

## **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 15 December 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 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 TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

**MEMBERS ABSENT:**

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE WONG YUK-MAN

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE HENRY TANG YING-YEN, G.B.M., G.B.S., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

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

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

### **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 JUSTINA LAM CHENG BO-LING, 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:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Public Health and Municipal Services (Designation of Public Swimming Pools) Order 2010 .....	162/2010
Public Health and Municipal Services Ordinance (Amendment of Fourteenth Schedule) Order 2010 .....	163/2010
Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) Order 2010..	164/2010
Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 2) Order 2010 .....	165/2010
Hong Kong Science and Technology Parks Corporation Ordinance (Amendment of Schedule 1) Notice 2010 .....	166/2010
Buildings Energy Efficiency Ordinance (Commencement) Notice 2010 .....	167/2010
Business Registration (Amendment) Ordinance 2010 (Commencement) Notice .....	168/2010
Companies (Amendment) Ordinance 2010 (Commencement) (No. 2) Notice 2010 .....	169/2010
Genetically Modified Organisms (Control of Release) Ordinance (Commencement) Notice .....	170/2010
Genetically Modified Organisms (Documentation for Import and Export) Regulation (Commencement) Notice	171/2010

## Other Papers

- No. 40 — Secretary for Home Affairs Incorporated  
Audited financial statements together with the Director of Audit's Report for the year ended 31 March 2010
- No. 41 — Sir Edward Youde Memorial Fund  
Signed and audited financial statements together with the Auditor's Report and the Report of the Board of Trustees for the period 1 April 2009 to 31 March 2010
- No. 42 — Social Work Training Fund  
Forty-ninth Annual Report by the Trustee for the year ending on 31 March 2010
- No. 43 — Hong Kong Tourism Board Annual Report 2009/10
- No. 44 — Annual Report of the Equal Opportunities Commission 2009/10
- No. 45 — Queen Elizabeth Foundation for the Mentally Handicapped  
Report and Accounts 2009-2010
- No. 46 — Report by the Controller, Government Flying Service on the Administration of the Government Flying Service Welfare Fund for the year ended 31 March 2010 and the audited financial statements together with the Director of Audit's report
- No. 47 — The Accounts of the Lotteries Fund 2009-10
- No. 48 — The Board of Governors of the Prince Philip Dental Hospital Annual Report 2009/10
- No. 49 — Police Welfare Fund Annual Report 2009/2010
- No. 50 — Annual Report on the Police Children's Education Trust and the Police Education and Welfare Trust 2009/2010

- No. 51 — The Sir Murray MacLehose Trust Fund  
Signed and audited financial statements together with the Auditor's Report and Trustee's Report for the year 1 April 2009 to 31 March 2010
- No. 52 — General Chinese Charities Fund  
Signed and audited financial statements together with the Auditor's Report and the Report on the Administration of the Fund for the year ended 31 March 2010
- No. 53 — Chinese Temples Fund  
Signed and audited financial statements together with the Auditor's Report and the Report on the Administration of the Fund for the year ended 31 March 2010
- No. 54 — Grantham Scholarships Fund  
Signed and audited financial statements together with the Auditor's Report and the Report by the Grantham Scholarships Fund Committee on the Administration of the Fund for the year ended 31 August 2010
- No. 55 — Brewin Trust Fund  
Audited financial statements together with the Auditor's Report and the Report by the Brewin Trust Fund Committee on the Administration of the Fund for the year ended 30 June 2010

Report No. 8/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Matrimonial Proceedings and Property (Amendment) Bill 2010

## **ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.



**DR PRISCILLA LEUNG** (in Cantonese): *President, this oral question that I am going to ask today is about water quality. In fact, I have requested to ask an urgent question about fire .....*

**PRESIDENT** (in Cantonese): Dr LEUNG, please read out your oral question based on the contents of the question as delivered.

**DR PRISCILLA LEUNG** (in Cantonese): *President, I have to mention a point, for water and fire ..... fire is actually more important .....*

**PRESIDENT** (in Cantonese): Dr LEUNG, according to the Rules of Procedure, you must read out your oral question based on the contents of the question as delivered.

(Some Members in their seats were talking)

**DR PRISCILLA LEUNG** (in Cantonese): *President, I hope that other Members would be quiet; I have requested to ask an urgent question about the fire in Fa Yuen Street in Mong Kok but my request has been rejected .....*

**PRESIDENT** (in Cantonese): Dr LEUNG, please ask your oral question.

(Some Members were still talking)

**DR PRISCILLA LEUNG** (in Cantonese): *President, I hope that other Members would be quiet.*

### **Water Quality of New Yau Ma Tei Typhoon Shelter**

1. **DR PRISCILLA LEUNG** (in Cantonese): *Recently, a local organization in Kowloon West, in collaboration with an academic institute, conducted water*

*quality tests in the New Yau Ma Tei Typhoon Shelter (NYMTTS) in the vicinity of the portal of the Western Harbour Crossing. The findings revealed that the levels of both dissolved oxygen (DO) and Escherichia Coli (E. coli) in the marine water sampled from the NYMTTS did not comply with the statutory limits set out in the Statement of Water Quality Objectives (Western Buffer Water Control Zone), a subsidiary legislation under the Water Pollution Control Ordinance (WPCO), with the E. coli count exceeding the limit by as much as 180 times. Yet, in reply to a question raised by a Member of this Council on 20 October this year, the Environment Bureau advised that "the monitoring results over the past three years (2007 to 2009) show a continuous improvement in marine water quality. The compliance rate of marine water quality for 2009 exceeds 90%, comparing favourably with the 2008 figure. The Environmental Protection Department (EPD) has not received any complaint about odour from the marine water". In this connection, will the Government inform this Council:*

- (a) whether the NYMTTS falls within the areas where the marine water quality is subject to monthly monitoring by the marine monitoring station set up off the coast of West Kowloon by the EPD; if so, of the data on DO and E. coli in the marine water obtained from the NYMTTS in the past three years, as well as whether the data complied with the statutory limits;*
- (b) whether at present the authorities remove sludge from the NYMTTS on a regular basis; if so, the frequency of such removal work, whether the authorities have assessed the effectiveness of the work; and, in addition to the recently completed Feasibility Study of the Review of West Kowloon and Tsuen Wan Sewerage Master Plans, whether the authorities will conduct other studies to explore new ways to further alleviate the problem of water pollution in the NYMTTS; and*
- (c) whether the authorities have assessed if the environmental pollution problem affecting the areas around the NYMTTS will in the long run have an impact on the image and operation of the future West Kowloon Cultural District (WKCD); if the assessment outcome is in the affirmative, whether the authorities will consider expediting the plan to relocate the New Yau Ma Tei Public Cargo Working Area (PCWA) adjacent to the NYMTTS, and of the details of the*

*relocation schedule; if it has not conducted an assessment, whether it will do so?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, Members, Good Morning. I thank Dr Priscilla LEUNG for her question.

- (a) The Marine Water Quality Monitoring Programme of the EPD covers the monitoring of water quality in typhoon shelters. A monitoring station has been set up at the NYMTTS where the EPD regularly collects marine water samples from three depths, namely near the sea surface (Surface), in the middle layer of the sea (Middle) and near the sea bed (Bottom) for water quality monitoring, which covers analyses of more than 20 physical, chemical and microbiological parameters, including DO and E. coli levels.

The NYMTTS is located within the Victoria Harbour Water Control Zone (VHWCZ) rather than the Western Buffer Water Control Zone as Dr LEUNG has mentioned. The Government has set Water Quality Objectives (WQOs) for the VHWCZ under the WPCO, based on the beneficial uses of the Victoria Harbour for marine navigation and the anchoring of vessels. As the beneficial uses of Victoria Harbour and the NYMTTS do not cover activities for mariculture, swimming or secondary recreational activities such as aquatic activities, no statutory WQO on E. coli level has been set for the VHWCZ.

Based on the beneficial uses of the Victoria Harbour and NYMTTS, the WQOs for DO levels as declared under the WPCO stipulate that, for 90% of the sampling occasions during the whole year, the depth-averaged DO concentration and bottom DO concentration should not fall below 4 mg per litre and 2 mg per litre respectively. Over the past three years (2007 to 2009), the DO concentration in all the samples of bottom water was over 2 mg/L, meeting the WQOs for bottom DO concentration. Regarding the annual average values of the depth-averaged DO concentration, they were 3.6 mg/L for 2007, 4 mg/L for 2008 and 4.5 mg/L for 2009; higher than the original values. However, since the depth-averaged DO

concentration in recent years could not comply with the criterion of 4 mg/L in 90% of the sampling occasions, the WQO for the depth-averaged DO concentration could not be fully complied with for the past three years. As regards the E. coli levels, although no statutory WQO was stipulated, the annual average E. coli levels have decreased significantly in the past three years, with count per 100 ml at 5 200 for 2007, 1 700 for 2008 and 930 for 2009.

The water quality in the NYMTTS has improved significantly over the past decade. The annual average values of both the depth-averaged DO concentration and the bottom DO concentration were 3 mg/L in 2001, and increased by 50% to 4.5 mg/L in 2009. Over the same period, as I have just said, the annual average E. coli levels in NYMTTS decreased by 90% from 11 000 count per 100 ml to 930 count per 100 ml.

- (b) The depth-averaged DO concentration in the NYMTTS did not meet the WQOs because waters in the western part of Victoria Harbour near the West Kowloon are relatively calm. The breakwater in the typhoon shelter also impedes the exchange of water between the typhoon shelter and Victoria Harbour. Another factor is that the pollution sources have not been fully intercepted from discharge into the typhoon shelter, resulting in siltation inside the storm water drains and sediments to accumulate at the nearshore sea bed of the typhoon shelter.

To improve the water quality and mitigate the odour problem of the NYMTTS, the EPD has been implementing a series of measures jointly with other departments to reduce the discharge of pollutants into the typhoon shelter. Since 2004, the Government has installed six dry weather flow interceptors in the storm water drainage system along the upstream area of NYMTTS. These interceptors serve to intercept polluted flow in dry seasons and to convey the flow to the sewerage system for proper treatment.

Besides, the EPD conducts inspections regularly to identify problems of misconnections of private building sewers to storm water drains resulting in the discharge of foul water into the typhoon shelter, and

takes measures to rectify the misconnections. Since 1999, the EPD has successfully rectified more than 460 cases of misconnections, equivalent to reducing the water polluting load of a population of over 80 000. The EPD will step up follow-up and enforcement actions jointly with the Buildings Department (BD) and with the assistance of District Offices to tackle the illegal connection and discharge cases, so as to rectify the misconnections of private buildings as soon as possible.

The EPD has recently completed the Review of West Kowloon and Tsuen Wan Sewerage Master Plans as Dr LEUNG has just mentioned, which contains recommendations on a series of works targeting the NYMTTS to mitigate the pollution caused by discharge from the storm water drains into the typhoon shelter. They include proposal for installing a new dry weather flow interceptor near the outlet of the Cherry Street box culvert and improving the operation of existing interceptors. As a short-term measure, the desilting of box culvert outlet will be increased from two times to three times a year. The next desilting of storm water drains will begin soon and is expected to be completed in mid-January 2011.

Siltation on the sea bed of typhoon shelters also affects the safety of fairways. The Marine Department (MD), therefore, conducts regular hydrographic surveys in the waters. Based on the latest data, the MD will determine whether safety of maritime navigation is affected and initiate related maintenance dredging to ensure the safety of fairways. The Civil Engineering and Development Department (CEDD) is responsible for the implementation of the associated dredging works, and is planning for the next dredging works to be conducted in early 2011. Concerned departments will closely monitor the effectiveness of the above work, and will report progress to the relevant District Council.

Moreover, the Government is committed to improving the water quality of Victoria Harbour, including the coastal waters of West Kowloon. The water quality of Victoria Harbour has improved significantly since the Harbour Area Treatment Scheme (HATS) Stage 1 was commissioned in end-2001, with the overall E. coli level

decreased by 50% and the DO level increased by 10%. To further improve the water quality of Victoria Harbour, the Advance Disinfection Facilities of HATS Stage 2A were commissioned in March 2010. According to the data from March to November 2010, the E. coli level in the western part of Victoria Harbour from Stonecutters Island to Sham Tseng has further reduced. The level fell by over 50% compared with that in 2009, that is, before the commissioning of the disinfection facilities. The Government has further invested about \$17 billion to fast track the works of HATS Stage 2A. We expect that the water quality of Victoria Harbour will further improve upon the full commissioning of the HATS Stage 2A in 2014.

- (c) The three conceptual plans of the WKCD have been on display in a recent public engagement exercise. The conceptual plan consultants of the WKCD Authority have made preliminary environmental assessment of the odour problem of the NYMTTS. The consultants consider that the odour problem can be mitigated continuously through the various improvement measures taken by the government departments concerned. The WKCD Authority will make further environmental impact assessment when it prepares the development plan next year.

Lastly, the PCWA, commissioned in 1993, is the busiest among the eight PCWAs in Hong Kong. It mainly handles containers and general cargoes, and provides about 2 400 jobs for the transport and related trades. The tender results and the occupancy rates of the berths indicate that there remains a strong demand for the PCWA from the freight and port sectors. Therefore, the Government has no plan to close or relocate the PCWA at the present moment.

