, I hope you will clarify later whether you will give up this idea. If the definition is changed, people now receiving the subsidy in their personal capacity might be unable to receive the subsidy in the future as they might not comply with the new definition. This is why we in the CTU consider it necessary to continue with the present practice, whereby individual applications are accepted. Neither should there be an assets test. Given that the applicants are already working, why should there be an assets test? On the other hand, the 72-hour requirement should also be relaxed. A person who works only 32 hours a month would have become a casual worker. This is why, Secretary, I will treat you to these "crispy egg chips" later. They taste very delicious, and they are really edible, too. However, these casual workers are really devoid of protecting. This is why the 72-hour ceiling should be lifted to allow all workers to receive the transport subsidy. Lastly, I wish to emphasize that the Government must not vet the entire family. If it does, it is not encouraging employment. The Government had better improve low-earnings CSSA and allow people to apply for it, as all family members will have to be vetted for the purpose of applying for low-earnings CSSA. Thank you, Deputy President.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, after a prolonged campaign both inside and outside this Council, the Government has finally agreed to implement measures to provide a work incentive transport subsidy for all low-income earners. However, we still have to closely monitor if the scheme can really provide concrete assistance to the grassroots to ensure that

it can really help low-income earners and prevent it from becoming the Government's tool to deceive public opinion.

At present, Hong Kong society is plagued with all kinds of ills. One of the causes is unfair distribution of income. As a result, the disparity between the rich and the poor has continued to widen. The income of low-income earners can simply not keep pace with the development of society and lags far behind inflation, and the actual income of these people has decreased rather than increased. In other words, the standard of living of the poor worsens as Hong Kong becomes increasingly prosperous.

Unfortunately, the Government has not only failed to resolve social conflicts with targeted policies and measures, it has even connived at public transport operators raising fares indiscriminately, thus further aggravating the burden of the public. The MTRCL, which recorded a net profit of \$6.6 billion in the first half of this year, is poised to raise fare by 2% this year. The KMB and the Long Win Bus Company Limited are also submitting separate applications to the Government for fare increases of 8.6% and 7.4% respectively, even though their parent company, the Transport International Holdings Limited, recorded a net profit of \$600 million in the first half of this year. Under the prevailing economic environment where both the MTRCL and the KMB are hoarding enormous surpluses, it is total neglect of their social responsibilities by the two corporations in proposing fare increases.

In fact, the means of public transport in many major cities around the world receive government subsidies to enable the public at large to enjoy the right to move around the cities freely. On the contrary, our Government has often used the "big market, small government" principle as an excuse to outsource some of its core public services. As a result, it looks as if even public transport has become a luxury. In Beijing, Toronto and New York, however, underground railway services charge standard fares.

In my opinion, the exorbitant transport fares in Hong Kong have exploited the grass-roots wage earners' right to go to work indirectly. Therefore, we hope that the minimum wage level to be determined shortly will take into account the present exorbitant cost of going to work. Unfortunately, did the Government take account of this point in setting the minimum wage level at \$28? The Secretary should think about this.

To go deeper, it is actually due to the Government's failure in planning land usage that the grassroots are now made to bear exorbitant travelling expenses. The Government has continued to develop new areas and allocate a large number of low-income persons with public housing in these districts. However, the lack of commercial activities in these new districts has resulted in fewer and fewer job opportunities. Hence, the people living there have to go seeking employment in the urban areas, but then they cannot but reluctantly pay exorbitant fares, which very often constitute part of their living expenses.

We can see that many of the residents living in Tin Shui Wai, Tuen Mun and Tai Po have to spend more than \$40 every day on bus trips to and from Hong Kong Island. If we use 25 days a month as the basis for calculation, they will have to pay more than \$1,000 a month in transport fares. For a wage earner with a monthly income of \$6,000 or so, it is indeed too much to pay more than \$1,000 in transport fares. Secretary, can you put yourself in the shoes of these grass-roots people in considering this issue? I hope the Government can make the transport subsidy scheme permanent to remedy its planning blunders before this problem is solved.

Lastly, I would like to say a few words about those people with disabilities working in sheltered workshops. Will the Government consider extending the subsidy to them as well? Although some people with disabilities are provided with escort services in travelling between their homes and sheltered workshops, we know that a small number of people with disabilities still need to pay for the expenses incurred from such trips. For this reason, I hope the Secretary can sympathize with these people by expanding the scope of subsidy to enable them to be benefited as well.

Deputy President, I so submit.

MR CHEUNG HOK-MING (in Cantonese): Deputy President, the DAB has all along been proposing to the Administration the expansion of the TSS, which is confined to Yuen Long, Tuen Mun, North District and Island residents, to cover all people in the 18 districts in Hong Kong. Therefore, the DAB welcomes the Chief Executive's proposed replacement of the existing TSS by the WITSS, as put forward in this year's Policy Address, to benefit all eligible persons in the

territory. As specific details have yet to be formulated for the new WITSS, today's motion has given us an opportunity to put forward useful suggestions to the Government to enable it to further improve the new scheme on the existing basis.

It can be said that Hong Kong's exorbitant travelling expenses have ranked the highest among various major cities in the world for a long time. In 2010, in particular, the MTRCL, tunnel operators and various large and small public transport operators, including those having made enormous profits, go ahead with their fare increase bids despite opposition, turning a blind eye to the tremendous pressure on the living of the public, with some of the increases being even higher than inflation. With the wage increases of wage earners failing to catch up with overall inflation, the merciless moves of the public transport operators can be described as an additional blow to those people who need to travel to other districts to work. Even for others who work in the districts where they live, life is not at all easier.

Regarding the question of whether or not the ceilings of the total value of assets and monthly income of applicants should be relaxed under the new scheme, as public money is used to help the beneficiaries, the Government must ensure that the money is put to good use. However, the eligibility requirements should not be too stringent for the WITSS to truly help people in need and consideration should be given to actual circumstances. Therefore, we hope that the authorities can adopt an open-minded attitude in formulating the specific details of the scheme, solicit the views of the general public extensively, and make suitable adjustments to the total value of assets and monthly income of applicants after assessing the overall economic environment and inflation of prices in an objective manner.

Deputy President, the objective of introducing the WITSS is to benefit and facilitate the public, rather than making the old TSS even more complicated, thereby giving the executive an additional workload and impose more vetting and approval hurdles. After the formal implementation of the new territory-wide scheme, I believe the number of applicants will definitely be higher than that under the old scheme, or even several times higher. The time and manpower required for handling the applications might have to be increased accordingly.

For this reason, both the DAB and I support the proposal put forward earlier by Mr IP Kwok-him on streamlining the application procedures,

expediting the vetting and approval process and reducing the administrative costs. I hope the Administration can adopt simplicity, convenience and enhanced efficiency in vetting and approval as its major principles in formulating the practical operational procedures to really achieve the objective of benefiting and facilitating the public without substantially increasing the administrative work of the relevant departments.

Deputy President, exorbitant transport fares are evidently a social and livelihood problem. It is pointed out in a study report compiled by some social welfare organizations that of the approximately 1.26 million poor people in Hong Kong, 70% are working poor. It is indicated in another survey that travelling expenses now account for 10% to 15% of the income of the grassroots. The provision of a transport subsidy by the Administration to low-income people can certainly meet their urgent needs, but this is by no means the only solution. I must reiterate that in order to tackle this deep-rooted problem thoroughly, a multi-pronged approach should be taken through formulating practical measures to reduce the travelling expenses of the public and actively encouraging public transport operators to provide concessions to the needy in the community. Furthermore, the Government, as the major shareholder of the MTRCL, should even take the lead to lower or freeze fares. It is irresponsible of public transport operators to adopt maximizing their profits as their only business objective. Members must bear in mind that all these public transport operators have been receiving assistance of varying degrees from the Government in terms of policy, such as subsidy from property development proceeds, fuel duty remission, and so on.

Furthermore, fare increases effected by public transport operators in Hong Kong have given rise to a vicious circle, so to speak. Let me cite the three existing harbour crossings as an example. As most vehicles use the Cross Harbour Tunnel (CHT) to cross the harbour, the operators of the other two tunnels have proposed fare increases on the grounds they are unable to make the expected return due to under-utilization of the two tunnels. In addition, public transport vehicles using these tunnels have also adjusted their fares upward due to increasing costs. In the end, the public are made to bear these expenses all by themselves.

The Government ought to understand the impact of exorbitant transport fares on low-income earners. Not only will their desire to seek employment be

reduced, their competitive edge in the community will be affected as well. The Government has recently submitted a consultancy report on ameliorating the congestion problem at cross harbour tunnels, and it is found that the consultative document is inclined towards the proposal of "raising tolls for the CHT and reducing tolls for the Eastern Harbour Crossing". This will be futile. I hope the authorities can take on board the proposal put forward by the DAB by considering buying back a number of tunnels operated under a "Build, Operate and Transfer" arrangement for the purpose of re-determining reasonable tunnel tolls and conducting a radical review of the fares and charging mechanisms of various major public transport operators, in order that travelling expenses can be maintained at a stable and affordable level. Only in doing so can the public be truly benefited.