**DR PRISCILLA LEUNG** (in Cantonese): *President, the Secretary has stated at the end of the last paragraph in part (a) of his main reply that the E. coli levels have substantially decreased, and he has also mentioned in the third paragraph in part (b) that the EPD will take actions jointly with the BD and District Offices. As we have noticed, the reply has referred to many departments including the MD, the Drainage Services Department (DSD), the Planning Department (PD)*

*and the CEDD. However, we are only concerned about the actual effects. Although the number has obviously decreased, if staff from various departments can smell the odour when they arrive at the scene, we need not say anything more. Can the Secretary tell us whether various government departments are still working to rule most of the time, or whether six to seven departments can hardly break the boundaries and co-operate? Will the Secretary consider leading an interdepartmental group to implement water treatment works in light of the situation of the WKCD, so that a benevolent measure will be implemented and that we can organize cross-harbour swimming events a few years later?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Dr LEUNG for her supplementary question. As she has just said, five to six departments are currently involved in water quality management, mainly the EPD, DSD, MD and CEDD. If there are cases of misconnections of sewers in the urban areas, the BD or District Offices will render assistance. In fact, these departments have taken follow-up actions after the relevant issue has been raised by a Member. Most of the aforesaid departments had send representatives to attend an interdepartmental meeting convened by my Permanent Secretary in late November, to discuss and work out some proposals. I believe other Members would have also noticed that staff from various departments are working in various aspects. The EPD will continue to take the lead and handle the interdepartmental tasks in this connection.

**DR RAYMOND HO** (in Cantonese): *One afternoon, I went to the NYMTTS to inspect the water quality of the area, and I spent at least three hours walking slowly around and making careful observation. I noticed that a tattered yellow government notice board, almost completely blackened by smoke, was erected by the side of the typhoon shelter, stating that the water quality of the reservoir was inferior and pending improvement; yet there was no indications as which department issued the notice. Furthermore, quite a few children were playing along the breakwater as mentioned by the Secretary. I considered that it was very unhygienic for them to play in such a smelly environment.*

*The water there is indeed rather seriously polluted, and the test result that we have received from Dr HO Kin-chung, an expert in the field, is somewhat*

*different from the information provided by the Secretary. This certainly depends on when the test was conducted, whether it was raining when the test was conducted or whether the test was conducted after the rain, the results would be slightly different. So, I hope the Government would consider whether it is appropriate to connect sewers to the upper position of the typhoon shelter, and whether any improvements can be made. In this regard, apart from having doubts about the misconnections of private building sewers — I doubt if there are such cases — can the Secretary also examine the connection point of the main sewer pipeline, and whether it can be extended into the harbour, as a bigger catchment area can dilute sewage better. Can the Secretary consider doing so? Can the Secretary please reply.*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Dr Raymond HO for his supplementary question. We are also aware that quite a number of new buildings have been built in West Kowloon, and more people go to the waterfront than before, hence we will pay close attention to the situation.

As to how the Administration should thoroughly handle these issues, Members have just heard from my main reply that we can consider a few proposals. Certainly, the source frequently lies in the misconnection of sewers in some buildings in old districts. We have handled more than 400 such cases in the past, and we will continue to follow up the situation, we will identify misconnections through inspections and make improvements. At present, there are some dry weather flow interceptors within the area, and we will consider in our recent study whether it is necessary to increase or improve these interceptors. About day-to-day management such as the current desilting of inshore outlets, as well as the desilting works at the sea bed level as Members have just mentioned, we have plans to carry out such works. I also hope that the situation could be improved through a multi-pronged approach.

**MR CHAN HAK-KAN** (in Cantonese): *President, concerning odour from siltation and E. coli, we can draw reference from an example. In the past, the Shing Mun River in Sha Tin stank and the E. coli level was above average. However, after the Government has tackled the problem through a biodegradation process, the E. coli level of the Shing Mun River has now become*



*considerably lower and some aquatic activities can be held there. I know that the Government intends to adopt similar methods for desilting and lowering the E. coli level of the Kai Tak Nullah. Can the biodegradation process be applied to the NYMTTS? Will the Government plan to do so?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Mr CHAN Hak-kan for his supplementary question. Our professional colleagues have considered this matter, we have collected samples from the sea bed siltation of the typhoon shelter and have conducted the relevant study. As analysed by our professional colleagues, the situation of the NYMTTS is different from that of the two places just mentioned by Mr CHAN Hak-kan as far as data are concerned. The Acidic Volatile Sulphides (AVS) parameters of the pollutants at the bottom of the sea bed differ from those in the two other places. Hence, the same technology may not be completely applicable. There are also other influencing factors, such as current or depth of water. We had conducted a study in the past and we found that bioremediation might not be applicable in all cases. Yet, we will closely monitor the situation and adopt the methods I have just mentioned with a view to conducting a thorough overhaul. In particular, we found that it might be helpful to make more efforts at the source in Yau Ma Tei, and we are going to work in this direction.

**PROF PATRICK LAU** (in Cantonese): *President, in the third paragraph in part (b) of the Secretary's main reply, he said that the EPD has successfully rectified more than 460 cases of misconnections. President, Honourable colleagues know that I am an authorized person and I am astonished, because the BD would never issue occupation permits when there are misconnections. Who has made a mistake? Has the DSD made a mistake? Has the DSD discharged effluent into the harbour through sewers which were properly connected? Otherwise, the situation as stated in the main reply will not possibly occur. I would like to ask the Secretary to clarify this point.*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): According to my understanding, our colleagues conduct inspections at some places such as culvert outlets within the area. They will identify the source if they have found pollutants inside the storm water drains that should not be discharged from such drains. As the source may be located in public places or within a building, we

need the assistance of the BD, sometimes we also need the assistance of District Offices and owners' corporation in identifying the source. After we have identified the source, improvement works must be undertaken, irrespective of which party has to bear the responsibilities. If improvement works are required, the consent of owners are sometimes required, and there are examples of successful cases. Our colleagues have also told me that at times, re-examination are needed after the completion of the relevant works because sometimes the problem may not be the pipelines but the use of the drains. Some sectors such as the catering trades may have caused such problems in the course of work or when cleaning up the places. Hence, we must monitor the situation regularly.

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

**PROF PATRICK LAU** (in Cantonese): *Is the problem caused by misconnection or is it due to the faults of the DSD? In the event of misconnections, occupation permits will not be issued. Now that the buildings have been fully occupied, what are the causes for the problem?*

**PRESIDENT** (in Cantonese): Can the Secretary tell this Council why there are misconnections?

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, we all know that Yau Ma Tei is a very old district and the situation of many old buildings in the early days might not be as satisfactory as that of the buildings today. Nonetheless, if there are cases of misconnections by government departments, we must tackle the problem together. I believe that efforts should jointly be made by various parties.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes 30 seconds on this question. Second question.

## Errors in Tax Assessments

2. **MR ALBERT CHAN** (in Cantonese): *President, in recent years, I have received complaints from members of the public about errors in tax assessments of the Inland Revenue Department (IRD), resulting in these complainants' being charged huge amounts of tax. In one of the cases, a member of the public declared in the tax return the total amount of income to be \$86,868. However, the IRD had mistaken it as \$8,686,800 and demanded that person to pay \$2.6 million of tax. The complainants also said that members of the public affected by IRD's incorrect tax assessments had to negotiate with the IRD for months before it would correct the assessments. Those affected had mentally suffered immense nuisance in negotiating with the IRD, and some of them even incurred financial losses, but the IRD refused to pay compensation for its incorrect tax assessments. In this connection, will the Government inform this Council:*

- (a) in each of the past three years, of the number of cases involving incorrect tax assessments due to the IRD's errors;*
- (b) among the cases in part (a), of the greatest discrepancy in the amount of assessable income or tax payable between the correct and incorrect tax assessments; and*
- (c) whether the Government will consider making compensation to members of the public who have suffered mentally or financially as a result of incorrect tax assessments due to IRD's errors; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *President, my answers to parts (a) to (c) of the question are set out below:*

All along, the IRD endeavours to serve the community. It handles tax matters in a fair, impartial and professional manner and assists members of the public to understand and fulfil their tax obligation.

In making tax assessments, the IRD would first examine the information furnished by taxpayers in their tax returns. The IRD would conduct tax

assessments based on the information furnished in the tax returns after confirming the *prima facie* accuracy of the information. There is also a computer monitoring system to detect anomalies in the tax returns, for example, the income declared by a taxpayer being much higher than the taxable income in his/her income record. For dubious cases, the IRD would double check the information furnished in the tax returns before issuing notices of assessment.

While the IRD strives to ensure that tax assessments are made fairly and accurately, it is highly difficult to eliminate individual tax assessment errors. In this regard, taxpayers could exercise their rights provided under the Inland Revenue Ordinance (IRO) to lodge objections and appeal against tax assessments. If a taxpayer wishes to dispute a tax assessment, he/she could lodge a notice of objection in writing to the Commissioner of Inland Revenue (the Commissioner) within one month after the date of issue of the notice of assessment. Upon receipt of the objection, the IRD would re-examine the relevant case to consider whether the reasons for objection advanced by the taxpayer are justified. Where the taxpayer's objection or appeal is successful, the Commissioner would refund the amount of tax paid in accordance with the IRO. There are, however, no statutory provisions stipulating that the Commissioner must compensate for any loss of the taxpayer.

Tax assessment errors may be caused by various reasons, including inaccuracy in the information or documents submitted to the IRD, or mistakes made by the taxpayers or the assessing officers. For some cases, it is also difficult to determine clearly whether the errors are caused by mistakes of the assessing officers or the taxpayers. The IRD does not keep statistics on tax assessment errors caused by its own fault. However, we understand that the case mentioned in the preamble of the question is an isolated case.

We understand that tax assessment errors would cause inconvenience to the taxpayers. As such, the IRD would rectify the errors as soon as they are found so as to minimize the impact on the taxpayers. The IRD would also learn from mistakes and improve its system and operation with a view to avoiding recurrence of similar mistakes. Besides, the IRD would conduct staff training from time to time so as to equip the staff with necessary knowledge, skills and attitude for provision of professional and quality services to the public.

In addition, the IRD provides a wide range of services to facilitate members of the public to complete their tax returns accurately and to better

understand the requirements under the IRO. These services include providing in IRD's website simple guidelines with a sample tax return and points-to-note for completing the tax return, and handling enquiries by taxpayers in person, by phone or by email. Each tax return is also enclosed with detailed guidelines to facilitate taxpayers to complete their tax returns. We encourage taxpayers to read and follow the guidelines carefully so as to avoid errors or omissions.

In future, the IRD will continue to enhance its work efficiency and service quality in order to provide customer-oriented quality services for members of the public.

**MR ALBERT CHAN** (in Cantonese): *President, it is very easy for the Secretary to say that taxpayers who wish to dispute the tax assessments could lodge notices of objection. However, after lodging the objection, the taxpayer concerned would be interrogated like a criminal and he has to bear undue pressure. This is because the IRD is empowered to institute prosecution, confiscation and imposition of imprisonment penalty, and so on, at any time. Taxpayers are therefore subject to pressure ..... While the IRD staff, being civil servants, can work to rule, the affected taxpayers would suffer mentally and their daily life would be affected.*

*President, I have raised three questions in my main question, mostly about statistics. Yet, the Secretary has not provided any statistics at all. In his reply, he says that the case quoted by me is an isolated case. But how does he know that this is an isolated case since there is no statistics, and he does not know the number of cases involving incorrect tax assessments? If my request for statistics for the past three years is too much, can the Secretary ask his colleagues to examine, after the meeting, the number of cases involving incorrect tax assessments over the past 12 or six months? How can he be answerable to the public if he fails to distinguish whether errors in tax assessment are due to inaccurate information furnished by taxpayers or mistakes made by the IRD? Can the Secretary review the methods of collecting information and compiling internal statistics so that the IRD can be answerable to the public with the provision of concrete figures?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, thanks to the Member for his supplementary question. Analysis has been made on the case mentioned by Mr CHAN in his main question. As Members may understand, insofar as this case is concerned, the incorrect tax assessment is considered to be caused by human error during the work process and has nothing to do with the assessment mechanism. We think that it is only an isolated case caused by human error.

Regarding the cases of objection and appeal lodged by taxpayers, as I have said in the main reply, tax assessment errors may be caused by various reasons, such as inaccurate information furnished by taxpayers, or misreading of information by our assessing officers. However, there are many cases which do not belong to either of these situations. They are attributable to the different interpretation of information by taxpayers and the IRD. It is therefore very difficult to compile statistics about this kind of incorrect tax assessments and appeal cases for Members' information.

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

**MR ALBERT CHAN** (in Cantonese): *President, my earlier supplementary question is indeed very clear. I ask for the statistics on mistakes made by the IRD. I am not talking about different interpretations or the disputes on figures. How come the Secretary has failed to provide statistics on cases known to be involving mistakes made by staff of the IRD?*

**PRESIDENT** (in Cantonese): Secretary, can you provide statistics on cases which apparently involve mistakes made by the IRD?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, we have not compiled the relevant statistics. And yet, I can state that the similar case is just an isolated case.

**MR JAMES TO** (in Cantonese): *President, I hope the Secretary would consider carefully that even if we take many steps backward and agree with him that this is an isolated case, he has nonetheless stated clearly in his reply to a Member's supplementary question that it was caused by errors of IRD staff during the work process, but not a mistake on the part of members of the public. In respect of this case, if an obvious mistake has indeed been made, causing mental distress or great inconveniences to members of the public, may I ask the Government if it will admit its mistake and make compensation from a people-oriented perspective? Let me put it bluntly and jokingly, at least a red packet should be given.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, as I said earlier, the Commissioner is not required by any law to make compensation. However, one thing I wish to say is that the IRD has all along undertaken to provide high quality services. We will improve our staff training and publicity from time to time to provide quality services for the public. In case mistakes are identified, I believe what taxpayers can do is to expeditiously inform us and point out the mistakes. When the IRD finds out that the mistake is caused on the part of the IRD, I can assure you that rectification would be expeditiously made.

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

**MR JAMES TO** (in Cantonese): *President, I do not mean that the IRD is required by law to make compensation. Perhaps I have not made myself clear. What I mean is that whether consideration can be made on a compassionate basis. In this minor case, a mistake has obviously been made. Why do the authorities not make any nominal compensation so that the person affected would feel better? Will the authorities consider from this perspective and have they done so?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, as I have just said, we will improve our service quality

from time to time. Our undertaking to the people is that appeals and objections would be expeditiously dealt with.

**DR PAN PEY-CHYOU** (in Cantonese): *I am gravely dissatisfied with the Secretary's reply because to those affected, especially wage earners, any such mistakes ..... Wage earners or operators of small business have to pay tax year after year, which is actually a great pressure imposed on them every year, just like fighting a major battle. Under this circumstance, if the calculation done by the authorities is not clear enough such that members of the public have to pay more tax, it will deal an immense mental blow to the people affected. I am also aware of the recent incident involving IRD's errors. In fact ..... although we do not have any statistics, we have the impression that such cases are on the increase. I also have similar personal experiences. After numerous negotiations, I finally receive a cheque to have the money refunded.*

*In the Secretary's reply, I fail to see any mention of targeted improvement measures. May I ask the Secretary to further elaborate on the improvement measures contemplated to minimize the recurrence of similar mistakes?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Thanks to the Member for his supplementary question. As a matter of fact, the IRD has attached great importance to improving the work process from time to time to prevent any error. As I have said in the main reply, the IRD has a computer monitoring system to detect anomalies in the tax returns. If the system detects any discrepancy between the amounts of this year and last year, the case will be referred to the assessing officers for consideration. For dubious cases, the IRD would double check the information furnished in the tax returns before issuing notices of assessment. This is our normal practice and the system is generally able to perform its function.

Nonetheless, I also agree that this case does involve human error on the part of the IRD. As I have just said, this is an isolated case and rectifications have been expeditiously made. The IRD will certainly step up its training of assessing officers after this incident with a view to making them more familiar with the points to note in the course of assessment. In this connection, I can say that the IRD would keep up with its follow-up actions.



**MR ANDREW CHENG** (in Cantonese): *President, I opine that in the reply, the Secretary has completely failed to focus on the Member's question about how a person affected by IRD's errors could receive reasonable treatment. The Secretary just kept on saying that this is an isolated case of human error. This case definitely involves human error and it is an isolated case. We do not expect IRD staff to work like machines. After all, even machines make mistakes. We do not expect anyone to be infallible.*

*And yet, if a mistake has been made, how can the Secretary, being an accountable Policy Secretary, compensate taxpayers who have suffered from mental stress over the past few months, six months or even a year at a policy level? President, I hope the Secretary will give a focused reply; or else even if he has answered the question, it is to no avail. While the IRD will continue to deal with individual cases or mistakes on its own, the affected Hong Kong people, taxpayers and wage earners in particular, have suffered mental stress. As a Director of Bureau, how will the Secretary lead the IRD to implement good policies to enable Hong Kong people to rest assured?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *President, I can say that the IRD has dealt with these problems and has followed up individual cases with professionalism. Nonetheless, I cannot guarantee that human errors will not happen in the future or forever. They may happen. Even the strictest system will go wrong. The most important of all is the follow-up actions to be taken. I hope that we will be informed once a mistake is identified. For similar cases, rectifications will be expeditiously made by the IRD.*

**MR ANDREW CHENG** (in Cantonese): *I think the Secretary should understand that my supplementary question is about .....*

**PRESIDENT** (in Cantonese): *Please repeat the part that has not been answered by the Secretary.*

**MR ANDREW CHENG** (in Cantonese): *The core of my earlier supplementary question is that while internal rectification by the authorities is necessary,*

*whether the Secretary, who leads the IRD officials, will consider policy-wise the suggestion made by a colleague earlier that compassionate compensation should be made to people who have suffered from mental burden, tension and distress in the future? My earlier supplementary question is just that simple.*

**PRESIDENT** (in Cantonese): I think that the Secretary has answered. Secretary, do you have anything to add?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I wish I could add something, but I have already mentioned all these points.

**MR ANDREW CHENG** (in Cantonese): *President, does the Secretary mean that no consideration has been made? Can the Secretary state clearly whether consideration has been made?*

**PRESIDENT** (in Cantonese): Mr CHENG, I think that the Secretary has answered.

Mr Albert CHAN, this is your second supplementary question.

**MR ALBERT CHAN** (in Cantonese): *President, why would there be human errors? The Secretary for the Civil Service has also made serious mistakes in the LEUNG Chin-man incident. If members of the public make any mistakes in their tax returns, they will be prosecuted, arrested, detained or even prohibited from leaving the country. What is more, sometimes these penalties have retrospective effect. People may still be held liable for mistakes in tax return made some 10 years ago. While members of the public will be arrested, detained or punished for their mistakes, the IRD only has to say "sorry" after making a mistake which may have caused the person affected to suffer from sleepless nights, loss of appetite and mental distress. Does the Secretary consider this fair? Regarding the case mentioned earlier, he said that people should inform the IRD once a mistake is identified. Although the person*

*concerned has informed the IRD once he identified the mistake, he has been perplexed for several months and he has also been interrogated like a criminal. Therefore, the whole policy is tilted and is unfair to the general public.*

*Assuming that there is a bus accident, either the Kowloon Motor Bus Company or other bus companies are involved, they will at least make compensation by going to the hospital to visit the injured passengers, sending them flower baskets or giving them red packets even if they refuse to assume legal liability. The Government, on the other hand, speaks louder than other because of its wealth, it will only order the arrest or detention of people who violate the law. But why does it not do anything when it makes a mistake?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, let me again make clear of the fact of the case. I believe if the annual income of a person is some \$80,000, it is impossible for the IRD to request him to pay \$2.6 million of tax. As I have said in the main reply, the IRD will avoid recurrence of similar mistakes. This is the last thing we would wish to see again. I suggest that taxpayers should approach the IRD at once, as problems could then be settled.

**MR ALBERT CHAN** (in Cantonese): *President, he has not answered at all. I said that the Government would order the arrest or detention of people who made mistakes .....*

**PRESIDENT** (in Cantonese): Please briefly repeat the part of your supplementary question that has not been answered.

**MR ALBERT CHAN** (in Cantonese): *..... but it refused to assume liability when it made mistakes. Does the Secretary consider it very absurd and is this an administrative hegemony?*

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I have nothing to add.

**PRESIDENT** (in Cantonese): Third question.

### **Soliciting Public Support for Bidding to Host 2023 Asian Games**

3. **MR ANDREW CHENG** (in Cantonese): *The Hong Kong SAR Government earlier set up a booth in the waiting area of Hall 3 of AsiaWorld-Expo, where the Animated Version of the Riverside Scene at Qingming Festival was exhibited. A conspicuous heading of "Support Hong Kong Athletes with Your Smiles" appeared on the backdrop of the booth, and members of the public might express support for Hong Kong athletes by taking photographs of their own smiling faces, and the photographs were printed for them free of charge. Yet, a line that read: "Support Hong Kong's Bid to Host the 2023 Asian Games" was added to the printout. I have received complaints from some members of the public that they were totally unaware of the line "Support Hong Kong's Bid to Host the 2023 Asian Games" before taking the photographs. In this connection, will the Government inform this Council:*

- (a) of the total number of photographs collected during the aforesaid activity, and whether these photographs will be used as proof of public support for bidding to host the Asian Games;*
- (b) whether it has reviewed if the addition of the line "Support Hong Kong's Bid to Host the 2023 Asian Games" to the aforesaid photographs had misled the public into thinking that supporting Hong Kong athletes was the same as supporting the bid to host the Asian Games; and*
- (c) focusing on the aforesaid complaints from the public, how the Government ensures that genuine consultation which is fair, just, transparent and impartial will be conducted when obtaining public views in the future?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the SAR Government has been working hard to promote sports through various modes. Taking the opportunity of the 2010 Guangzhou Asian Games, we launched an electronic platform "Show Your Smile" (including website and mobile phone applications) on 10 November for the public to take photos of their smiling faces. "Show Your Smile" was also part of the roving exhibitions at the Airport AsiaWorld-Expo, Times Square in Causeway Bay, Hong Kong Cultural Centre in Tsim Sha Tsui and the International Finance Centre in Central, providing free photography for the public.

The above activities aimed to enhance the sporting atmosphere by encouraging public support for Hong Kong athletes in a relaxed manner during the Guangzhou Asian Games. To encourage public participation, a great variety of designs and statements were available during the shooting process so that people could choose among them as their favourite backdrops. We also instructed staff at the "Show Your Smile" booth to explain to those who took part in the photography that they could choose from a variety of frames with different designs and statements. Aiming to promote a sporting culture in a relaxed manner, the above activities were not related to the consultation exercise on the bid to host the 2023 Asian Games. Even if members of the public chose a backdrop with statements related to the bid, such figures would not form part of the statistics for the consultation on the bid.

My reply to the three parts of Mr Andrew CHENG's question is as follows:

- (a) As at 9 December, about 3 600 smiling photographs had been taken in the above activities. As explained earlier, the activities were unrelated to the consultation exercise on the bid to host the 2023 Asian Games. These photographs would definitely not form part of the statistics for the consultation on the bid. As a matter of fact, they were not included in the paper on the outcome of the public consultation on the bid for hosting the 2023 Asian Games released last week.
- (b) Since "Show Your Smile" Campaign was not related to the consultation exercise on the bid for hosting the Asian Games, there was no such case as to whether people were misled to show support to the bid.

- (c) In conducting its consultation and in gauging public opinion, the Home Affairs Bureau will continue to maintain a pragmatic attitude, uphold the principles of objectivity and fairness, and adhere to transparency and impartiality.

**MR ANDREW CHENG** (in Cantonese): *President, the Secretary mentioned in paragraph two of his main reply that staff stationed at the booth would explain to the people that they could choose from a variety of frames with different designs, I still have a question for the Secretary. As far as I know, six different designs for the frames were provided in the said activities, and four of them had a line that read "Support Hong Kong's Bid to Host the 2023 Asian Games". Moreover, the exhibition venue was very crowded and there was not enough staff to explain to the public that they could in fact choose from different frames. As such, we firmly believe that the Government is seemingly trying to confuse the issue and mislead the public, so that their support for the athletes is used as support for the Government's bid for hosting the Asian Games.*

*Here is my question for the Secretary: Notwithstanding his reply that the photographs would not form part of the statistics for the consultation on the bid for hosting the Asian Games, would the Secretary consider this an "unsportsmanlike conduct" — a football jargon — because it goes against the spirit of sports or even seriously undermines the integrity of the Government's bid?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): *President, as I have just said, taking the opportunity of the Guangzhou Asian Games, we have organized the said activities which are intended to promote a sporting culture in a relaxed manner so that the public can get to know more about sports. I do not consider these activities "unsportsmanlike conduct" as mentioned by Mr Andrew CHENG just now.*

**MR ANDREW CHENG** (in Cantonese): *The question is that out of the six designs of the photograph frames, four are related to supporting Hong Kong's bid to host the Asian Games. While members of the public are ostensibly supporting the athletes, they are not given much choice. Although such action might .....*

**PRESIDENT** (in Cantonese): Mr CHENG, please repeat the part which you think the Secretary has not answered. Members should not engage in a debate in question time.

**MR ANDREW CHENG** (in Cantonese): *My question is very simple. If there were not enough staff members to explain to the public, is this practice not an "unsportsmanlike conduct", is that not a breach of the spirit of sports and is that not undermining the Government's integrity?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): As far as I know, there were staff members present on-site and they had been instructed to give detailed explanation to members of the public.

**MR KAM NAI-WAI** (in Cantonese): *President, I notice that in part (c) of the main reply, the Secretary said that the Home Affairs Bureau would adhere to the principle of impartiality when conducting consultation. President, some time ago, when announcing the findings of an opinion survey conducted by The Chinese University of Hong Kong (CUHK) on the subject, the Secretary mentioned that more and more people supported the bid to host the Asian Games. We consider that this statement is misleading and has distorted public opinion.*

*Regarding the content of the questionnaire, I would like to ask the Secretary whether the authorities will solicit the views of the people again about spending \$36 billion to host the Asian Games? This is because the Secretary has indicated that when bidding to host the Asian Games, the Government will clearly indicate its commitment of \$36 billion to the bid committee. I would like to ask the Secretary, why was the cost of spending \$36 billion to host the Asian Games not mentioned in the questionnaire? Will the authorities solicit the views of the people again in this regard?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I have said in the main reply, the "Show Your Smile" Campaign mentioned in Mr Andrew CHENG's question was not related to the consultation exercise on the bid for hosting the Asian Games. These are two different events. Separately, regarding the opinion survey conducted by CUHK, the whole questionnaire was

actually designed by professional statisticians of the University and no influence whatsoever has been asserted by the Government (including myself and other colleagues responsible for the bid).

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

**MR KAM NAI-WAI** (in Cantonese): *President, I am asking him .....*

**PRESIDENT** (in Cantonese): Please repeat the part of supplementary question which has not been answered.

**MR KAM NAI-WAI** (in Cantonese): *Here is my question: Given that nothing has been mentioned in the questionnaire about the expenses of \$36 billion in hosting the Asian Games, will the Government re-design the questionnaire to solicit public views again as to whether they would support the bid if the price-tag is \$36 billion? Whether another survey would be conducted? That is my question, President.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, while the opinion survey was related to our public consultation exercise, the public consultation exercise was not related to the "Show Your Smile" Campaign. The opinion survey was conducted as part of the public consultation exercise which has ended on 1 December. The relevant findings have already been published last week.

**MR LEE CHEUK-YAN** (in Cantonese): *In fact, the whole matter is about the Government's integrity. President, seemingly, the Secretary has turned the "Show Your Smile" Campaign into a "sham your support" campaign where unsuspecting members of the public were made to give their support for the bid. Just now, the Secretary has denied that there was any "unsportsmanlike conduct". I do not know what standard of "sportsmanlike conduct" is adopted by the Secretary, but the support originally given by members of the public for the*



*athletes was turned into support for the bid. Will the Secretary apologize to the people of Hong Kong on this matter? If he has done something wrong and "shammed" the people, he should admit it. The truth is that the people has been "shammed" and I do not know why the Secretary can say .....*

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

**MR LEE CHEUK-YAN** (in Cantonese): *..... Hence, my question is whether the Secretary will make an open apology to the public so as to rebuild the Government's integrity? If he has done something wrong and "shammed" the people, he should at least admit it and apologize.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I have explained just now, in the "Share Your Smile" Campaign, different designs of photograph frames were available. There were also staff members at the booth explaining operational details to participating members of the public. If any person did not like the printed photograph, they could choose to discard it or take a new one.