Deputy President, I so submit.

DR JOSEPH LEE (in Cantonese): Deputy President, actually, the WITSS can be regarded as an enhanced version of the TSS. Such being the case, we hope that a greater number of low-income people can be benefited. Therefore, the ceiling on the total value of applicants' assets should be relaxed or, as proposed by certain Members, the tests on the total value of applicants' assets should be abolished altogether, so that a greater number of low-income people can be benefited. As for the question of raising the ceiling of applicants' monthly income, many grass-roots people have indicated that transport fares now take up nearly 10% of their total income.

I was back from Kuala Lumpur only last week. My friends in Kuala Lumpur were shocked when I told them that if a person earned \$10,000 monthly in Hong Kong, he might need to spend approximately \$1,000 in transport fares. They asked me why the transport fares in Hong Kong could be so exorbitant, especially as they considered \$10,000 a pretty good income. For them, the burden could not be considered small if a person earning only \$5,000 or \$6,000 monthly had to pay \$1,000 in transport fares. This is why I think that it is a good thing if the income ceiling can be adjusted upward, so that a greater number of low-income people can be benefited. Just now, some colleagues mentioned that the TSS was calculated on the basis of a personal income of \$6,500. While we do not oppose using the personal income as a calculation criterion, as this approach is simple and direct, the problem in reality is that grass-roots

households in Hong Kong normally have at least three to four members. Very often, only one of them goes out to work to support the other two or three family members. If the income ceiling of \$6,500 remains unchanged, can the Government help most of the relatively poor households? The scheme might therefore fail to serve its original purpose. Therefore, I hope the Secretary can make more efforts in considering this issue and calculate in detail at which level the ceiling should be set. It is certainly most preferable if no ceiling is imposed, for a greater number of households can thus be benefited.

As for the number of working hours per month, can the present 72-hour requirement be relaxed? Of course, the amendment proposed by Ms LI Fung-ying on revising the number of working hours is, relatively speaking, operationally viable. But our principle is, if it is found upon calculation that the administration cost involved is not high, the Bureau should strive to grant an appropriate amount of transport subsidy to low-income employees, regardless of the number of hours worked, to enable them to take up work and encourage them to seek employment. The objective of this arrangement is to encourage them to go out to work, so that they will not choose not to work because of the exceedingly high travelling expenses incurred as a result of travelling to other districts and apply for CSSA instead. Actually, some colleagues have also mentioned that the scheme is not part of CSSA. Instead, it is a better scheme as people are encouraged to travel to other districts to work. In this way, people with working capability will continue to work rather than choosing not to go out to work because of the exorbitant transport fares.

We must emphasize that the WITSS must be implemented in a sustainable and fair manner. The existing TSS is a one-off scheme with a time limit. We hope the Government can undertake that no time limit will be imposed on the WITSS, as transport fares are inevitable to wage earners. We hope that the Government can formulate a long-term policy and system for the WITSS, as in the case of the Student Travel Subsidy Scheme and even the School Medical Service Scheme, to provide long-term assistance to genuine low-income people, so that they can work with peace of mind and be encouraged to work. This is the more important task for the Government.

Recently, some newspapers and colleagues have mentioned that the Government might use the entire family as the basis in conducting the tests. If this is the case, I think the Government is really very shameless. Had it known

that what will happen today, it had better not put forward the proposal in the first place, as this would undoubtedly cause people to hold a wrong expectation, thinking that the Government will help the low-income people and offer them a transport subsidy to encourage them to seek employment. In the end, the Government is simply fooling the applicants by giving them a wrong expectation or hope, as the assets of all their family members would need to be tested. Therefore, I would like to call on the Secretary to consider this matter with prudence. While there is no harm giving some thoughts to this idea, the Secretary must not put it into implementation, or else the original merits of the WITSS can simply not be brought into play. I hope the Secretary can think twice about it.

Deputy President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, actually, both the Neighbourhood and Workers Service Centre and I do not find the WITSS at all acceptable. Why do I say so? Because the scheme has produced two effects.

Insofar as the first effect is concerned, the scheme seems to have connived at public transport operators making profits and, what is more, receiving subsidy. Why? This is because, with the Government's subsidy, they will think that it does not matter even if fares are raised. As a result, they can raise fares incessantly. This is the greatest impropriety in our view.

The second impropriety is that the scheme will, as previously pointed out by the Secretary when she refused to launch the scheme, indirectly subsidize some employers so that they need not pay too high a wage. The argument is pretty obvious. With the provision of a transport subsidy, employers need not pay their employees too high a wage because the employees' problem in meeting their travelling expenses has already been resolved.

For these two reasons, the Secretary previously objected to the provision of transport subsidy. Her reasons were the same as ours for not giving our support. But unfortunately, regarding these two issues if I put it in a nice manner, I would say that the Government is willing to help but unable to do so. If this is

not the case, I would say that the Government's indifference has connived at public transport operators continuing to raise their fares unscrupulously, even though they might have made great profits.

Nowadays, fares are exorbitant. In the past, a round trip would have cost more than \$40 if we lived in the remote areas and had to go downtown to work. How could this be acceptable to a low-income worker? How could he bear such an exorbitant fare?

Meanwhile, let us come back to the wages. Nowadays, wages are very low. There are more than 300 000 people who earn a monthly wage of \$5,000 or below. How can these people pay more than \$1,000 in transport fares? Just now, Dr Joseph LEE described it as too much if one earning a monthly income of \$10,000 has to spend \$1,000 on travelling expenses. Buddy, if you consider the travelling expenses too much for someone earning \$10,000 a month, what about someone earning \$5,000 a month?

In fact, when there was no minimum wage in the past, the Government simply allowed exceedingly low wages to exist, thus producing these effects. Therefore, regarding the two points discussed earlier, the Government had actually not done its job properly, and the TSS had thus come into being.

What is the situation today? It does not appear to me that there has been a substantial improvement. Why? Because the minimum wage announced by the Secretary today is \$28. In fact, if we use a minimum wage of \$28 as the basis for calculation, a person will make only \$5,826 if he works eight hours a day and 26 days a month. If the transport subsidy is not provided, only around \$4,820 will be left after deducting \$1,000 or so from \$5,826. How can people making a monthly income like this get by? Using 30 days in a month as the basis for calculation, one can spend only \$100 or so a day. So, how much can he spend on each meal, given that he has to have three meals a day? The Secretary should know the answer very clearly.

Although a minimum wage has been proposed today, this wage level is still a far cry from the minimum wage of \$33 proposed by us. In fact, even if the minimum wage was set at \$33, the monthly income would still be around \$6,820 only. If we add the \$600 transport subsidy to a monthly income based on a

minimum wage of \$28 and compare the total sum with a monthly income based on a minimum wage of \$33, there is still a difference of \$200 to \$300 in monthly wages. This can simply not meet the people's basic needs of living. Therefore, if this transport subsidy of several hundred dollars is not offered, the people will simply find it impossible to meet their living expenses currently.

Given that there is no viable alternative, we can only insist on requesting the Government to continue to implement its transport subsidy scheme. The previous transport subsidy scheme was confined to four districts only, thus giving rise to a lot of cases of unfairness. For instance, the transport subsidy was offered to people travelling from remote areas to town centres, but it was not offered to those travelling the other way round. This is unfair. Moreover, poor people do not live in remote districts only. Many other districts, such as Sham Shui Po, Kwai Chung, and so on, are extremely poor, too. Residents living there, however, were not eligible to apply for the transport subsidy. Therefore, this is extremely unfair.

The Government has now expressed its willingness to expand the scheme to cover 18 districts, and we agree that the Government should do so. However, in expanding the scheme to cover 18 districts, the Government is apparently a bit reluctant and thus it has tightened the scheme slightly. As reported by newspapers and colleagues, the Government is prepared to use the family rather than an individual as the unit of calculation. Is the Government actually playing tricks in doing so? Is it trying to make life difficult for people? I think the Government should not act in this manner as this will only give people an impression that it is narrow-minded and unfair. This will bring inconvenience to the public, too.

The reason is, if the family is used as the unit of calculation, the Government will have to conduct thorough investigations into the relevant families and obtain their information for vetting. If any irregularity is found in the vetting process, the Government might prosecute the applicant, thus creating a lot of disharmony. So, why should the Government do this? If the Government really wants to look after the needs of the people, it should refrain from imposing too many hurdles and standing in the way of the public.

Therefore, the Government must not act in this manner. Meanwhile, we all know that the original scheme was unable to take care of casual workers. Many people work as casual workers in order to help make ends meet. However, they are made to pay exorbitant transport fares after finding

employment. It is therefore better for them to refrain from working than to work. However, I do not want people to rely on the Government and refrain from achieving self-reliance.

Therefore, it will be even better if the Government can offer the subsidy to part-time or casual workers. This is why I consider that the 72-hour restriction should be abolished.

Furthermore, I think that the Government's review has been delayed for an exceedingly long period. It was originally said that the outcome would be submitted to us at the end of this year I hope it can be submitted expeditiously. However, this review should have begun earlier, not now. But there is nothing we can do. As it is decided that the review will not be conducted until now, I hope the Government can deal with it expeditiously and refrain from employing a delaying tactic. I hope it can submit the result to Panel on Manpower as soon as possible, so that we can endorse it expeditiously for early implementation. It should not delay anymore, or wait until 1 May, as with the minimum wage. This is not what I hope to see. I hope the scheme can be implemented early next year so that everybody can expeditiously resolve the hardships encountered in their lives and upgrade their living standard.

I so submit.

PROF PATRICK LAU (in Cantonese): Deputy President, the Professionals Forum (PF) greatly supports the WITSS. Perhaps this problem can be traced back to some time earlier, and we will find that it is left over by the former colonial government. Why do I say so? You must understand that the planning of Hong Kong was based on the idea of satellite towns conceived by the British at that time. In fact, according to the idea of satellite towns, developments could be pushed to faraway places when an urban area had become overcrowded. Actually it was hoped that each district could become self-sufficient. Of course, it did not work, and there are numerous examples. For instance, Tuen Mun and Tin Shui Wai are such failures. The situation will be different if Chinese people are responsible for the planning. Deputy President, both you and I had visited the World Expo to admire the city life showcased by the "Riverside Scene at Qingming Festival". The problem would not have arisen if we lived in compact communities where we could live and work.

Nowadays, all public housing estates are built in the remote areas. Who would like to live in the remote areas and travel a long distance to go to work? However, people do not have any choice, and there might not be enough space in the urban areas. As a result, they have to take long-distance rides to the urban areas for work. Of course, people have to pay higher transport fares if they live in more remote areas. Therefore, this problem is a legacy. Of course, the Secretary has to think of a solution.

It was pointed out earlier that everyone is complaining about the exorbitant transport fares. How exorbitant are they? I heard a Member say earlier that a household may spend up to \$1,000 on travelling expenses. According to the information provided by the Census and Statistics Department, each low-income household spends \$400 on average on transport fares. At the same time, it was pointed out that the average transport fares of each household take up 10% of the household expenditure. This ratio is actually not small. I would like to say that I agree with the earlier comment made by a number of Members, that transport operators should lower their fares, thereby relieving the burden on the public. The Legislative Council has also held numerous discussions on this issue. However, the major problem facing us is a problem left behind by the former colonial government. Actually, the benefits of market economy emphasized by us also lead us to the same problem. Therefore, we are cautioned against intervening in the market. As no one dares to do so, a fare adjustment mechanism that allows fares to go upward and downward has thus come into being. But the Government simply cannot make public utilities reduce fares because of the agreements already signed with them. So, how can fares be reduced? Secretary, it is right for you to come up with this initiative to provide subsidy to help the needy in living.

I would like to repeat a remark made by a Member earlier, that the MTRCL has recorded such a substantial surplus. Meanwhile, the policy address — not this year's Policy Address. It was already discussed in last year's policy address — also pointed out that these major enterprises should fulfil their social responsibilities. What is the best approach for the Government, being the major shareholder of the MTRCL? Should the Government reduce fares, pay back to the public or offer a subsidy? Therefore, this is a difficult consideration. I greatly support the transport subsidy scheme proposed in the Policy Address this year, that is, expanding the scope of support to benefit all people in Hong Kong.

This can encourage the public to seek employment in the more remote places as well as taking up employment. However, in the briefing given at the meeting held by the Panel on Manpower on 21 October on the Policy Agenda, I also saw the Government, as pointed out earlier by a number of Members, adopt the family unit, rather than individuals, in the applications for transport subsidy. I do not entirely understand this point. What did it come from? May I ask the Secretary to give us a brief explanation later as to why the family unit is adopted in addition to individuals? This method of calculation is very troublesome.

If the Government really intends to offer a subsidy to the people and encourage them to go out to find jobs, I hope the authorities will cease studying this measure in detail. I do not entirely understand why this subsidy scheme should be subject to an assets ceiling. I have noticed that while the income ceiling under this scheme is \$6,500, the ceiling on public housing applicants is \$7,400, and there is a difference of \$900. Why is there such a ceiling? What are the justifications? Perhaps the Secretary can give us an explanation later on. The ceiling of the total value of assets, which stands at \$44,000, is even worse. In fact, the ceiling on public housing applicants is \$187,000. Why is there such a huge difference? I do not understand this. Again, this is a problem left behind by the colonial government. Actually, what led to this situation? Some people are living in public housing in the remote areas, and yet there are no employment opportunities there. If we want to let these people benefit from the transport subsidy, should we not also consider allowing public rental housing tenants to receive the subsidy? They badly need this transport subsidy.

Therefore, I very much agree with the suggestions in the original motion and the amendments, namely the Government should examine the possibility of rationalizing these ceilings and the regulatory system so that the restrictions imposed on the transport subsidy mechanism can most preferably be brought in line with the level of public housing applications, with a view to allowing more people to work in the remote areas and lowering their transport fares as far as possible. Thank you, Deputy President.

MR IP WAI-MING (in Cantonese): Deputy President, I believe many people who have had the experience of using local transport will know that the fares are exorbitant. Actually, I am making no innuendoes. Very often, the Secretary can enjoy the transfer service provided by government vehicles, so she is not

necessarily aware of the hardships of members of the public in this respect. However, I know the Secretary would very often try to feel the pulse of the people by taking bus rides.

For many people, transport fares actually take up a very high proportion of their income. Let me cite the North District as an example. Someone who lives in Sheung Shui or Fanling and works in the urban area would have to spend several dozens of dollars a day for a round trip. For instance, a single-trip fare on bus route no. 373 to Central is \$22.3, and a return fare is nearly \$45. If we do this calculation on the basis of 24 working days in a month, the monthly travelling expenses would reach \$1,070. Actually, Deputy President, you can see that \$1,070 already accounts for nearly one tenth of the income of most of the wage earners in Hong Kong, if the calculation is based on the median wage published by the Government, that is, \$10,500. Therefore, it is evident that transport fares take up a very high proportion of the income of a large number of wage earners. Moreover, given the high property prices, many people, including those who wish to buy or rent a flat, are forced to move to the increasingly remote places, because rents and property prices are so high. Under such circumstances, many people are actually required to pay a large sum of money in transport fares.

We certainly welcome this scheme proposed by the Government. However, we feel that the scheme has very often imposed many hurdles. Both my two colleagues and other Honourable colleagues in this Council have already mentioned this point. In particular, regarding the assets test, what does \$6,500 mean to a person earning a monthly income of \$6,500? Deputy President, the Government announced today that the hourly minimum wage be set at \$28. We are very disappointed because it is a far cry from the hourly minimum wage requested by us. Nevertheless, if we do the calculation on the basis of an hourly minimum wage of \$28, if a person — not to mention the eight-hour standard working hours requested by us — works 10 hours a day and 26 days a month, he can already get \$7,280 a month. Secretary, a person earning the minimum wage according to the standard set by the Government, that is, working 10 hours a day and 26 days a month, is still ineligible to apply for the transport subsidy if the calculation is based on the Government's standard monthly income of \$6,500.

Besides, we are also concerned about the \$44,000 ceiling of the assets test. What are included in it? Deputy President, even the dividend payments from

savings insurance are included. My office would very often receive some complaints from residents, saying that they had bought savings insurance and the dividends payment thus derived was very little. Even if the payment was encashed, it would just be around \$10,000 to \$20,000, or even less, if calculated in terms of Hong Kong dollar. However, the dividend payments would very often make them ineligible to apply for the transport subsidy. In some of the cases handled by us, the applicant did not exceed the \$44,000 ceiling of the assets test when his application was submitted without including the dividends payment. However, several months later, he was found to have exceeded the ceiling of the total assets value because the dividends payment was included as part of his assets. Very often, the Government would cease offering him the transport subsidy. Moreover, he would be requested to return the transport subsidy already received to the Government.

Deputy President, we would like to ask the Government these questions. What is its purpose of establishing this scheme? Why should such hurdles be imposed? In fact, the Government often encourages people to take out insurance. For instance, the Government encourages people to take out healthcare insurance for healthcare protection. Actually, how much is this kind of savings insurance worth? For an individual wage earner, what he actually wants is to buy some peace of mind. But he is not allowed by the Government to do so. Should the Government not consider this point when devising the so-called assets test, Secretary? Does the Government have to make people live in constant fear for their livelihood and deprive them of any opportunities to buy some peace of mind?

On the other hand, I wish to find out more about the TSS. I have no idea what is happening to the review because, with repeated delays, it will not be submitted to us until the end of this year. Previously, the TSS adopted the individual as an unit for the purpose of calculating income. But now, it has been reported in some newspapers that the Government appears to have the intention of adopting the family as an unit for the purpose of calculation. I hope to seek an elucidation from the Secretary here. Will the family be adopted as an unit for the purpose of calculation in the future? If someone is really making a meagre income and needs to apply for the transport subsidy, it means that the expenses of all his family members will need to be tested before he can apply for that several hundred dollars. Is this not an intrusive measure? With the median monthly household income now standing at \$18,000, if the eligibility is calculated on the basis of 65% of an applicant's median monthly income, it should be \$11,700. If

two members of a family earn a monthly income of approximately \$6,000 each, they would basically have exceeded the ceiling.