**DR LAM TAI-FAI** (in Cantonese): *President, since the LEUNG Chin-man incident came to light, it is the public's wish that the Government should act more prudently so as to avoid any gap in public perception. As the Chinese saying goes, "A person who is above board does nothing underhand." Actually, the Government has every reason to encourage public support for Hong Kong's bid to host the Asian Games. It is a very justified act. However, as things turn out, it gives the people a feeling that the Government is "taking advantage" of the occasion and using the athletes to create public support and opinion for the bid.*

*My question is, does the Secretary know that this kind of action will, on the contrary, give people negative feelings about the bid, because they might think that the Government, lacking in confidence and having inadequate promotion, would resort to using these false images to build up an atmosphere of public support? Does he know that it will only create backlash?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, it has always been the Government's intention to promote a sporting culture in Hong Kong. When supporting the Guangzhou Asian Games, we have taken the opportunity to encourage a sporting culture in the community, especially through the Internet and other digital means. This is the established policy of the entire SAR Government. Upon knowing the related complaints in the course of the Campaign, I have immediately instructed the contractor that more attention should be paid to avoid any misunderstanding on the part of participating members of the public.

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

**DR LAM TAI-FAI** (in Cantonese): *President, he has not answered whether this incident will create backlash for the bid to host the Asian Games.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I have said in the main reply, we have never used this photography campaign as part of the consultation exercise on the bid to host the Asian Games through and through. Therefore, I do not think it will affect the integrity of the entire SAR Government.

**MR PAUL TSE** (in Cantonese): *President, when we visited the Hong Kong Pavilion of the World Expo in Shanghai, we had also participated in similar photo-taking activities which were of course intended to combine some interactive fun with publicity. I believe this incident might be an example of a good thing turn bad, just a slight slip would be taken as a pretext for blame. Nowadays, it is so easy to become a target of "finger pointing" and I hope Members can maintain a balanced view when considering the matter. Secretary, my concern is more about the photographs taken during the Campaign, which are also personal information. Of the 3 600 photographs taken, some would be returned to the persons concerned. In order to alleviate the public's concern and as the photographs are sensitive information, will the authorities undertake that these photographs would not be used in any kind of publicity and the persons concerned may even take back the negative of their photographs at any time, so that there would be no loose ends?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, we had instructed that staff members must clearly explain to participating members of the public how the photos would be used. As far as I know, written explanations were also available during the shooting. In the course of the "Show Your Smile" Campaign, we had displayed some of these photographs at the booth as introduction. Of course, these photographs would not be used improperly or for any other purposes without the consent of the persons concerned. Regarding Mr TSE's question as to whether the photographs should be destroyed afterwards, we will give due consideration to this suggestion.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary is actually promoting the Government's policy so that the public can have a better understanding of the meaning of the bid or even eventually give their support to making the bid. I think there is nothing wrong about it. May I ask whether the Secretary will consider stepping up the publicity through more direct means so that an increasing number of people in Hong Kong will gain a better and more thorough understanding of the benefits gained by Hong Kong in hosting the Asian Games, the amount of resources to be spent on the event, its potential impact on nurturing our young generation in sports development as well as the Government's determination in the matter? While an indirect publicity approach has its advantages, it can easily be criticized as underhand or covert. May I ask if the Secretary will enhance publicity in other aspects in the near future?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, we are very sincere in our efforts to promote a sporting culture in Hong Kong. In this regard, we have primarily adopted a more relaxed approach that is readily acceptable to the public. For the promotion efforts we intended to make in the past, it was not easy to enlist the active help of the media to achieve wide publicity. Hence, it would be most important to come up with some ways and means that are appealing to the public.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, this is your second supplementary question.

**MR ANDREW CHENG** (in Cantonese): *President, having heard the Secretary's replies to the questions raised by other colleagues, that is, the last reply and part (c) of the main reply, I would like to focus my question on the way forward. Here is my question, during the interim period before the Government submits the relevant funding request to the Finance Committee, what sort of data will the Government use to truly reflect public opinion on the matter, so that Members can, before making a decision, understand the views of the people as collected through genuine consultation? As the Government claims that it will conduct its consultation in an objective, fair and impartial manner, will the Secretary conduct another round of consultation by telling the public the exact amount of financial resources required to bid for hosting the Asian Games — say, whether the amount is \$32 billion or some other figures? In other words, will the Government ask the people, in view of the heavy commitment of public expenditure, if they will support Hong Kong's bid to host the Asian Games; rather than just citing the findings of opinion surveys conducted by the University of Hong Kong or CUHK, which, according to the Government and the Secretary, were unrelated to the Government's consultation? If the Secretary wants to rectify the distorted public opinion in this incident, should he not agree to conduct another round of consultation that is more thorough and truly transparent?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, our consultation exercise has already been completed. In fact, right from the beginning of our consultation, we have stated clearly in the consultation paper the financial implications for hosting the Asian Games, including both direct and indirect capital costs. Indirect capital costs are those required for the construction of a series of sports facilities. In the consultation paper, it has also been mentioned that the construction of these facilities would require several tens of billions of dollars. Of course, we would like to listen to as many views as possible from the public and to consult them through various ways and means, but we must work according to the deadline for submission of the bid, that is, we must submit a formal bid by 15 February 2011.

**PRESIDENT** (in Cantonese): Fourth question.

**Shortage of Paramedical Staff in Welfare Sector**

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, some members of the social welfare sector have pointed out that due to chronic shortage of paramedical staff such as nurses, occupational therapists and physiotherapists, and so on, in the social welfare sector, social service agencies providing elderly and rehabilitation services, and so on, are unable to recruit enough paramedical staff. In this connection, will the Government inform this Council:*

- (a) *regarding the two-year full-time Enrolled Nurses Training Programme for the social welfare sector jointly organized by the Social Welfare Department (SWD) and the Hospital Authority (HA), of the number of graduates in each year since the first batch of students graduated in 2008, and among these graduates, whether it knows the respective numbers of those who are still serving in social welfare organizations; how the authorities ensure that this training programme can effectively alleviate the shortage of nurses in the social welfare sector;*
- (b) *whether it knows, in each of the past five years, the respective numbers of registered nurses, enrolled nurses, occupational therapists, physiotherapists, speech therapists and clinical psychologists who joined social welfare organizations, those who resigned from social welfare organizations, as well as those who left the social welfare sector (set out in table form); whether the authorities have assessed the shortages in such paramedics in the social welfare sector; if they have, of the assessment results (set out in table form the manpower shortage by each of these professions for the SWD and non-governmental social welfare organizations); if not, how the authorities ensure that the long-term manpower planning for the social welfare sector can appropriately meet the needs if such data are unavailable; and*
- (c) *given that in its Review Report on the Lump Sum Grant Subvention System released in December 2008, the Lump Sum Grant Independent Review Committee has proposed that the SWD should "provide additional resources for three years to welfare NGOs (non-governmental organizations) which need to employ*

*paramedical staff or hire their services, so that they may offer more competitive salaries to recruit and retain these staff members", of the progress and details of implementation of this proposal by the authorities; and whether the Government will increase funding for social welfare organizations for employing paramedical staff as well as continue with such measure upon expiry of the three-year period?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, my reply to the three questions raised by Mr CHEUNG Kwok-che is as follows:

- (a) To alleviate the shortage of nurses in the welfare sector, the SWD has co-operated with the HA since 2006 to organize a two-year full-time enrolled nurse training programme specially for the social welfare sector. So far, seven classes have been organized. Information provided by the SWD indicates that, up till last month, 87% of the 203 trainees who graduated in 2008 were still working in the social welfare service sector; the percentage for the 97 trainees who graduated in 2009 even reached 94%. As regards the 146 trainees who just graduated last month, we do not have such information for the time being.

The three other classes of the enrolled nurse training programme launched in 2009 and 2010 have a total of 309 trainees who will graduate in batches in 2011 and 2012. In addition, the SWD will organize three more training classes in the coming two years, providing a total of 330 training places.

To encourage the trainees to join the social welfare sector upon graduation, the SWD fully subsidizes the tuition fee of each trainee at \$50,000 for the whole course, on the condition that they will work as an enrolled nurse in social welfare institutions (including non-governmental organizations or private agencies) providing elderly care, rehabilitation, family and child care or correctional service for a continuous period of no less than two years after completion of training. Trainees who fail to honour the undertaking are required to repay the SWD the tuition fees in full or in part.

Besides, for those full-time employees who are currently working in the social welfare sector, if they wish to continue to serve in the sector as an enrolled nurse after completion of the training programme, they will have priority when applying for the programme.

- (b) According to existing legislation, registered nurses, enrolled nurses, occupational therapists and physiotherapists are required to register with their respective councils or boards before they can practice in Hong Kong. The number of registered persons in the above professions in the past five years is listed in the Annex distributed to Members. As there is no registration arrangement for speech therapists and clinical psychologists at the moment, we cannot provide similar statistics.

Regarding the number of paramedical staff working in the social welfare sector, since various types of paramedical staff can work in more than one sector (such as the healthcare sector, social welfare sector and education sector), the mobility of staff in these fields is rather high. Hence, it is difficult for us to know exactly the number of paramedical staff working in social welfare institutions. Nevertheless, the Government has an established mechanism to assess the manpower demand and supply in the social welfare sector and will conduct long-term planning accordingly.

Regarding the planning of tertiary training places, relevant government departments will regularly tender their views to the University Grants Committee of Hong Kong (UGC) on the manpower demand for these professions so that tertiary institutions can make reference to such information when preparing academic development proposals.

The UGC has embarked on the triennial academic planning exercise for the academic years of 2012-2015. To facilitate the planning work, the SWD conducted in mid-2010 the latest round of projections on the manpower demand for various types of paramedical staff in the social welfare sector in the next 10 years (particularly the manpower demand in elderly care and rehabilitation

services). Apart from understanding the manpower demand of social welfare service providers (especially the subvented organizations), the SWD has also made reference to other related surveys and views in the projection process, such as the survey conducted by the Hong Kong Council of Social Service. Moreover, the SWD has taken into account additional manpower demand arising from new initiatives/projects planned for implementation in future. The overall manpower projections have been relayed to the UGC through the Education Bureau.

Apart from the UGC-funded institutions, the nurse training schools of the HA also offer enrolled nurse and registered nurse training programmes to meet the overall demand for nurses.

- (c) The Lump Sum Grant Independent Review Committee published the Review Report on the Lump Sum Grant Subvention System in December 2008. One of the recommendations was that the SWD should, in response to the labour market situation, provide additional resources for three years for welfare NGOs which need to employ paramedical staff or hire their services, so that these NGOs may offer more competitive salaries to recruit and retain these staff.

In accordance with the above recommendation, the SWD secured funding from the Lotteries Fund in May 2009 and allocated the additional resources to NGOs in three yearly instalments starting from 2009-2010 for paying the salaries and employers' Mandatory Provident Fund contributions of paramedical staff or relief staff as well as hiring paramedical services to provide services subvented by SWD.

NGOs may deploy the additional resources according to their human resources management policies and internal guidelines. They are required to submit annual financial reports to the SWD during the three-year funding period on the income and expenses of the additional resources. The report to be submitted in the final year should also cover the overall income and expenses of the additional resources during the three-year period, including the number of paramedical staff employed. The SWD is currently in the process



of collecting and consolidating NGOs' first annual financial reports and related information.

A total of 74 NGOs are now benefiting from the above measure and the total amount of funding involved in the three-year period is about \$277 million. The authorities will keep in view the manpower situation of paramedical staff in welfare NGOs and review the measure in due course.

Annex

Numbers of RN, Enrolled Nurses,  
Occupational Therapists and Physiotherapists  
(From 2006 to 2010)<sup>Note</sup>

	2006	2007	2008	2009	2010 (as of 30 November)
RN	26 887	27 769	27 998	29 091	30 286
Enrolled Nurses	9 557	9 196	9 449	9 550	9 503
Occupational Therapists	1 225	1 268	1 319	1 354	1 398
Physiotherapists	2 034	2 086	2 137	2 202	2 263

Source of information: Food and Health Bureau

Note:

Figures are as at the end of the year (except for the year of 2010).

**MR CHEUNG KWOK-CHE** (in Cantonese): *We learn that presently, the trade has to recruit paramedical staff by increasing their salary by several salary points in general. But the most important point is that some paramedical staff are looking for offers with gratuity upon completion of contracts, which cannot be satisfied under the existing system. In this connection, the Bureau has not responded to part (c) of the question, that is, "whether the Government will increase funding for social welfare organizations for employing paramedical staff as well as continue with such measure upon expiry of the three-year period". For those staff who are now employed at higher salary points, the organizations concerned cannot cut their salary three years later, and have to continue to pay*

*the same salary to them. However, if the Government only provides the subsidy for three years, does it imply that the organizations concerned have to cut the salary of those staff by then? This approach is impractical, so I would like to raise this question to the Bureau again.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have to thank Mr CHEUNG for his supplementary question. The remarks I made in part (c) of the main reply is one of the recommendations proposed by the Lump Sum Grant Independent Review Committee, which we fully agree. Members should remember that this measure is proposed particularly to address the demand of social welfare organizations which have indicated the difficulties they faced in retaining and recruiting paramedical staff, such as physiotherapists, occupational therapists and speech therapists, and so on. For this reason, a substantial amount of \$277 million is set aside to provide more flexibility and room for these organizations in recruiting staff, raising increment and retaining staff.

We will keep a close watch on the question put forth by Mr CHEUNG just now. This year is the first year upon the expiry of the three-year subvention period, and we are in the initial stage. We will monitor the development closely and will surely review the situation. As I have explained in the main reply, we will review the effectiveness and the way forward of this measure, and examine the situation at an appropriate time.

**MS LI FUNG-YING** (in Cantonese): *President, in part (b) of the main reply, Mr CHEUNG Kwok-che asked about the rate of entry and wastage in the past five years, but the Secretary only gave a simple remark in the reply that wastage was rather high, and that it was difficult to know exactly the number of paramedical staff working in social welfare organizations. If he does not even know the figures in this respect, how can he formulate long-term planning according to the demand and supply in this field, and what figures and justifications will he base on when he makes the long-term planning?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, in fact, I have given a clear account in part (b) of the main reply, stating the various

aspects of work we will carry out in human resource planning. First, we will collect information to form the foundation of planning. Regarding the work in this respect, first, we will understand the situation of social welfare service providers, which certainly include government subvented organizations. Second, we will refer to other related surveys and views, such as the useful figures released by the Hong Kong Council of Social Service. Third, we will take into account the planning of the SWD in the next few years and the manpower demand arising from new services and completed projects. After having these information, we can start planning. This has been our established practice. We must have some specific figures at hand before we make any projections or estimates.

**DR JOSEPH LEE** (in Cantonese): *President, I did expect this reply from the Secretary. Ms LI Fung-ying asked about manpower planning. I notice that the Secretary has indeed given a reply without answering to Ms LI Fung-ying's question.*

*President, I would like to ask the Secretary, while he mentioned that he had provided some figures to the UGC, does he know that the UGC has, in its staff letter, pointed out the supply of nurses is adequate but psychiatric nurses are in shortage, and has thus increased the number of places for psychiatric nurse? As for other paramedical staff, such as physiotherapists or occupational therapists, the authorities have also increased the number of places. However, may I ask the Secretary if he knows how many of the additional places will be designated for the social welfare sector? If without such arrangement, how can the Secretary ensure that the mechanism to be implemented can nurture the required manpower when he provides the figures to the UGC or reflects the situation to the UGC via the Education Bureau?*

*President, I may provide some information on the number of nurses as mentioned by the Secretary. Under the existing mechanism, a residential care home with 60 residents should have a nurse. Should the nurse be a registered nurse or an enrolled nurse? The Secretary only mentioned the case of enrolled nurses, but how about the situation of registered nurses? In fact, according to the views of existing residents, they also need registered nurses. Hence, there are many problems in this respect, but it all boils down to one problem. It is evident that the SWD has failed to fulfil its work in the overall manpower*

*planning. It fails to ensure that there are adequate supply of paramedical staff, including nurses, occupational therapists and physiotherapists, to serve in the social welfare sector, so as to implement current projects like community rehabilitation and community elderly services.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have to thank Mr LEE for his supplementary question. As you are the expert of nurse training, I must answer this question cautiously.

We have worked through several channels. You ask how we can ensure that graduates will work in the social welfare sector, we can in no way guarantee this, unless we stated in advance that enrolled nurses trained by the Government must, upon graduation, work in the social welfare sector, or else they will have to reimburse the \$50,000 training fees. In that case, the success rate will be extremely high. As I mentioned in the main reply, the relevant percentage exceeds 90%. By now, we have trained 300 nurses and another 400 trainees have just graduated or will soon graduate, and there will be 300 new places. In the near future, there will be 1 100 nurses entering the services. Following this trend, the situation is indeed quite encouraging. Of the latest batch of trainees, 94% of them have jointed the trade, which has met our target. However, we have no control over graduates from other institutions. Nonetheless, they will enter the market and there is no problem of talent wastage. If they do not enter the medical sector, they will surely join the social welfare sector or work in the school area.

However, I hope Mr LEE would understand, nurse training courses are not solely provided by institutions under the UGC. Other institutions have also organized some self-financed courses, and certain hospitals, including private hospitals, have their own nurse training courses. Certainly, undergraduate courses can only be offered with the approval of the UGC, but course of other levels may be provided through various channels. Hence, I hope Members will understand that the UGC is not the only training institution in this field.

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

**DR JOSEPH LEE** (in Cantonese): *The Secretary has not answered my supplementary question. My question is indeed simple and I mentioned the UGC only as an example. I hope the Secretary .....*

**PRESIDENT** (in Cantonese): *You said your question is simple, so will you simply repeat the part of your question which has not been answered.*

**DR JOSEPH LEE** (in Cantonese): *My question is simple, but he has not answered. How does he arrive at the overall figures to ensure that in the overall resource planning, paramedical staff will work in the social welfare sector? How and to which departments does he provide these figures?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, it is a matter of supply and demand. Supply is of utmost importance, for we all know that the demand is huge. At present, many undergraduates of physiotherapy have already got several employment offers, and some students who will soon graduate have already found a job. Hence, I do not worry about their prospect, and I am only concerned about inadequate supply.*

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary said that it was mainly a matter of demand and supply. We all know that the demand is really great at present. But regrettably, it is found in the information provided by the Secretary that between 2006 and 2010, the number of paramedical staff joining the social welfare sector remained steady. There had not been any increase, and the number had decreased in some cases. The Secretary said the \$50,000 tuition fee subsidy was used as a means to bind the trainees, hoping they would enter the social welfare sector. However, the binding period will last for two years only. I even heard of cases where certain trainees would rather choose to reimburse the \$50,000 to enter the external market offering more desirable terms.*

*Hence, may I ask the Secretary, whether a thorough examination will be conducted to find out why such a small number of people choose to stay in the social welfare sector, and why is there a decreasing trend? Will the authorities compare this situation with that in the private market to identify the relationship?*

*Will it examine whether this should mainly be attributed to the factor that better remunerations and benefits are offered in the private market than in the social welfare sector? If this is the actual case, will specific measures be introduced to improve the situation, so as to attract talents to stay in the social welfare sector?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I worry that Mr LEUNG has misunderstood the relevant figures, which has made him say that there was a decreasing trend. When we read part (a) of the main reply carefully, we may notice that he has misunderstood the figures. Regarding the figures provided, 203 is the number of trainees of the first enrolled nurse training programme, and 97 is the number of graduates of the second training programme. These figures are not the number of nurses working in the sector. It is important not to mix them up. The specialized enrolled nurse training programme organized by the SWD and the HA started in 2006, and 87% of the 203 trainees who graduated in 2008 were still working in the social welfare service sector; and for the 97 graduates of the second batch, 94% were staying in the social welfare sector. In other words, some trainees must have reimbursed the tuition fees to leave; otherwise, the percentage will not be 94% only. But still, the number of graduated trainees working in the social welfare sector is increasing, from 87% to 94%. We are confident of retaining these talents.

I fully understand your remarks. You mean that given the keen competition at present, many nurses have been absorbed by the private market. Hence, we have to urge various organizations to give specific concern to the benefits of staff in the areas of morale, training and human resource management.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *He has not answered my question. First, I have to clarify that when I mentioned the steady or decreasing trend as shown by the figures earlier, I was not referring to the figures pointed out by the Secretary, but the information in the Annex. The figures set out in the Annex show a steady and decreasing trend.*

**PRESIDENT** (in Cantonese): You have made your clarification.

**MR LEUNG YIU-CHUNG** (in Cantonese): *The part of my supplementary question which has not been answered is .....*

**PRESIDENT** (in Cantonese): Please repeat the part which has not been answered.

**MR LEUNG YIU-CHUNG** (in Cantonese): *..... whether a thorough examination will be conducted to compare the remuneration and benefits offered in the social welfare sector and the private market, and whether measures will be introduced to improve the situation to attract and retain talents?*

**PRESIDENT** (in Cantonese): Secretary, will a comparison be made?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, first, I have to clarify one point, for I now know that Mr LEUNG is referring to the information in the Annex. I think I have to explain why the number of enrolled nurses has decreased. Actually, the case of enrolled nurses is comparable to that of people obtaining driving licences. People who have a driving licence do not necessarily have to drive. In other words, these nurses are purely enrolled nurses, but they may have already retired or stopped working in the sector for various reasons. Enrolled nurses are not necessarily serving nurses, for they have only made the enrolment. Members have to understand this. Hence, it means that not all enrolled nurses will naturally be engaging in the service. But for the situation you mentioned, we have for this reason set aside \$277 million under the lump sum grant review for some 70 social welfare organizations, so that these organizations will have greater room to retain outstanding talents in the recruitment of paramedical staff, and more flexibility in handling recruitment and increment issues. We have introduced this supporting measure and we will review its effectiveness.

**PRESIDENT** (in Cantonese): This Council has spent more than 20 minutes on this question. Fifth question.

### **Compensation for Disturbance to Fung Shui of Villages**

5. **MR WONG SING-CHI** (in Cantonese): *President, some residents of Kap Lung Tsuen have lodged claims for compensation with the Government on grounds that the works relating to the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL works) will disturb the fung shui of the village. To ensure that the works can commence smoothly and to take into account the concerns of the residents, the Government is considering the requests in question. Regarding the handling of claims for compensation which the residents claim to be related to fung shui (fung shui claims), will the Government inform this Council:*

- (a) *of the respective details of the alleged impact and requests of each fung shui claim received by the authorities in respect of XRL works; whether the authorities have assessed the alleged impact; if they have, of the results of their assessment; if not, the reasons for that; which claims the authorities have, in principle, agreed to follow up, of the reasons for that and the related timetable for public consultation;*
- (b) *of the total number of fung shui claims received by the authorities since 2007, broken down by the type of compensation (that is, allowance for removal of graves, Tun Fu allowance, construction or refurbishment of village office, construction or repair of Pai Lau or pagoda, construction or repair of temple, worship place or ancestors' grave, construction or refurbishment of rain shelter, construction or widening of road facility as well as landscaping works and others); and among them, of the number of claims that had been approved, the total amount of money involved and, if fung shui masters had been appointed, the amount of consultation fees involved; which government departments were responsible for making the payments; the number of claims that had been rejected and the reasons for rejection; the number of claims that are being processed and the types of compensation involved; and*



- (c) *whether any criteria and guidelines are in place for the authorities to consider fung shui claims lodged by residents, for instance, whether they will take into account the relationship between the adverse impact brought about by the public works and the claim (including appointing fung shui masters to verify the claim), whether the relevant allowances and the costs for the works involved in the provision of or improvement to community facilities will be capped, as well as whether land resumption will be involved in undertaking the compensatory works; if there are no criteria and guidelines, whether the authorities will examine the establishment of a system for vetting and approving such claims; if there are criteria and guidelines, whether there are any guidelines to prevent the claimants from having conflict of interest; whether it is necessary to conduct open tenders for the compensatory works; whether claimants are restricted from bidding for the works, and whether there will be a public consultation process; if there will be such a process, of the details, and whether there are guidelines to prevent the residents concerned from swindling money in the name of fung shui?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I will give a brief reply to Mr WONG's question and if the forthcoming supplementary questions from Members are about the XRL works, I will pass them to the Secretary for Transport and Housing. In general, claims for compensation arising from the implementation of public works which the residents claim to be related to fung shui can be grouped into several categories, including Tun Fu allowance, *ex gratia* allowance for clearance of graves, kam taps and shrines, and compensatory works. As regards claims for Tun Fu allowance and *ex gratia* allowance for clearance of graves, kam taps and shrines, they are lodged by indigenous villages affected by the public works. The claimants must furnish information on how their villages are affected and the extent of impact to substantiate their claims. Since the 1960s, the Government has been paying, based on claims lodged by the claimants, Tun Fu allowance to the affected indigenous villages prior to commencement of construction of public works that involved land acquisition and clearance in the New Territories. The allowance aims to maintain an amicable relation with the villagers for expediting works progress. In addition, Government will consider paying *ex gratia* allowance to

the indigenous villagers in the New Territories and local fishermen if their graves, kam taps and shrines have to be relocated as a result of public works.

Claims for compensatory works are not common. In general, works departments will strive to minimize impacts on the surrounding environment when implementing public works. However, when it is inevitable that the implementation of works, be it in the urban or rural areas, will cause adverse impacts or inconvenience to the surrounding environment, the public or businesses nearby, the works departments will adopt a people-oriented approach and provide community facilities or improve existing ones, such as Pai Lau, landscaping and resurfacing works according to circumstances, as compensation to mitigate the negative impacts of the public works on the surrounding environment. This is to address public concerns and to maintain an amicable relation with the public for facilitating smooth implementation of works. While some residents may consider these compensatory works to be fung shui-related, fung shui is actually not a consideration factor of the departments concerned. There were not many cases of such fung shui compensatory works in the past. As the XRL project enters the construction stage with a large amount of works to be undertaken in the rural areas of the New Territories, indeed there have been more discussions as well as claims for compensatory works recently. These claims are allegedly related to fung shui. But we must point out that fung shui is not a consideration factor of these compensatory works. Our objectives are to alleviate the residents' concerns and to mitigate the negative impacts of the works on the surrounding environment.

My reply to the three parts of Mr WONG's question is as follows:

- (a) A total of 17 fung shui claims in respect of the XRL works have been received. Among them, 15 sought for Tun Fu allowance and 14 requested for compensatory works. The claims for Tun Fu allowance will be handled and followed up by the Lands Department based on the established mechanism.

The claims for compensatory works with a total number of over 30 items include reprovisioning of village office cum worship hall in the affected villages, construction of Pai Lau/pagoda/village office cum worship hall, repairing temple/Pai Lau/worship place/ancestors' grave and widening of an existing footbridge. To handle these claims, an inter-departmental working group (working group) has

been set up with members mainly from the Lands Department, the relevant District Office and the Highways Department who is responsible for the XRL project. If based on preliminary information the working group considers that such claims may be able to address the residents' concerns and mitigate the negative impacts of the works, the Highways Department will carry out further study and assessment, and consult other relevant departments to ascertain the feasibility and impact of the compensatory works. After the feasibility of the compensatory works is confirmed, the Highways Department will post notices to seek the views of nearby villagers, and assess whether the compensatory works will bring benefits or improvements to the communities in the vicinity. Upon completion of the assessment, the Highways Department will report back to the working group for decision on whether the compensatory works shall be implemented.