Hence, I really hope that the Secretary can make an elucidation in this respect. Actually, I am running out of time. A question was also raised by a number of colleagues earlier. After all, why are the transport fares in Hong Kong so exorbitant? Should the Government continue to connive at these public transport operators continuing to increase fares without fulfilling their social responsibilities? I believe it will make no difference regardless of the amount of additional transport subsidy offered by the Government in the future.

Thank you, Deputy President.

MR PAUL CHAN (in Cantonese): Deputy President, I support Dr PAN Pey-chyou's motion on the WITSS. I also support all the amendments but the one proposed by Ms LI Fung-ying, as it proposes the abolition of all assets tests. Deputy President, the WITSS proposed by the Chief Executive in the Policy Address, under which a \$600 monthly subsidy will be offered, can not only help people in need, it is also in line with the value of encouraging Hong Kong people to achieve self-reliance. In view of this, such a meaningful scheme must have a set of reasonable and practical requirements before it can truly serve its purpose.

Deputy President, the setting of the first statutory minimum wage level in Hong Kong has earlier aroused a lot of discussions and even arguments in the community. Many people have highlighted one of the conflicts, and that is, if the minimum wage is set at too high a level, a number of small and medium enterprises (SMEs) will be unable to operate because of rising wage costs, and at the end of the day, workers will be unable to keep their "rice bowls". However, it will be futile if the minimum wage is set at too low a level. In my opinion, the Government's offer of a monthly transport subsidy of \$600 to people in need can precisely ease the conflict so that, on top of the wage level affordable to SMEs, a subsidy is provided to raise the level of actual income of workers to approximately \$33, as demanded by the labour side. Therefore, the transport subsidy provided under the WITSS in effect serves as a subsidy for low-income employment to enable workers to receive a more dignified reward for their toil.

In this connection, Deputy President, I think that the WITSS should be complemented by a reasonable set of specific details and eligibility requirements before it can be implemented effectively. In the past, the TSS was criticized for its exceedingly harsh eligibility requirements because, as mentioned by a number of colleagues, the ceiling of personal assets and monthly income were indeed too low. Besides, as the TSS lasted only one year, many eligible persons would face the hardship of not receiving the support should they wish to continue working after one year. Furthermore, it is pointed out by some organizations that, as applicants under the TSS were required to work at least 72 hours a month before they could become eligible, many members of grass-roots families might not be able to meet this requirement every month because of certain types of work, such as home helpers, or other personal commitments to their families.

Deputy President, I do not want to see the WITSS exist in name only or fail to achieve its desired effect due to problems with its details and application system. Despite the relaxation of the TSS in 2008, there was still a gap between its requirements and the reality. The threshold that the total value of assets must not be higher than \$44,000 and the monthly income must not be higher than \$6,500 is indeed quite stringent. Let us imagine this. It is actually very difficult for a person, who has \$50,000 to \$60,000 in his bank account and makes only \$6,000 to \$7,000 a month by toiling day and night, to support a family of four and meet the additional expenses incurred in the event of an accident. Not allowing these people to apply for the transport subsidy will send out this message in the community — actually, we do not encourage them to work.

In this connection, Deputy President, I totally agree with Dr PAN Pey-chyou's motion which calls on the Government to, besides expanding the scheme to all districts in Hong Kong, relax the previous ceilings on the total value of assets and monthly income, so that the ceiling on the value of applicants' personal assets should be set at a level higher than \$44,000 and the ceiling on applicants' monthly income be set at a level higher than \$6,500, when the new transport subsidy scheme is introduced. I also agree that the new scheme should no longer be subject to any application deadline. For a variety of reasons, the number of working hours of quite a number of people, such as those who must take care of their families or part-time workers, is less than 72. This is why I think that Ms LI Fung-ying's proposal, being simple and viable, is worthy of consideration by the authorities.

Deputy President, as pointed out by me last month during the motion debate on "Facing up to the transport needs of people with disabilities", the Government definitely has the financial strength and means. I am not going to repeat the proposals put forward by me on that particular occasion, but I hope the authorities can see that the proposals put forward by Members in relation to this motion are out of practical needs, not meant to be picking nits.

Deputy President, I so submit.

MR RONNY TONG (in Cantonese): Deputy President, like other many subjects related to the people's livelihood, the issue of transport subsidy has been debated for five years. Although the proposal put forward by the Chief Executive in this year's Policy Address on expanding the coverage of the transport subsidy from four to 18 districts appears to be some sort of progress, improvements are actually required in many other areas, as indicated by many colleagues earlier in the meeting. The transport subsidy is no longer an ordinary transport subsidy; it is a living allowance for the working poor. In fact, in the current economic environment, many of the ceilings or restrictions imposed are unnecessary. There is room for improvement, too. Furthermore, it is felt by many people that the expansion of transport subsidy to all parts of Hong Kong, as proposed in this year's Policy Address, is actually a face-saver for the Government in setting the minimum wage at a level below \$33.

Deputy President, in a blink of an eye, five years have passed. I recall I wrote a report five years ago on the situation of young people living in the remote areas and who were poor and subject to discrimination and rejection. Here are some newspaper cuttings of an interview conducted by me of a couple of young people when the report was written at that time. The caption of the reports reads, "Youths facing in-work poverty and earning less than \$4,000 in North District". Unfortunately, this is no longer news. Today, five years on, their monthly income remains below the level of \$4,000.

Deputy President, according to the findings of the survey conducted at that time, many young people could only seek employment near their own communities because of exorbitant transport fares, and as a result, their bargaining power was low. In fact, the level of their wages was lower than that

in Central and, in particular, the urban areas. Figures have also revealed that their wages were approximately half of the median wage recorded on Hong Kong Island. Many young people could only work as casual workers because they could not land a job.

Deputy President, the four proposals put forward by me at that time include: First, to set a minimum wage; second, to develop community economy and creative industries to provide young people with more job opportunities; third, to provide a transport subsidy to encourage them to seek employment outside their own districts; and fourth, to strengthen the community and interpersonal networks of young people and boost their social capital, so as to prevent them from being rejected. Only one of the four proposals, that is, transport subsidy, was taken on board by the Government at that time. Fortunately, five years on, we have finally enacted the law on minimum wage. Although the minimum wage was published today, wage earners still find it hardly acceptable.

Deputy President, when the transport subsidy proposal was put forward by us five years ago, North District residents were actually sceptical about it, for they considered the subsidy a *de facto* initiative to subsidize employers. However, we thought at that time that this small step would give young people a variety of job opportunities, thus enabling them to amass their own social capital and thereby enjoy comprehensive development. We hoped that this could help rid them of the bad plight of in-work poverty and promote social mobility, thereby reducing their financial pressure.

However, things have not turned out as we wished. Deputy President, with the lapse of five years, the situation of in-work poverty has not yet been ameliorated. According to a 2010 poverty report entitled "Employment and Poverty in Hong Kong Families" and published by Oxfam Hong Kong recently, there are currently 190 000 households of working poor, or approximately 660 000 people, in Hong Kong. In other words, one in every nine employed households is a working-poor household. Compared with the year 2005, the number of households of employed poor has risen by 12%. The figures have further revealed that the median household incomes of the first 10% and 20% of the poor households in Hong Kong, which stand at \$3,000 and \$6,000 respectively, are nearly the same as those recorded five years ago. In comparison, the median income of the first 10% of the most affluent households

in Hong Kong has risen from \$70,000 to \$80,000. Therefore, the disparity between the rich and the poor, now standing at 27 times, has continued to grow.

Even today, there are still some people who doubt that this transport subsidy is actually a minimum wage subsidy or a living allowance. However, I have all along considered that whether or not one treats it as a minimum wage subsidy, it is still better to be lax than stringent. Judging from the personal assets ceiling, the monthly income ceiling, work qualifications or eligibility requirements, the grassroots and workers definitely account for the majority. In particular, the poverty report published by Oxfam Hong Kong reveals that, compared to relatively affluent working persons, each working person in working-poor households is required to support two non-working members on average, while each working person in average working households is required to support only 0.8 non-working member on average. The gravity of in-work poverty is thus evident.

Deputy President, the Civic Party certainly supports this motion today and almost all the amendments. However, we have reservations about Ms LI Fung-ying's proposal of removing the assets ceiling. In our opinion, to do away with all assets tests is not going to work and possible abuses might arise. Except for Ms LI Fung-ying's amendment, we will support all the amendments. I hope the Secretary can heed the advice of colleagues in this Council and introduce revisions to relax the ceilings.

Thank you, Deputy President.

MR CHAN KIN-POR (in Cantonese): Deputy President, one of the major proposals among the numerous poverty alleviation initiatives proposed in the Policy Address this year is the replacement of the cross-district transport subsidy by a work incentive transport subsidy. I greatly welcome this initiative proposed by the Government.

For me, the emphasis of this initiative is to provide a subsidy to low-income workers, that is, to provide a *de facto* subsidy to the working poor who do not get effective support under the existing CSSA system.