As I mentioned above, among the 17 fung shui claims, 14 cases had requested for compensatory works. The working group is currently following up these 14 cases. Based on preliminary information, the villages involved in these cases are situated close to the XRL alignment. As the compensatory works are still at the early stage of study and assessment, there is no specific timetable for public consultation.

Taking the request of the representative of the indigenous villagers of Kap Lung Tsuen for widening an existing footbridge as an example, the Highways Department must still consult other relevant departments (such as the Agriculture, Fisheries and Conservation Department (AFCD), Water Supplies Department (WSD) and Environmental Protection Department (EPD)) to ascertain the feasibility of the works notwithstanding that it has already been agreed in principle by the working group for follow-up. After confirming the feasibility of the works, notices will be posted to seek the views of nearby villagers, and assessment will be made on whether the works will bring benefits or improvements to Kap Lung Tsuen as well as the communities in the vicinity. Only after the completion of such assessment would a decision be made on whether the compensatory works shall be implemented.

- (b) Excluding the XRL project, the authorities received a total of 66 fung shui claims for Tun Fu allowance and two fung shui claims for *ex gratia* allowance for clearance of graves, kam taps and shrines between 2007 and end of November 2010. As regards the claims for Tun Fu allowance mentioned above, approval was granted to 59 of them involving about \$1.24 million. Apart from the 59 approved claims, four claims are being processed. The remaining three claims were rejected. As regards the *ex gratia* allowance for clearance of graves, kam taps and shrines, approval was given to a claim which involved about \$20,000. The remaining claim was not accepted.

As regards Tun Fu allowance, all claims must be fully justified and a list of itemized costs in respect of Tun Fu ceremonies must be submitted for consideration. Typical itemized costs include fung shui master's fee, Tun Fu master's fee, purchase of joss-papers and sticks, food to be offered in the ceremony, and so on. In determining the final amount of Tun Fu payment, the reasonableness of the claim with reference to previous similar claims, the distance between the locations of the public works and the villages or sites which fung shui is alleged to be affected, village size and population will be taken into account. The relevant District Officer will also be consulted. The granting of approval of the Tun Fu allowance is also based on established criteria. Each village may only submit one single claim in respect of each public works project. Payment for a claim under \$20,000 is approved by the relevant District Lands Officer. Payment between \$20,001 and \$30,000 has to be approved by the Director of Lands. A claim above \$30,000 has to be approved by the Secretary for Financial Services and the Treasury. After the ceremony, the village representative is required to submit to the relevant District Lands Office for record an account of expenditure for the Tun Fu ceremony.

The Government will consider paying *ex gratia* allowance to the indigenous villagers in the New Territories and local fishermen if their graves, kam taps and shrines have to be relocated as a result of public works. Such allowance will be assessed according to

standard allowance rates, taking into account the types, sizes as well as building materials of the graves and shrines affected.

Only one fung shui claim from villagers for the construction of Pai Lau was received between 2007 and end of November 2010. The claim was eventually rejected as there was not sufficient justifications and support in terms of the benefits it might bring to the local community.

- (c) In regard to fung shui claims, I have set out the existing approval mechanism in paragraph (b) for claims for Tun Fu allowance and *ex gratia* allowance for graves, kam taps and shrines.

Fung shui claims for compensatory works were not common in the past. Excluding the XRL project, there was only one compensatory claim for Pai Lau received between 2007 and end of November 2010. Therefore, relevant departments currently consider each claim on a case-by-case basis. As I mentioned above, the implementation of public works will inevitably impact or cause inconvenience to the local communities at times. Therefore, we seek to protect the local environment, greening as well as the culture and history of the communities during the planning of the works. We will also endeavour to re-provision the community facilities affected as far as possible to minimize the impact of the works on the communities. The above principles are being followed in public works carried out in both the urban and the rural areas. Throughout the process, in conjunction with relevant departments, such as the works department and the District Office, we will discuss the details with the local communities as necessary.

As there are quite a number of claims associated with the XRL project and in view of the public's concerns about the compensatory works, the Works Branch of Development Bureau plans to formulate principles and procedures for reference of the departments. These will cover the scope of application, factors for consideration, assessment criteria, project management and tendering procedures, with a view to enhancing operation transparency. Specific details

will need to be adjusted to suit individual circumstances of the public works.

To conclude, all three categories of fung shui claims, that is, claims for Tun Fu allowance, *ex gratia* allowance for relocating graves, kam taps and shrines, and compensatory works, will be processed and monitored under the relevant mechanisms. As such, there will not be any money swindling in the name of fung shui.

**MR WONG SING-CHI** (in Cantonese): *President, the Secretary has kept on saying that fung shui is not a factor for consideration by the departments concerned, but unfortunately the Government often behave otherwise, and the Chief Executive has built a pond keeping Japanese carps without any stated reasons and I suspect that he did so for fung shui. Moreover, a report on the New Territories submitted by the Legislative Council in 1912 already stated that the Government should adopt a positive attitude on fung shui. If the Secretary comes across this document by chance, she should read it.*

*I am certainly not encouraging government departments to switch their focus to fung shui because fung shui is not governed by any standard and it may rouse many problems or queries. But may I ask the Secretary, regarding Kap Lung Tsuen, whether the authorities concerned have tried to understand why the working group had endorsed in principle — I stress, in principle — the footbridge-widening works, which is almost completely unrelated to the alignment of the XRL, without conducting any survey on whether the works will enhance social harmony or bring benefits to the vicinity? Has the Secretary tried to understand whether the working group's principle is related to fung shui, or whether it has other grounds to justify the footbridge-widening works? Has she looked into these issues?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Transport and Housing, please.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the working group is convened by the Lands Department with

members from the Highways Department and the relevant District Office. The procedure of handling claims is in fact the same as other procedures. By agreeing in principle for follow-up, we mean that the matter has to be explored further. As the Secretary for Development has just explained in the main reply, a final decision will only be made after the entire procedure is completed.

Why is follow-up necessary? The XRL will pass through the vicinity of the village of which villagers have lodged the claim. As the working group needs to look into certain feasibilities and problems, including the environmental impacts of the works, the EPD must be consulted. As the works falls within the Tai Lam Country Park, the AFCD must also be consulted. The WSD must also be consulted because the works covers a rather complicated area, which is a catchment area. Of course, regarding this case, the relevant District Office is also charged with an important duty, for it has to assess whether the works will have any impact on the community. Thus, a consultation exercise shall be conducted before the working group can arrive at a decision.

While the claimant is required to provide sufficient grounds, some tenants living in the district may not agree with the claim and they may think that certain works are unnecessary. We thus need to listen to and assess different views during the consultative process before finally deciding whether valid grounds are available for the compensatory works.

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

**MR WONG SING-CHI** (in Cantonese): *President, my question is: what kind of principle has the working group adopted in supporting the claim in principle? She just mentioned the work to be carried out, but what is the principle in doing so? Is the principle based on fung shui?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as mentioned in the main reply just now, the main factors for consideration are whether the works will bring about any negative impacts due to the XRL, whether the works are sufficient to address the residents' concerns and

whether the negative impacts caused by the relief works need any follow-up. These are already stated in part (a) of the main reply.

**MR CHEUNG HOK-MING** (in Cantonese): *President, undeniably, there will be many infrastructural projects in the New Territories. Today's question is about fung shui claims. In the main reply, the Secretary has defined fung shui claims as livelihood projects, such as building roads and landscaping. I concur with her.*

*I hope the Secretary can clarify her reply in respect of the difference between relocation of graves/kam taps/shrines and Tun Fu. In her reply the Secretary has generalized them as fung shui claims. President, why do I ask this supplementary question? I think we should clarify that graves, kam taps and shrines are homes of the dead. Theoretically, the Government should provide compensation for the relocation of the homes of the dead in just the same way as it would have compensated for relocating people's homes. It is unfair that the Secretary has generalized them as fung shui claims. President, can the Secretary define the difference between these two?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Development, please.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, as I have pointed out in my opening speech, in our past experience in conducting public works and land acquisition in the New Territories, we noted that the residents, mostly indigenous villagers, would lodge fung shui claims. These claims can be classified into three categories. If the works concerned involved any relocation, there would be an established compensatory procedure to follow. Moreover, the amounts of compensation often required the approval of the Finance Committee of the Legislative Council.

**DR MARGARET NG** (in Cantonese): *President, all such compensation, be it in the name of fung shui or Tun Fu, are using public money. The authorities have*



*an obvious responsibility to explain in detail what principle has been adopted and how much money has been used.*

*President, the compensation for XRL-related fung shui claims has caught the attention of the media. Recently, an English newspaper pointed out that \$72 million have been spent on fung shui-related purposes in the past decade. However, when the authorities concerned were asked for more data on the exact amount of money used for these claims, they said they had not kept such files. Can the Secretary explain why they have not kept such files? Has she considered that these principles, approved claims and compensated amounts should be recorded? Has she considered that an archival legislation should be put in place to preserve these files? President, several political groups in this Council, including the one I have joined, hold that a piece of archival legislation should be introduced. In fact, this incident is a very good example. I hope that Secretary can give an explanation.*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Development, please.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, Dr NG has led the discussion to archival legislation and I am afraid it is beyond my ability to give her a full reply. Our responsibility is, taking this question as an example, to furnish the Legislative Council as far as feasible with information about relevant works projects and claims handled by the Lands Department in our reply. Our information indicates that excluding the XRL project, we have only received one compensatory works for fung shui claim to date from 2007. This is different from people's general impression.

Regarding claims for Tun Fu allowance, we have in fact provided the information in detail. The information also covered all approved claims for Tun Fu allowance and the amounts of compensation involved because all such information are archived for reference. However, if we are asked to look up more detailed information on a number of past public works projects and conduct similar statistical analyses, consideration should then be given to the cost and meaning of doing so.

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

**DR MARGARET NG** (in Cantonese): *The Secretary has not specified the money spent in the past decade and the principle adopted for approving these claims. Has Government not archived such information?*

**PRESIDENT** (in Cantonese): Secretary, is there such an archive?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I thought I have already explained in the main reply that we have a mechanism for vetting and approving claims. Regarding the mechanism, as Tun Fu allowance is more common, there are a series of principles and procedure to follow. As for the information which a claimant has to provide and the information which he has to submit after completion of the Tun Fu ceremony, there are also a mechanism and principle to follow.

Regarding compensatory works, as I have pointed out in my main reply, they are less common. But as XRL is a large-scale project, it has triggered many claims in the New Territories and roused much public concern. According to our past practice and mechanism, such claims would be referred to the relevant department for consideration. However, the Works Branch of Development Bureau is of the view that a more specific guideline and principle should be put in place regarding this subject, so that all public works departments can make reference in future.

**PRESIDENT** (in Cantonese): This Council has used over 21 minutes on this question. Last question seeking an oral reply.

### **Hong Kong Wine and Dine Festival**

6. **MR PAUL TSE** (in Cantonese): *President, it has been reported that only 10% of the attendees at the Hong Kong Wine and Dine Festival (the Event)*

organized by the Hong Kong Tourism Board (HKTB) in October this year were visitors. In this connection, will the Government inform this Council:

- (a) *whether it knows the respective expenses on promoting the Event through advertising in the media in and outside Hong Kong; the reasons why the Event had attracted the participation of visitors equivalent to only 10% of its attendance; how the number and percentage of visitors compare with those of last year;*
- (b) *whether it knows if the HKTB, as the organization to promote tourism activities of Hong Kong, had co-operated with registered travel agents in Hong Kong to promote the Event; if it had, of the specific details of the co-operation and expenditure involved; if not, the reasons for that; and*
- (c) *given that most attendees of the Event are Hong Kong citizens while the number of visitors was small, and that the Hong Kong International Wine and Spirits Fair organized by the Hong Kong Trade Development Council (TDC) in November this year successfully attracted a large number of overseas and local exhibitors and customers, whether the Government has studied if it is more suitable and cost-effective for the Home Affairs Bureau or the TDC to organize or co-organize the Event; if it has, of the progress of the study; if not, whether it will conduct such a study as soon as possible?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the four-day Event held in end October this year was first staged by the HKTB in 2009, building on the success of the three-day inauguration event which attracted over 70 000 attendees and was rated one of the "world's top ten food and wine events of the year" by ForbesTraveler.com. This year, the Event was expanded in scale and attracted more foreign exhibitors. Over 110 000 attendees were drawn to the four-day Event. It kick-started the Hong Kong Wine and Dine Month organized by the HKTB, enhancing the brand image of Hong Kong as the wine and dine hub of Asia.

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

- (a) The HKTB promoted the Event in 2010 through a number of channels in Hong Kong and overseas. In Hong Kong, besides the HKTB's Visitor Centres, publicity materials were also displayed in hotels and retail outlets of local trade partners. Regarding advertising, it mainly utilized media in strategic locations frequented by visitors (for example, light boxes and billboards at ports of entry, TV screens at large shopping malls and attractions, bus body advertising, video display panels of taxicabs, and so on) to promote and raise awareness of the Event among visitors and encourage their participation during their stay in Hong Kong. The total spending was about \$2.8 million.

Outside Hong Kong, the HKTB mainly promoted the Event in selected key visitor markets. An expenditure totalled \$10 million was incurred, including \$5.5 million in advertising and the remaining sum in organizing consumer-oriented roadshows, press conferences, as well as inviting over 70 international media organizations from 13 countries and regions to attend and report on the Event.

From experience, any mega event needs to be nurtured by long-term promotion and reputation building before it can effectively raise awareness among visitors and attract their participation. The International Chinese New Year Night Parade, for example, has become a popular event among visitors after 10 years of sustained promotion by the HKTB.

The number of visitors participating in the Event was around 11 000 in both years. The ratio of visitors decreased in 2010 because of a bigger base number arising from greater participation by local citizens as a result of enhanced awareness of the Event.

Besides, numerous overseas media had come to Hong Kong to report on the Event. These include media from Mainland China, the USA, Canada, France, South Africa, Japan, South Korea, Singapore, Malaysia, the Philippines, India, Thailand and Taiwan. The coverage of the Event via local TV, radio, newspapers and the Internet not only helps attract more visitors to participate in the

Event next year, but also enhance the image of Hong Kong as a diverse travel destination worldwide.

- (b) The HKTB co-operated with travel agents in Hong Kong on a continuous basis. Co-operative promotion of the 2010 Event was mainly on publicizing the Event through these travel agents' retail outlets at hotels, ports of entry and attractions, as well as selling wine tokens to in-town visitors. The HKTB did not bear any cost incurred in the co-operative promotion.
- (c) The Hong Kong International Wine and Spirits Fair organized by the TDC and the Wine and Dine Festival by the HKTB differ in terms of objectives, nature and target participants.

The TDC's Wine and Spirits Fair is an event for traders. It seeks to provide an international platform for companies from wine-producing countries and regions all over the world to showcase their wines to buyers and traders in Hong Kong and other Asian economies for the purpose of business matching. This helps build and fortify Hong Kong's position as a regional wine trading and distribution hub.

The HKTB's Wine and Dine Festival, on the other hand, aims to cultivate in Hong Kong a wine appreciation culture and enhance the knowledge related to wine appreciation among local residents, restaurants and tourists. Besides drawing visitors' participation in the Event, in the long run it also helps project Hong Kong's image and brand as a wine and gourmet centre in Asia, thereby attracting more overseas and Mainland consumers to come to Hong Kong for a variety of fine wines and enhancing our city's appeal as a diverse travel destination.

To conclude, the TDC focuses on the promotion of the wine trade, while the HKTB carries out the function of tourism branding and enriching Hong Kong tourism offerings. The positioning and objectives of these two organizations are distinct from each other, and yet complementary at the same time. Both are contributory to the economic development of Hong Kong.

**MR PAUL TSE** (in Cantonese): *President, the problem of disparity between the rich and the poor is not only found in our society but also in the tourism sector. The HKTB spent \$12.8 million on staging the four-day Event, and \$10 million on publicity campaigns overseas, as well as \$2.8 million on local publicity campaigns. However, it has not spent any money on providing substantive assistance to the tourism sector and industry players to improve their livelihood.*

*President, we often talk about target-oriented and result-oriented approaches. Regarding the result we have obtained after spending so much money, no wonder the Chief Executive also describes the HKTB as a "spendthrift" organization. According to the HKTB, publicity activities were aimed at promoting the image of Hong Kong, but many members of the sector have criticized that the HKTB only aimed to promote the image of its Chairman. With so much money spent on such an event, the tourism sector could not be benefited at all. President, I hope the Secretary would consider adopting strategies to instruct or influence the HKTB to put in more effort to promote and provide assistance in the development of the tourism sector, as well as provide information and assistance in connection with the organization of tour groups. Alternatively, the Government can utilize such leverage and arrange for the tourism sector to promote itself instead of spending all the money on advertising and publicity but obtaining just 10% of the result in return .....*

**PRESIDENT** (in Cantonese): Mr TSE, please raise your supplementary question directly.

**MR PAUL TSE** (in Cantonese): *Will the Secretary consider a change of strategies?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, first of all, I would like to say that activities promoting the tourism sector can have substantial economic results. If there is robust economic growth, the public and the related sectors will be benefited. Mr Paul TSE has also asked me a question about promotional strategies. Actually, the Event is only one of our numerous strategies for promoting and upgrading our

tourism brand. I also agree that we can also enhance co-operation with travel agents and include the Event in the itinerary of tour groups for promotional effects. In fact, the HKTB has plans to focus on a few places with a larger number of potential clients next year, and these places include the Mainland, Japan, Korea and Taiwan. The Event will be included in the itinerary of tour groups for promotional effects. I think that this will be conducive to the healthy development of the tourism sector and benefit the tourism sector as a whole.

**MR CHIM PUI-CHUNG** (in Cantonese): *President, Hong Kong can only get marginal profits from the development of the wine sector while the producing countries gained the greatest advantages. Will the Government help countries other than France such as the United States, Chile, Italy, South Africa and Australia to attain, through the TDC or the HKTB, better agreements or will assistance be provided in promoting the wines of these countries, thereby consolidating our position?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): As regards the positioning in respect of the promotion of the wine sector, apart from the promotion of trade agreements, one of our strategies is to develop Hong Kong into a wine storage and distribution centre. The SAR Government has signed more than 10 memoranda of co-operation with major wine producing regions, including France, countries that have established their positions in respect of wine brands, as well as newly developed wine regions, such as South America, Chile, Australia and the United States as Mr CHIM has mentioned. According to these agreements, the two governments and the sector will spare no efforts to promote mutual co-operation insofar as wine is concerned. Under this strategy, the TDC has selected Australia as its principal partner in the trade show this year. Next year, the TDC will select another country as its partner in the promotion of wine trade according to its marketing strategy.

**MRS REGINA IP** (in Cantonese): *President, the Secretary has explained the division of labour between the HKTB and the TDC: while the former promotes a wine appreciation culture in Hong Kong, the latter promotes wine trade. Nevertheless, facts have proven that only 10% of visitors attended the Event*

*organized by the HKTB. So, the Event is not very successful in promoting tourism. We cannot merely rely on Mainland visitors. President, I have noted that our competitors such as India, Singapore, Malaysia, Korea and Vitenam have put up extensive advertisement and publicity on international networks such as CNBC and CNN with a view to enhancing their image. Will Hong Kong follow suit? Are the charges too high? What are the reasons? Does the Secretary find such publicity efforts effective? As an audience, I have become very interested in these countries after watching their publicity programmes.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, about promotional strategies, I believe that a balance should be struck. Indeed, the television media can help us get the message across to households or contact numerous consumers in the market, and we have not ruled out this method. However, we should also take into consideration the expenses, cost-effectiveness and the overall budget of the HKTB. We may also consider more direct publicity methods such as the direct publicity efforts made by the HKTB in the places concerned. A recent example serves to illustrate this point. The Chief Executive has recently led a business delegation to India. We also included the element of promoting the tourism sector in the itinerary of the delegation. During the process, we directly got the message across to consumers, that is, the consumer groups there. This is an effective method because such a high-level business delegation aroused the concern of the media in that place.

**DR LAM TAI-FAI** (in Cantonese): *President, according to my understanding, the Event hosted by the HKTB is actually a tourism promotion event; by exhibiting fine wines and food, it was hoped that the Hong Kong people and tourists could learn more about wine and dine in Hong Kong. As regards the Hong Kong International Wine and Spirits Fair organized by the TDC, I understand that it is a trade fair with the objective of providing opportunities for business negotiations. As the nature of these two events are different, it is very difficult to compare their effectiveness. Certainly, the tourism and exhibition sectors are two key local industries with substantial impact on the development of small and medium enterprise. Hence, the Government must give them strong support. Yet, my impression is that some fairs or promotional activities*



*organized by the HKTB and the TDC in the past were often very similar in terms of timing and nature.*

*Does the Government have any mechanisms or high-level official bodies for co-ordinating the events organized by the two bodies? Does the Government have any notification mechanisms to avoid duplication in the utilization of resources by both parties, and enable separate timing and division of labour, so that there will not be competitions in respect of potential clients and resources? Can the Secretary give us some advice in this connection?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I sincerely thank Dr LAM Tai-fai for his supplementary question. In fact, there is ample room for co-ordination. Regarding the two events held in October and November, the HKTB and the TDC have mainly considered the time wine traders will visit Hong Kong. Sometimes, synergy and cluster effects are required to build up the events. We also wanted to make things convenient for exhibitors when we considered the hosting of such events. Events organized one after another will be the most effective for wine exhibitors. If there are greater business opportunities, they will have more confidence and be more ready to attend. After co-ordinating efforts have been made, we think that this arrangement is the most satisfactory. There will not be competition among merchants; conversely, this will give play to the synergy effects.

**PRESIDENT** (in Cantonese): Mr Paul TSE, this is your second supplementary question.

**MR PAUL TSE** (in Cantonese): *President, all of us remember that the Government spent very little money on the "Riverside Scene at Qingming Festival" event but it has successfully attracted many visitors from Hong Kong, the Mainland and Southeast Asia. As the Secretary has just said, the Chief Executive has led a delegation to India for extensive promotion. Not long ago, a young person has produced a short film to be shown in Taiwan for promoting Hong Kong tours. He requested a little subsidy from the HKTB for participating in a competition, but his request has been rejected by the HKTB. After the*

*incident has been revealed and reported by the media, the HKTB has tried to take remedial measures afterwards; yet, the young man refused to accept the offer because the HKTB's lack of sincerity.*

*President, the most important point is that we do not need to spend a lot of money on a good idea because thoughts and ability are the most crucial. If the promotion of tourism only involves spending money without giving any thought to results, everybody would know how to perform the task. I hope that the HKTB would review its strategies, and it should not think that, by spending money, it can .....*

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

**MR PAUL TSE** (in Cantonese): ..... *it can really promote tourism. Can the Secretary seriously conduct a review? Is it necessary for the HKTB to make radical improvements in promoting the tourism sector? Will it do so?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I must respond in respect of the case just mentioned by Mr Paul TSE. Firstly, we must not learn about the cause and effect of the incident merely from the press report, and this incident is not within the scope of our question today. Regarding the views of Mr Paul TSE, that is, how the TDC would enhance its effectiveness under constraints, I must say that the TDC has not been squandering or made publicity efforts regardless of the expenses involved. Media publicity is just one of the methods, and as publicity through the media, especially the electronic media, is more expensive, we will not necessarily choose this method. Nonetheless, I certainly agree with Mr TSE that the HKTB, being a public-funded organization, must incur expenditure according to its revenue and make sure that money is well spent.

**PRESIDENT** (in Cantonese): Oral question time ends here.

**WRITTEN ANSWERS TO QUESTIONS****Measures to Tackle Hygiene Problems in Community**

7. **MR ALAN LEONG** (in Chinese): *President, recently, I have received complaints from residents of Ting On Street in Ngau Tau Kok about the hygiene conditions in that district. They alleged that the hygiene conditions of the restaurants in the vicinity of Ting On Street were not satisfactory, and they were worried that cockroach and rodent infestation would affect the residents' daily lives. Regarding the hygiene problems in the community, will the Government inform this Council:*

- (a) *whether the authorities will establish a mechanism to regularly publicize the list of hygiene blackspots and set specific targets for cleaning up hygiene blackspots within specified time; if they will, of the details; if not, the reasons for that;*
- (b) *given that the hygiene conditions of some hygiene blackspots quickly deteriorate quite easily after being cleaned up, whether the authorities will conduct follow-up surveillance after cleaning up the hygiene blackspots so as to prevent hygiene problems from recurring and affect the residents' daily lives; if not, of the reasons for that; and*
- (c) *focusing on the environment in the vicinity of Ting On Street, what measures the authorities will take to tackle hygiene problems in the community?*

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

- (a) and (b)

One of the important tasks of the Food and Environmental Hygiene Department (FEHD) is to provide a clean and hygienic environment for the people of Hong Kong. In areas where the environmental hygiene conditions are unsatisfactory, the FEHD has been actively enhancing clean-up and enforcement actions having regard to the circumstances.

In light of the exceptional circumstances of the global and local outbreaks of human swine influenza, the FEHD, after consulting the District Councils (DCs), commenced large-scale cleansing operations at 105 environmental hygiene blackspots across the territory in May 2009. The operations included increasing the frequency of street cleaning/washing and pest control work, removing stubborn dirt on pavements with high pressure hot water cleaners and stepping up enforcement against contraventions of food premises and persons contravening cleansing legislation. Cases involving damages of pavements, leakage of pipes/ducts, blockage of drainage and unauthorized structures were referred to the relevant departments for follow-up actions. The operations were completed in February 2010. After inspection, the DCs agreed that the hygiene condition of the blackspots had significantly improved.

The FEHD will continue to keep in view the hygiene condition of the above 105 locations. Where necessary, the frequency of cleansing and pest control work will be increased and prosecution action will be stepped up to maintain environmental hygiene. As and when required, the District Environmental Hygiene Offices of the FEHD will also request the District Management Committees chaired by the District Officers to hold discussions and make arrangements for joint departmental operations.

- (c) The vicinity of Ting On Street in Ngau Tau Kok is one of the 105 hygiene blackspots identified and cleaned up last year. After the large-scale cleansing operations launched last year, the environmental hygiene condition in the vicinity of the Street has greatly improved. During the operations, various measures were taken to tackle the environmental hygiene problems of the Street, including additional deployment of Roving Cleansing Teams to clear refuse, removing stubborn dirt on pavements with high pressure hot water cleaners and increasing the frequency of street cleansing from once to twice a week and the frequency of pest control work from once a week to once every four days. Moreover, a total of 41 inspections were conducted at the food premises in the area during the operations and warnings were issued or prosecutions were taken against malpractices. Cases involving damages of pavements, leakage of pipes/ducts, blockage of drainage and unauthorized

structures found during the operations were referred to the relevant departments for follow-up actions.

The FEHD will continue to keep in view the hygiene condition in the vicinity of Ting On Street. Apart from daily street sweeping, weekly pest control and street washing operations, regular inspections will be made to check the hygiene condition of the food premises in the area and public places nearby to ensure that food business operators and workers comply with the licensing conditions and statutory requirements. At the same time, the FEHD will continue to enhance publicity to put across the environmental hygiene message by means of posters, banners and talks, and work closely with the relevant DC and departments to further improve the hygiene condition of the area.