The Government has all along underestimated the plight of low-income persons. As a result, the problem of in-work poverty has continued to worsen and, what is more, we can even find in the community an unreasonable phenomenon in which some people relying on their own toil have a living standard lower than that of CSSA recipients.

The initiative proposed by the Government this time around has made up for the deficiencies of the measures implemented under the existing social security system, including CSSA, the "fruit grant", the Mandatory Provident Fund, and so on. More importantly, it is hoped that this initiative signifies the Government's shift from its approach of tackling the poverty problem by pure social welfare initiatives over the years to a new mindset of replacing "pure social welfare" with "workfare" — when the incomes of certain people or families are lower than certain levels, the Government should adopt a positive method by offering a subsidy to them to support and encourage them to maintain self-reliance.

During its study on welfare systems, the Singaporean Government made reference to the practices of many places, including the United States, and Hong Kong. After its working group had returned from its study visits, it summed up this major view — "welfare recipients" should not receive more preferential treatments than those to "low-income persons". Moreover, if "welfare recipients", such as the unemployed, are treated even better than "low-income persons", "welfare recipients" will have no motivation at all to find jobs.

Of course, this point of view might not be acceptable or applicable to everyone. However, in addressing the poverty, unemployment and labour problems, Singapore has all along been sending out to its nationals the very important message of respecting employment. While the people very much agree that the community is obliged to care for the elderly, the vulnerable, the disabled, the chronically ill and persons incapable of working, they think that persons with working ability must do something before they can be eligible for a variety of assistance from the Government in order to pre-empt irreparable damage to the work ethics and attitude of the next generation.

The Government's proposed replacement of the cross-district transport subsidy with a work incentive transport subsidy is actually intended to give the new subsidy a deeper meaning, and that is, the Government has now adopted a workfare initiative to resolve the poverty problem.

In studying poverty alleviation, in-work poverty and even minimum wage problems, the Government should indeed demonstrate more courage in leading the community to explore different poverty alleviation initiatives taken in different countries and strive to devise initiatives to assist the working poor, with a view to making the community-wide discussions richer and more three-dimensional. Regarding the tax credit once proposed by me, even academics engaging in detailed analysis of economic and social benefits consider this proposal very good. I hope the Government can give consideration to using tax credit as one of the poverty alleviation initiatives.

Deputy President, in addition to the amount of the subsidy, the effectiveness of the WITSS hinges on the eligibility requirements on applicants, which should not be set at too high a level. Given that the implementation of the second round of quantitative easing monetary measures by the United States will exert imported inflationary pressure on Hong Kong in the future, the burden of public transport and even housing and food on the public is expected to grow continuously, making life even more difficult for them.

Therefore, I very much agree with a point made by colleagues, that the monthly income ceiling for applicants under the WITSS should be more than the monthly income ceiling of \$6,500 under the existing TSS.

Deputy President, the motion and amendments proposed by colleagues today are indeed very meaningful, serving as a major reminder to the Government that high inflation will hit us shortly. As a result, the income of the people will not be able to catch up with inflation and the grassroots, and even the middle class, will find it difficult to bear the pressure in life. The Government should indeed come up with corresponding measures expeditiously to help people ride out the present era of high inflation.

Deputy President, I so submit.

MR FREDERICK FUNG (in Cantonese): Deputy President, reviewing the whole campaign on transport subsidy for low-income earners, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and other political parties and grouping were like getting blood from the stone in wrestling and bargaining with the Government. The entire process manifested how the

stubborn and stagnant SAR Government was shaken by the concerted efforts made by the community and the enormous moral strength brought about by solidarity. We could even see the cold-bloodedness and speculation of the powers-that-be during the wrestling.

The SAR Government is accustomed to boasting itself as a champion of "free economy" and "big market, small government", relying on the market to resolve every problem. As a result, public transport operators are allowed to enjoy such a privileged status to operate according to the so-called commercial principles and maximize their profits. As a result, members of the public are made to bear exorbitant fares for a long time. Over the years, the Government has remained evasive, being indifferent to the in-work poverty problem and turning a blind eye to the exorbitant transport fares. Its indifference to the plights of the grassroots is in stark contrast to the care demonstrated by the community and its determination to fight for justice.

Deputy President, when I was chairman of the Subcommittee to Study the Subject of Combating Poverty, I conducted an in-depth study on the working poverty problem and made a number of recommendations. One of the key recommendations was to provide a transport subsidy to the working poor, also the embryo and starting point of the current transport subsidy scheme. Subsequent to repeated discussions in a number of meetings and pressure exerted on the Government, the Administration finally changed from rejecting our recommendations in principle, making compromises and trade-offs by narrowing the scope of support to officially launching the Transport Subsidy Scheme (TSS) on 25 June 2007 to provide a transport subsidy to low-income residents living in remote districts on a pilot basis after rounds and rounds of tug-of-war and unreasonable delays.

In fact, the scope of support provided under the TSS, as one of the poverty alleviation initiatives, has been quite narrow since its implementation. Besides the special requirement of confining the scheme to four remote districts, namely Yuen Long, Tuen Mun, North and Islands Districts, there were also requirements for cross-district employment and a six-month time limit. Subsequent to many rounds of lobbying and pressurizing efforts, the authorities finally agreed in 2008 to relaxing the scheme to same-district employment, extending the time limit to 12 months, and raising the ceiling of monthly income from \$5,600 to \$6,500.

Of course, the ADPL and I were not be satisfied with this. Our goal was that the TSS must uphold the notion of providing a second safety net by formulating a set of sustainable transport subsidy policies and initiatives underpinned by simple application procedures and less stringent eligibility requirements, in order to cope with the needs of the working poor, encourage them to engage in continued employment and counterbalance those exorbitant travelling expenses which are beyond their affordability. We would definitely make concerted efforts with the community, despite the authorities' constant use of review as an excuse for delay, and work with perseverance to fight for expanding the scope of support rendered by the transport subsidy to all the 18 districts in Hong Kong and providing support to the working poor without a time limit.

Deputy President, the Chief Executive announced in the Policy Address last month the introduction of a WITSS and stated that a monthly transport subsidy of \$600 would be offered to all eligible employees in Hong Kong. The new initiative would replace the existing TSS, which is applicable to only four remote districts, and the specific details and implementation timetable would be formulated by the Labor and Welfare Bureau. While all these words are still ringing in our ears, the devil, however, can be found in the details. According to some press reports the other day, the Government was suspected of resorting to trickery by making the low-income families, rather than the individuals, the application units. Deputy President, this move is evidently not in line with the notion of providing a second safety net. Attempting to bring transport subsidy in line with social security assistance in a disguised manner through conducting stringent and complicated tests on applicants' eligibility, the Government is obviously seeking to drive away eligible applicants so as to reduce its related expenditure.

Deputy President, with all good intentions, I definitely do not want to see the Government play "dirty tricks" to slash expenditure, thereby rendering the transport subsidy existing in name only. However, I have actually lost confidence in this miserly government, which regards money as important as its life and is obsessed with the market. I hope the authorities can clarify later if this is really the case in order to do justice to itself. If the authorities really have such a plan, the ADPL will definitely strongly condemn this heartless government for making itself an enemy of the people.

Deputy President, I think the Secretary had better be honest, refrain from harbouring any undesirable thinking, and take genuine steps to enhance and improve the existing TSS, including expanding the TSS to every district in Hong Kong, retaining its flexibility, and relaxing the eligibility requirements and abolishing the time limit, so as to allow a greater number of working poor to be benefited, encourage continued employment and enable them to work with peace of mind despite the exorbitant transport fares.

Thank you, Deputy President.

MR WONG YUK-MAN (in Cantonese): Deputy President, in 2008, Donald TSANG announced in the policy address increasing the "fruit grant" to \$1,000 while introducing an assets test for applicants aged 70 or above. Such a move was described by the DAB Chairman, Mr TAM Yiu-chung, at that time as "turning the clock back". My staging of a protest through throwing bananas out of indignation has also made me the first Member engaging in physical protest in the Legislative Council. After less than 10 days, Donald TSANG reluctantly abolished the means tests for the "fruit grant" for fear of a strong rebound of public opinion, but then he added this remark, "rational policy debates was eclipsed by emotions".

I have recapitulated this incident because it has been rumoured that the SAR Government intends to adopt the family unit, rather than the individual unit, in applications under the WITSS. According to the document provided by the authorities, the WITSS aims to subsidize employed members of low-income families rather than the low-income earners mentioned by Donald TSANG in this year's Policy Address. In other words, a means test on family income will be introduced under the WITSS to replace the personal income and assets tests administered under the original TSS, thus turning the transport subsidy into a disguised form of CSSA. As a result, many low-income workers will be unable to benefit from the new scheme because the income or assets of their family members do not meet the eligibility requirements. To make so much fuss to conduct a family assets test for the sake of a \$600 transport subsidy will also scare away many eligible applicants. An extremely beneficent measure which could have won applause from everyone has now become a harsh measure attracting hiss and boo everywhere. This is precisely a repeat of the adjustment to the "fruit grant" in 2008, another perverse act at trying to turn the clock back.

The importance of transport subsidy schemes is self-evident. It is precisely due to the Government's poor supervision that transport fares in Hong Kong have continued to rise. A return MTR trip between North District or Tung Chung and Hong Kong Island costs nearly \$50. The daily travelling expenses incurred by a female worker who lives in Shau Kei Wan and works in a restaurant in Tseung Kwan O is equal to one and a half hour of her wages. In total, she will have to spend nearly \$800 monthly on travelling expenses. The construction of the MTR was funded by the Government, which is still its largest shareholder, despite its subsequent full conversion into a commercial entity; and bus companies secured monopolizing statuses with the grant of franchises by the Government. In other words, the Chief Executive in Council is in control of the power of the MTRCL and bus companies in determining fares. The SAR Government is absolutely capable of controlling the fares of public transport. But the Government has allowed these modes of public transport to raise their fares incessantly.

Although the Government has not yet made an official announcement — Matthew CHEUNG presumably made the announcement in today's press conference — an hourly minimum wage of \$28 was actually endorsed by the Executive Council yesterday. Of course, this is still a far cry from the hourly minimum wage of \$33 campaigned by the community. We can treat it as a subsidy to the minimum wage by converting it into an hourly wage of \$2.8, thus raising the level of minimum wage to nearly \$31. Though this is still unsatisfactory, the grass-roots workers can be benefited directly. From this angle, like the minimum wage, the WITSS should be subject to an income ceiling only, and no assets test should be conducted. Therefore, regarding today's motion and amendments, the three of us from the League of Social Democrats strongly support the amendment proposed by Ms LI Fung-ying.

There are mainly two modes of welfare provision, namely ordinary welfare and means-tested welfare. Proponents of ordinary welfare consider that people have the right to enjoy welfare, welfare recipients should not be labelled, and the administrative costs must be low. On the other hand, proponents of means-tested welfare consider that welfare should serve as the last safety net for people when they cannot achieve self-sufficiency, and means-tested welfare can reduce abuses but easily cause a labelling effect and raise administrative costs. In the absence of an assets test, the WITSS, like the "fruit grant" received by the elderly, is more like ordinary welfare, thus lessening the labelling effect on recipients.

This labelling effect is very often attributed to the Government's awareness or unawareness, or sometimes to intentional or unintentional acts of smearing CSSA recipients. Actually, the Government should take the largest share of blame for dividing society. Recently, we can see the gravity of the labelling effect from a newspaper story in which a cleaning worker refused to apply for CSSA. The person I am talking about was a 50-year-old woman, Ah Ying, who lived in Tin Shui Wai and worked as a cleaning worker in Yuen Long. With a monthly income of less than \$5,000, she often had to tighten her belt. She could even have only one meal a day and feed herself on miscellaneous foodstuff for the rest of the day, or rice with preserved bean curd provided free in her workplace. She had described her situation as "surviving but not living". Once a CSSA recipient, she refused to apply for CSSA again for fear of being labelled as a lazybones. This is why she hoped the Government could extend and expand the TSS.

Deputy President, LU Xun once commented that "human beings have three necessities, first, survival; second, being fed and clothed; and third, development opportunities. Anything standing in the way will be trampled upon, be it a living person or a ghost, in ancient or modern time even the quintessence of Chinese culture." May I ask the Government what is its view on survival, development and being fed and clothed? Hong Kong is a capitalist and affluent society. Some people are still talking about survival, right? According to the 50-year-old woman, she was only seeking survival, not living, given that she made only \$5,000 a month as a cleaning worker. Now that the Government is prepared to offer the \$600 transport subsidy, it should stop making so much fuss. Mr Matthew CHEUNG, am I right? As this is already money foregone, why should there be the so-called income and assets tests, right? Just now, I pointed out that this is obviously a beneficent measure well received by everyone. With its expansion to cover all the 18 districts, all low-income wage earners will be eligible to the \$600. Why don't you give the transport subsidy to them right away? Let me quote the words of Ms LI Fung-ying, to this effect, "We have been forced to accept though we are dissatisfied." If an additional \$600 is offered without the need for an assets test, I will pretend that the hourly minimum wage is \$31, which means that there is a difference of \$2 only. It is actually wrong to treat it as a benefit by taking into account the \$600 and pretending that the hourly wage is \$31. You will be going too far if you refuse to act in this

manner. Secretary, am I right? If you refuse to do so and continue to conduct the so-called assets tests as you wish, I will continue to criticize you.

Thank you, Deputy President.

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

MR PAUL TSE (in Cantonese): I will make a brief point. For the time being, I believe the majority of public, including colleagues in this Council, basically agree to the implementation of a transport subsidy scheme. However, I would like to take this opportunity to make one more brief point, and that is, I am afraid that any of this type of subsidy is actually a temporary rather than permanent solution.

I have time and again suggested that the Government should be more far-sighted. For instance, I once proposed that it would be even better for the Government to relocate government organs situated in Central or urban areas, or encourage more international corporations or local institutions through preferential initiatives to relocate their offices, to the more remote areas. Let me share with Members my personal experience. For instance, although my law firm in Yuen Long is not big, if I can arrange for some staff members living in Yuen Long to work there, they say that they prefer working there, even if their salary will be adjusted slightly downward, to going to work in the office in Central. This precisely illustrates that if complementary measures can be taken in this regard, we will be better able to resolve the problem in the long run and offer a better solution than providing transport subsidy on a long-term basis, for this is merely a temporary subsidy, not a long-term solution. I hope the Government can consider this at an appropriate time in the future. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak? If no, Dr PAN Pey-chyou, you may now

(Mr Alan LEONG stood up to indicate his wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr Alan LEONG, please.

MR ALAN LEONG (in Cantonese): Deputy President, applications to the existing TSS can only be made by residents living in Yuen Long, Tuen Mun, North District or Islands Districts. Thanks to the vigorous efforts of a number of political parties, the Chief Executive eventually indicated and undertook in this year's Policy Address that the WITSS would be introduced to replace the existing TSS to enable all low-income people in Hong Kong to benefit from this.

Deputy President, the scheme proposed by the Chief Executive was originally intended to fulfil the people's wishes. However, in the Policy Agenda submitted afterwards by the Labour and Welfare Bureau to this Council, it is pointed out that the new scheme is aimed at subsidizing "employed members of low-income families" rather than "all low-income earners in Hong Kong", as undertaken previously. This is a concern to us, despite the difference in just a few words. As the saying goes, one small mistake will make a world of difference. Firstly, the original intention of the scheme is to help low-income employees tackle their problem of exorbitant transport fares with a view to encouraging employment. If family income is used for the purpose of determining whether the transport subsidy should be granted, it would be tantamount to turning the transport subsidy into a welfare initiative similar to the granting of CSSA. Second, the administrative costs will definitely be increased substantially, and the speed of granting approval will definitely be slowed down. Not only will this lead to a waste of public money, the urgent needs of low-income earners will also not be addressed. The Civic Party would like to urge the Government to continue to use individuals as the units for approving and granting the subsidy.

Deputy President, besides expanding the existing TSS to all parts of Hong Kong, the Civic Party has all along proposed to relax the eligibility requirements, including raising the ceiling of the total value of applicants' personal assets, relaxing the restrictions on the number of hours of work, and extending the existing 12-month subsidy period. Under the existing TSS, the total value of an applicant's personal assets must not be higher than \$44,000. Deputy President, this figure is unacceptably low. Let us imagine this. If a low-income earner has both parents and children, then he will be unable to meet his total family expenses for even a couple of months with this sum of money. By setting the

assets ceiling at such a low level, the Government is in effect telling them to exhaust all their savings and then apply for the transport subsidy. In fact, this meagre sum of money gives us the impression that the Government is very cold-blooded.

As for the requirement for employees to work not less than 72 hours a month, Deputy President, the present problem with Hong Kong is not that members of the public do not wish to work more hours. Rather, they are unable to find full-time jobs and, as a result, they have to work as part-time or casual workers in order to eek out a living. These people are precisely those who need assistance. Therefore, the Civic Party agrees that the transport subsidy should be granted *pro rata* according to the actual hours of work and that the hardships facing low-income earners may be long-term rather than short-term. This is why we also urge the Government to extend the subsidy period under the new scheme.

Deputy President, job seekers also require assistance. Under the existing TSS, job seekers can apply for the subsidy on a reimbursement basis. However, this point was not mentioned again, both in the Policy Address and the Policy Agenda mentioned by me just now. I support Mr WONG Sing-chi's amendment, which calls for the inclusion of the Job Search Allowance in the new WITSS without tightening the eligibility requirements of applicants, and lowering the ceiling of reimbursement. Not only do job seekers have no income, they also need to travel long distances in search of jobs. We can note from the people known to us or television news reports that travelling expenses are indeed an enormous burden on job seekers. The offer of \$600 can help them substantially. Coupled with the corresponding increases in public transport fares and tunnel tolls, the needs of these job seekers for transport subsidy will only continue to grow. I hope the Government can readily accept good advice by keeping the Job Search Allowance in the new WITSS.

Deputy President, the demands for transport subsidy are actually growing. One indisputable, major underlying reason must be the worsening poverty problem. According to the Hong Kong Council of Social Service, 1.26 million people are living in poverty, and the number of working-poor households has already reached 210 000. In the past, people did not need to worry about clothing and food provided they were prepared to work hard. But now, they cannot lift themselves out of poverty however hard they work. We feel helpless

that the transport subsidy mentioned in today's debate can only offer little help. Of course, it is more important for the unfairness in the systems in Hong Kong to be changed and for the Government to propose more comprehensive economic and industrial policies as well as welfare and poverty alleviation initiatives before the problem can be tackled at root.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If no, Dr PAN Pey-chyou, you may now speak on the four amendments. The speaking time limit is five minutes.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, first of all, I am very grateful to the four Honourable colleagues for proposing amendments to my motion and the various Members for speaking on it. I believe most of the Members who have spoken are supportive of the original motion and most of the amendments. Regarding the four amendments, first of all, Mr WONG Sing-chi's amendment proposes to give regard to the situation of the unemployed and retain the monthly allowance of \$600 to encourage employment. The Hong Kong Federation of Trade Unions (FTU) very much agrees to it. Although we have not mentioned this point in our original motion, we are very supportive of it.

Mr IP Kwok-him proposed to streamline the vetting and approval procedures to expedite the vetting and approval process and reduce administrative costs. I believe all of us will agree to this principle. Reducing administrative costs is actually a way to make good use of public money.

As for the amendment proposed by Ms Miriam LAU, actually we also agree that assets and income limits should be imposed because we maintain that public money should be put to good use. Hence, Ms Miriam LAU's amendment only served to express this idea more clearly. Personally, I think the wording of the original motion is already very clear because it has clearly stated our proposal

of setting the limits at a higher level. In other words, we propose to relax the limits, and we have no intention at all to propose removing them. Therefore, our understanding of the wording is slightly different, but I believe our original intents are not contradictory in any way.

(THE PRESIDENT resumed the Chair)

Regarding the amendment proposed by Ms LI Fung-ying, we are caught in a dilemma because Ms LI has all along been working closely with the other two Members from the labour sector, and they are committed to speaking for the working masses and fighting for their rights and interests. Over the years, we have established good rapport in co-operation and held similar views on various issues. Regarding Ms LI's amendment this time, frankly, at the meeting held earlier this week to discuss it, we really did not know what to do. How should we cast our votes? We have considered it for a long time.

Why? First, we agree that an assets ceiling should be set for the purpose of vetting and approving applications for the transport subsidy so as to help those people in need as much as possible. For example, I also take public transport to work, but I do not think I need the transport subsidy. According to Ms LI Fung-ying, however, the relevant criteria should be relaxed, that is, the assets limit should be removed. We consider this acceptable in principle if more people will be benefitted as a result.

However, regarding Ms LI Fung-ying's second proposal of setting the income ceiling at \$6,500 monthly or \$31 per hour, we are really rather puzzled. Because we think that since the Government introduced the Work Incentive Transport Subsidy Scheme, the burden of transport fares on the general public has already increased as a result of inflation, in particular, the increase in travelling expenses, and salaries may have already been adjusted during this period of time. So, maintaining the monthly income limit at a level set a few years ago is tantamount to using a rigid method regardless of the changing circumstances. Therefore, we face difficulties in this regard. Thus, after discussions among ourselves, we Members from the FTU have reservation about Ms LI Fung-ying's amendment, and we really hope Ms LI Fung-ying will excuse us on this occasion.

These are my remarks on my motion and the various amendments. Thank you, President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to express my gratitude again to Dr PAN Pey-chyou for moving this motion and the 20 Members for expressing many valuable views on the Work Incentive Transport Subsidy Scheme (WITSS).

The objectives of the Government in launching the WITSS are very clear, namely, to provide appropriate and effective support to eligible low-income earners to relieve the burden of transport fares for home-work commuting on them and encourage them to stay in employment.

Although the details of the scheme are yet to be finalized, it is certain that the new WITSS will be better than the existing Transport Support Scheme (TSS) in at least two ways: first, its coverage will be expanded from only four remote districts, that is, North, Yuen Long, Tuen Mun and Islands, which are very familiar to us all, to all 18 districts across the territory, thereby enabling a lot more people to benefit from it; second, there will be no time limit under the WITSS, which has truly addressed the demand of Members, the public and society. As no time limit will be imposed, all low-income earners who are eligible will receive the subsidy continuously. These improvements have made the new WITSS much more extensive than the existing scheme in terms of scale and financial commitment.

Precisely for this reason, we must formulate a comprehensive plan and proper complementary measures to ensure the smooth and sustainable implementation of the WITSS and the proper use of public money.

In devising the WITSS, we need to formulate clear and objective eligibility criteria and deploy resources to low-income earners in need, having regard to the principle of parity, to prevent possible abuse of public money. In implementing the WITSS, we will endeavour to streamline the administrative procedures, as proposed in Mr IP Kwok-him's amendment, to facilitate applicants.

The proposals put forward by Members can serve as useful reference to us, and we will definitely analyse them in detail and consider them seriously. We

will also sum up our experience gained in the existing TSS and make up for the deficiencies, thereby enabling the more effective provision of subsidy under the new WITSS.

President, I believe all of us hope that the WITSS will be finalized expeditiously. We will brief the Legislative Council Panel on Manpower on the specific details of the WITSS at its meeting next month, and we will seek funding approval immediately afterwards, subject to the support of the Panel, so that low-income earners in need will be benefited at an early date.

President, I so submit.

PRESIDENT (in Cantonese): Mr WONG Sing-chi, you may now move your amendment to the motion.

MR WONG SING-CHI (in Cantonese): President, I move that Dr PAN Pey-chyau's motion be amended.

Mr WONG Sing-chi moved the following amendment: (Translation)

"To add "travelling expenses are an item of daily expenses borne by the vast number of employees and job-seekers in Hong Kong, and" after "That,"; to delete "and" after "for the allowance,"; and to add "; and (f) the Job Search Allowance provided under the existing TSS should continue to be included in the new WITSS; the eligibility requirements for applicants for the Job Search Allowance will not be tightened, and the ceiling of reimbursement will also not be lowered" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Sing-chi to Dr PAN Pey-chyau's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms LI Fung-ying rose to claim a division.

PRESIDENT (in Cantonese): Ms LI Fung-ying rose to claim a division. The division bell will ring for three minutes.

(While the division bell was ringing, Mr Abraham SHEK rose)

MR ABRAHAM SHEK (in Cantonese): The listed company I work for hold shares of the MTR Corporation Limited and the bus companies.

(While the division bell was ringing, Mr Paul CHAN rose)

MR PAUL CHAN (in Cantonese): President, I would also like to declare my interest as a director of the Wharf (Holdings) Limited, which owns the "Star" Ferry.

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 Raymond HO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Ms LI Fung-ying voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mr Alan LEONG voted for the amendment.

Mr WONG Yuk-man voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, 16 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 22 were present, 20 were in favour of the amendment and one against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Members have already been informed, as Mr WONG Sing-chi's amendment has been passed, Ms LI Fung-ying and Ms Miriam LAU have therefore withdrawn their amendments.

PRESIDENT (in Cantonese): Mr IP Kwok-him, as the amendment by Mr WONG Sing-chi has been passed, you may now move your revised amendment.

MR IP KWOK-HIM (in Cantonese): President, I move that Dr PAN Pey-chyou's motion as amended by Mr WONG Sing-chi be further amended by my revised amendment.

Mr IP Kwok-him moved the following further amendment to the motion as amended by Mr WONG Sing-chi: (Translation)

"To add "; and (g) the procedures for vetting and approving applications under the new Scheme should be further streamlined, and the vetting and approval process be expedited and the relevant administrative costs reduced" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr IP Kwok-him's amendment to Dr PAN Pey-chyou's motion as amended by Mr WONG Sing-chi 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, you may now reply and you have two minutes and 38 seconds.

DR PAN PEY-CHYOU (in Cantonese): President, regarding the territory-wide Work Incentive Transport Subsidy Scheme put forward by the Government this year, I think it is a very important milestone marking that the Government, Members and even the great majority of people in the community all agree that it is necessary to help and provide an allowance to the low-income earners. Such an allowance can encourage them to work and devote their efforts to production. This is beneficial to both individuals and society as a whole.

However, we are worried that sometimes the Government may, due to its own concerns and obstinate adherence to principles, do a disservice out of good intentions. This is like the black liquid inside this plastic bottle. Who dares take it? The proposals put forward today are meant for consideration by the Government and the Secretary. We have ditched this "wicked transport subsidy scheme" and replaced it with this "healthful transport subsidy scheme". I can tell members of the public in Hong Kong that they can drink the liquid in this plastic bottle with peace of mind.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr PAN Pey-chyou, as amended by Mr WONG Sing-chi and Mr IP Kwok-him, 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.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 17 November 2010.

Adjourned accordingly at twenty-eight minutes past Ten o'clock.

ARBITRATION BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	(a) In the definition of “interim measure”, by deleting “保護” and substituting “保全”. (b) In the definition of “respondent”, by deleting “應訴” and substituting “被申請”.
8(2)	By adding “(other than section 2(5))” after “section 2”.
13(3)	By adding “23(3),” after “section”.
18(2)	By deleting paragraph (a) and substituting – “(a) if the publication, disclosure or communication is made – (i) to protect or pursue a legal right or interest of the party; or (ii) to enforce or challenge the award referred to in that subsection, in legal proceedings before a court or other judicial authority in or outside Hong Kong;”.

- 20(3) By deleting “Subsections (1) and (2) have” and substituting “Subsection (1) has”.
- 24(1) In the Chinese text –
- (a) by deleting “委托” and substituting “委託”;
 - (b) by deleting “交托” and substituting “交託”.
- 32(1)(a) By deleting “written agreement” and substituting “arbitration agreement”.
- 32(3) By deleting “written agreement” where it twice appears and substituting “arbitration agreement”.
- 53(3) In the Chinese text, by deleting “最終命令” and substituting “最後敦促令”.
- 53(4) In the Chinese text, by deleting “最終命令” where it twice appears and substituting “最後敦促令”.
- 54(2) By deleting paragraph (a) and substituting –
- “(a) the arbitral tribunal may appoint assessors to assist it on technical matters, and may allow any of those assessors to attend the proceedings; and”.
- 54(2)(b) By deleting “experts, legal advisers or”.

- 90(1) By adding “in Council” before “may, by order”.
- 98 By adding “under the repealed Ordinance as then in force” after “(2 of 2000)”.
- New By adding –
- “100A. Opt-in provisions that automatically apply under section 100 deemed to apply to Hong Kong construction subcontracting cases**
- (1) If –
- (a) all the provisions in Schedule 2 apply under section 100(a) or (b) to an arbitration agreement, in any form referred to in section 19, included in a construction contract;
- (b) the whole or any part of the construction operations to be carried out under the construction contract (“relevant operation”) is subcontracted to any person under another construction contract (“subcontract”); and
- (c) that subcontract also includes an arbitration agreement (“subcontracting parties’ arbitration agreement”) in any form referred to in section 19,
- then all the provisions in Schedule 2 also apply, subject to section 101, to the subcontracting parties’ arbitration agreement.

(2) Unless the subcontracting parties' arbitration agreement is an arbitration agreement referred to in section 100(a) or (b), subsection (1) does not apply if –

- (a) the person to whom the whole or any part of the relevant operation is subcontracted under the subcontract is –
 - (i) a natural person who is ordinarily resident outside Hong Kong;
 - (ii) a body corporate –
 - (A) incorporated under the law of a place outside Hong Kong; or
 - (B) the central management and control of which is exercised outside Hong Kong; or
 - (iii) an association –
 - (A) formed under the law of a place outside Hong Kong; or
 - (B) the central management and control of which is exercised outside Hong Kong;
- (b) the person to whom the whole or any part of the relevant operation is subcontracted under the subcontract has no place of business in Hong Kong; or
- (c) a substantial part of the relevant operation which is subcontracted under the subcontract is to be performed outside

Hong Kong.

- (3) If—
- (a) all the provisions in Schedule 2 apply to a subcontracting parties' arbitration agreement under subsection (1);
 - (b) the whole or any part of the relevant operation that is subcontracted under the subcontract is further subcontracted to another person under a further construction contract (“further subcontract”); and
 - (c) that further subcontract also includes an arbitration agreement in any form referred to in section 19,

subsection (1) has effect subject to subsection (2), and all the provisions in Schedule 2 apply, subject to section 101, to the arbitration agreement so included in that further subcontract as if that further subcontract were a subcontract under subsection (1).

- (4) In this section –
- “construction contract” (建造合約) has the meaning given to it by section 2(1) of the Construction Industry Council Ordinance (Cap. 587);
- “construction operations” (建造工程) has the meaning given to it by Schedule 1 to the Construction Industry Council Ordinance (Cap. 587).”.

- 101 By deleting “Section 100 does” and substituting “Sections 100 and 100A do”.
- 101(b)(i) By adding “or 100A” after “section 100”.
- 103 By adding –
“(3) In this section, “mediator” (調解員) means a mediator appointed under section 32 or referred to in section 33.”.
- 104 By deleting subclause (5) and substituting –
“(5) In this section –
“appoint” (委任) includes nominate and designate;
“mediator” (調解員) has the same meaning as in section 103,
and “mediation proceedings” (調解程序) is to be construed accordingly.”.
- Schedule 1,
Article 1(4)(b) In the Chinese text, by deleting “爲准” and substituting “爲準”.
- Schedule 1,
Article 11(4)(c) In the Chinese text, by deleting “委托” and substituting “委託”.
- Schedule 1,
Article 11(5) In the Chinese text, by deleting “交托” and substituting “交託”.
- Schedule 2 By adding “, 100A” before “& 101J”.
- Schedule 2,
section 7(9) By adding “, direction” after “An order”.

Schedule 4

By adding –

“Arbitration (Parties to New York Convention) Order**34A. Schedule amended**

(1) The Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 341 sub. leg. A) is amended by repealing “Bosnia-Herzegovina” and substituting “Bosnia and Herzegovina”.

(2) The Schedule is amended by repealing “Kazakstan” and substituting “Kazakhstan”.

(3) The Schedule is amended by repealing “Korea, Republic of” and substituting “Republic of Korea”.

(4) The Schedule is amended by repealing “Macedonia, the former Yugoslav Republic of” and substituting “The former Yugoslav Republic of Macedonia”.

(5) The Schedule is amended by repealing “Netherlands (including Netherlands Antilles and Surinam)” and substituting “Netherlands (including Netherlands Antilles)”.

(6) The Schedule is amended by repealing “Slovak Republic” and substituting “Slovakia”.

(7) The Schedule is amended, in the English text, by repealing “Tanzania, United Republic of” and substituting “United Republic of Tanzania”.

(8) The Schedule is amended by repealing “United Kingdom (including Belize, Bermuda, Cayman Islands, Gibraltar, Guernsey and Isle of Man)” and substituting “United Kingdom of Great Britain and Northern Ireland (including Bailiwick of Jersey, Cayman Islands, Bermuda, Gibraltar,

Guernsey and Isle of Man)”.

(9) The Schedule is amended by repealing “Venezuela” and substituting “Venezuela (Bolivarian Republic of)”.

(10) The Schedule is amended, in the English text, by repealing “Vietnam” and substituting “Viet Nam”.

(11) The Schedule is amended by repealing “Yugoslavia”.

(12) The Schedule is amended, in the Chinese text, by repealing “丹麥(包括法羅群島及格陵蘭)” and substituting “丹麥(包括法羅群島及格陵蘭島)”.

(13) The Schedule is amended, in the Chinese text, by repealing “文萊” and substituting “文萊達魯薩蘭國”.

(14) The Schedule is amended, in the Chinese text, by repealing “尼日尼亞” and substituting “尼日利亞”.

(15) The Schedule is amended, in the Chinese text, by repealing “吉爾吉斯” and substituting “吉爾吉斯斯坦”.

(16) The Schedule is amended, in the Chinese text, by repealing “多米尼加” and substituting “多米尼克”.

(17) The Schedule is amended, in the Chinese text, by repealing “安提瓜及巴布達” and substituting “安提瓜和巴布達”.

(18) The Schedule is amended, in the Chinese text, by repealing “沙地阿拉伯” and substituting “沙特阿拉伯”.

(19) The Schedule is amended, in the Chinese text, by repealing “孟加拉” and substituting “孟加拉國”.

(20) The Schedule is amended, in the Chinese text, in the entry relating to “法國”, by adding “所有” before “領土”.

(21) The Schedule is amended, in the Chinese text, in the entry relating to “美利堅合眾國”, by adding “所有” before “領土”.

(22) The Schedule is amended, in the Chinese text, by repealing “特立尼達及多巴哥” and substituting “特立尼達和多巴哥”.

(23) The Schedule is amended, in the Chinese text, in the entry relating to “澳大利亞”, by adding “，巴布亞新畿內亞除外” after “領土”.

(24) The Schedule is amended by adding –

“Afghanistan

Albania

Azerbaijan

Bahamas

Brazil

Cook Islands

Dominican Republic

Gabon

Honduras

Iceland

Iran (Islamic Republic of)

Jamaica

Lao People’s Democratic Republic

Lebanon

Liberia

Malta

Marshall Islands

Republic of Moldova

Montenegro
Mozambique
Nepal
Nicaragua
Oman
Qatar
Rwanda
Saint Vincent and the Grenadines
Serbia
United Arab Emirates
Zambia”.”.

Schedule 4

By adding –

“38A. **Decision by HKIAC**

Rule 10(1) is amended by repealing “6(2)” and substituting “8(2)”.”.

Schedule 4,
section 39

By adding before subsection (1) –

“(1A) The Schedule is amended, in the English text, by repealing “[ss. 6 & 8]” and substituting “[rules 6 & 8]”.”.

Schedule 4,
section 56(a)

By deleting “55(2) and (3)” and substituting “55(2) and (6)”.