### **Ban on Trawling**

8. **DR MARGARET NG** (in Chinese): *President, earlier, a newspaper published an interview with a girl from a fishing family, pointing out that the girl's six-member family earns a living by fishing, and she has been involved in the fishing industry along with her family since she was small, and she plans to make fishing her lifelong career. The article also says that the girl's aspiration of leading a simple life may be dashed very soon because this year's Policy Address has announced a voluntary trawler buyout scheme and proposed to ban trawling in Hong Kong waters through legislation. Regarding the Government's proposal of banning trawling in Hong Kong waters through legislation, will the Government inform this Council:*

- (a) *how the Government will implement the relevant policies or measures proposed in the Report of the Committee on Sustainable Fisheries (the Report) released in March 2010 for assisting the affected fishermen so that they can choose to remain in the fishing industry;*
- (b) *whether the Government will consider adopting a natural phasing out policy, that is, allowing the existing owners of fishing vessels to continue their operations until they voluntarily give up the operations or die; if it will not, of the reasons for that; and*

- (c) *given that, while one of the proposals in the Report is the Government to assist the affected fishermen in switching to the aquaculture industry, the Report has also indicated that the annual production of both marine fish culture and pond fish culture in Hong Kong has been dropping persistently and shrinking significantly for more than a decade, whether the Government has assessed if the affected fishermen can earn a living if they switch to the aquaculture industry; of the land and resources that the Government will reserve for assisting the affected fishermen in switching to the aquaculture industry?*

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

- (a) In this year's Policy Address, the Chief Executive proposed to ban trawling in Hong Kong waters to protect our precious marine resources and ecology. We intend to introduce a special training programme for the trawler fishermen who have to give up their operations as a result of the ban, with a view to equipping them with the skills and knowledge for switching to selective fishing methods to continue with their operations, or to other sustainable fisheries operations, including mariculture and recreational fishing. Fishermen who have such needs may also apply to the Fisheries Development Loan Fund for low interest loans to put their plans of switching to other fisheries operations into action.

Besides, we plan to seek funding approval from the Legislative Council for introducing a one-off buy-out scheme for eligible trawler fishermen, with a view to adequately addressing the impact of the measure on their livelihood. The scheme will include: (1) offering *ex gratia* allowance payments to trawler vessel owners affected by the afore-mentioned measure; (2) proposing to the affected trawler vessel owners to buy out their trawler vessels on a voluntary basis; and (3) providing one-off grants to assist the local deckhands employed by the trawler vessel owners who take part in the buy-out scheme.

We believe the above proposed measures will assist the affected fishermen to switch to other sustainable fisheries or related

operations. As to the local deckhands employed by the trawler vessel owners who take part in the buy-out scheme, they will be given one-off grants to help them meet their short-term needs during the period when they are looking for another job. They can also join the training programmes provided by the Agriculture, Fisheries and Conservation Department (AFCD) or the Employees Retraining Board, in order to switch to other fisheries-related or non-fisheries-related trades.

- (b) While non-selective means of fisheries operations have resulted in a decline in fisheries resources, there is evidence that some over-exploited local species still survive in sufficient numbers for successful restoration. However, if we do not take decisive action now to prevent the continued depletion of our fisheries resources and the destruction of the marine ecosystems, the damage to our marine ecosystems will become irreversible. In addition, the trade may also continue to exploit the remaining meagre fisheries resources until their complete depletion, thus seriously damaging the marine ecosystems and the capture fisheries sector.

In view of the above factors, we consider that the ban on trawling in Hong Kong waters should be implemented as early as possible to halt the harmful depletion of marine resources, thereby enabling the marine ecosystems to be gradually rehabilitated to an ecologically sustainable level. The restoration of fisheries resources in Hong Kong waters will in turn improve the cost efficiency and the operating environment of the fisheries industry, thus enhancing the vibrancy of the trade and livelihood of the practitioners.

- (c) The Committee on Sustainable Fisheries considers that given the growing concern of Hong Kong people over food quality and safety, there is an increasing demand for quality fisheries products. If the trade can strengthen the management of the local aquaculture industry, improve the culture techniques, as well as raise the quality of fisheries products and the level of food safety, the competitiveness of local fisheries products will be enhanced, providing room for further development for the industry.

The AFCD is currently assisting fishermen who are interested in the aquaculture industry to acquire the techniques required and promoting the development of the aquaculture industry through the provision of training and technical support, including organizing aquaculture training courses in co-operation with Mainland universities and research institutions; inviting Mainland and overseas experts to provide technical support and training; arranging visits for local fishermen to the Mainland and overseas to study aquaculture techniques; developing fish fry hatching and breeding techniques and introducing new fish species, as well as introducing the "Fish Health Management Programme", the "Good Aquaculture Practices Programme" and the "Accredited Fish Farm Scheme".

Moreover, the AFCD has been following up with relevant bureaux/departments in reviewing the moratorium on the issue of new marine fish culture licences, and studying the expansion and rotation of fish culture zones to facilitate trawler fishermen to switch to mariculture.

### **Conservation of Wing Lee Street**

9. **MR IP KWOK-HIM** (in Chinese): *President, the Urban Renewal Authority (URA) publicly proposed "an alternative implementation concept for conserving Wing Lee Street" (the alternative implementation concept) on 16 March this year for reference by the Town Planning Board (TPB). At its meeting on 19 March this year, the TPB rejected the URA's application in relation to the Master Layout Plan for the Staunton Street/Wing Lee Street Development Scheme submitted earlier by the URA, but it agreed that preservation of all the tenement buildings at Wing Lee Street as proposed in the alternative implementation concept was the right direction. It has been nine months since the URA announced the alternative implementation concept, but the TPB has not yet decided on the way forward for Wing Lee Street, and the affected residents have not yet received any compensation or rehousing offers from the URA. In this connection, will the Government inform this Council:*

- (a) *whether it knows the progress to date of the alternative implementation concept proposed by the URA, and whether the*



*Government and URA still intend to achieve "complete preservation" of Wing Lee Street;*

- (b) given that the Chairman of the URA announced to the media in September this year a series of special measures for assisting the tenants and property owners of Wing Lee Street, whether it knows the timetable for launching these special measures, and whether the URA will continue to offer voluntary acquisition to the property owners at Wing Lee Street; and*
- (c) whether it knows when the TPB will consider and decide on the planning for Wing Lee Street; whether the TPB will reconsider the planning for the other two development sites under the Staunton Street/Wing Lee Street Development Scheme, apart from Wing Lee Street?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Staunton Street/Wing Lee Street redevelopment project (H19) is one of the 25 redevelopment projects announced but yet to be commenced by the former Land Development Corporation, which the URA has taken over upon its establishment in 2001. The URA has undertaken to give priority to the commencement of these 25 projects. H19 covers Sites A, B and C, and Wing Lee Street is at Site A.

The URA commenced H19 in 2003, the planning parameters for which were revised after legal proceedings took place. As a result, it was not until 2008 that the URA issued acquisition offers for the project. During this period, there were strong community demands for the conservation of buildings with architectural interest and the local culture. In response, in November 2008, the URA proposed a conservation-led redevelopment approach for implementation of this project with a view to preserving the terrace ambience of Wing Lee Street, through abandoning the original high-density development, giving up on high-rise buildings, and only demolishing some of the old tenement buildings which were proposed to be rebuilt as buildings with similar height and form. Under this approach, the plot ratio of the whole project was reduced from 8 as permitted under the Planning Brief to not more than 4.5.

In response to the views of the local community and the public, in March 2010, the URA proposed an alternative concept to implement the conservation of Wing Lee Street, that is, to adopt a "complete conservation" approach. This new concept was supported in principle by the TPB.

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

- (a) In view of the support from the TPB and the generally positive response of the community, the URA has not changed its "complete conservation" implementation concept for Wing Lee Street. This concept is also supported by the Development Bureau.

According to this implementation concept, as follow-up, the URA would provide the TPB with supplementary information, namely, information on the conditions of the existing buildings at Wing Lee Street, the costs involved in rehabilitating these tenement buildings and the special measures adopted by the URA to assist owners and tenants at Wing Lee Street. Later on, the TPB would consider how to amend the approved H19 Development Scheme Plan in order to conserve Wing Lee Street within Site A. Meanwhile, the URA would continue to negotiate voluntary acquisition with all the affected owners within the project. The URA would also continue to make compensation/rehousing arrangements for the affected tenants in line with its prevailing policy. Up to end November 2010, the URA has successfully acquired 12 out of the 24 property interests at Wing Lee Street. There is another property owner who has just accepted the URA's acquisition offer and sale and purchase for this case is under way. The URA has also completed or is in the process of completing compensation/rehousing arrangements for some nine affected tenants.

As a "complete conservation" approach will be adopted for the buildings at Wing Lee Street within Site A of the redevelopment project, and given that some owners wish to conserve their buildings on their own and are reluctant to sell to the URA, the Development Bureau has indicated to the URA that it is inappropriate to go about conserving Wing Lee Street through invoking the Lands Resumption Ordinance.

(b) In view of the historical background and the uniqueness of H19, the URA announced in September 2010 the following three special measures to assist the owners/tenants at Wing Lee Street:

(i) *Measures to improve the living environment of those tenants whose landlords do not want to sell*

(1) The URA will rent out to affected tenants the flats in the URA rehousing block at No. 466, Des Voeux Road West, at a rate comparable to the public housing rental rates. For instance, the URA will charge rental at around \$1,800 for a 330-square-foot unit. The URA will also provide a six-month rent-free period and offer removal allowance for each tenant household. Take the example of a three-person household, the allowance will amount to about \$7,400. If the tenants are allocated public housing units or they eventually move out from No. 466, Des Voeux Road West, the URA will provide them with another removal allowance. The URA will also reimburse them for the rentals they have paid for their stay at No. 466, Des Voeux Road West, up to a maximum of six months' rent or 25% of the amount of rental they will have paid.

(2) The URA will provide a "Home Environment Improvement Allowance" ranging from \$40,000 to \$80,000 for every tenant household who opts to stay at Wing Lee Street to improve their living environment. The URA will also provide them with an allowance equivalent to two months of their current rental to support them in finding temporary accommodation elsewhere when their flats are under renovation.

(3) The URA will also provide a relocation allowance to tenants who opt to move elsewhere. For example, a three-person household will receive about \$7,400. These tenant households may also receive an allowance ranging from \$40,000 to \$80,000 for improving their living environment.

- (ii) *"Special Rehabilitation Allowance" offered to property owners participating in the conservation of Wing Lee Street*
- (1) The URA will provide a "Special Allowance for Rehabilitation of Common Areas" to the property owners at Wing Lee Street. If the owners agree to carry out rehabilitation, the URA will provide a subsidy up to half of the total rehabilitation cost. The owners of buildings in single ownership can draw a maximum subsidy up to \$200,000.
  - (2) As regards those buildings at site which are jointly held by the URA and other individual owners, the URA will liaise with the owners concerned to undertake rehabilitation work of the common areas of the buildings. The URA will offer them the "Special Rehabilitation Allowance", subject to a maximum subsidy of \$200,000 per building. The amount of allowance receivable by each owner will be calculated on a pro-rata basis according to the proportion of undivided shares the owner holds.
  - (3) In addition, owner-occupiers who succeed in applying for the allowance mentioned above will be eligible to apply for a "Home Environment Improvement Allowance" ranging from \$40,000 to \$80,000 per household.

The URA has been undertaking preparatory work for relocation of Wing Lee Street tenants to No. 466, Des Voeux Road West, over the past few months.

When making the earlier announcement, the URA indicated that the measures mentioned above would not be implemented until the TPB were to decide to invoke the town planning procedures to seek the agreement of the Chief Executive in Council to refer back the Development Scheme Plan of H19 for excision of Wing Lee Street from the boundary of the plan. On the basis of the "people-oriented" approach, the Development Bureau has urged the

URA to implement the abovementioned measures as soon as possible to give early comfort to the affected tenants of Wing Lee Street, and without waiting for the completion of further deliberation and related procedures for revision of the Development Scheme Plan by the TPB. In other words, the URA will relocate those tenants who wish to move to No. 466, Des Voeux Road West, as soon as possible. As for those tenants who do not opt to move to No. 466, Des Voeux Road West, but who want to apply for the "Home Environment Improvement Allowance", the URA will issue the allowances as soon as possible.

Nevertheless, under prevailing policy, the URA will continue to approach the owners for voluntary acquisition before Wing Lee Street is excised from the H19 Development Scheme Plan. The URA will also explain to them the abovementioned special arrangements for assisting owners to rehabilitate their old buildings. Once the TPB decides to excise Wing Lee Street from the H19 Development Scheme Plan and completes the gazetting procedures, the URA will stop acquiring the properties at Wing Lee Street.

- (c) To facilitate the TPB's review of the H19 Development Scheme Plan, the URA has provided information on the structural conditions of the existing buildings at Wing Lee Street, the costs involved in their rehabilitation, as well as the special arrangements to assist owners and tenants of Wing Lee Street. The Planning Department (PlanD) is consulting the departments concerned and considering the relevant information. The PlanD will make a submission to the TPB for consideration in early 2011 and it is expected that the scope for consideration will be confined to Wing Lee Street at Site A of H19, the reason being that the Metro Planning Committee of the TPB had, when deliberating on the project on 19 March 2010, indicated that the proposed use and development parameters of the other two sites (that is, Site B and Site C) outside Wing Lee Street were acceptable and that there would be no need to revisit the planning requirements of these two sites. In fact, it is in the public interest as well as in the interest of most of the owners and tenants of H19 that the project, which is a redevelopment cum conservation project, be completed as early as possible.

**Manpower Planning and Training for Doctors**

10. **MR ALBERT HO** (in Chinese): *President, in the second stage consultation document on healthcare reform, the authorities pointed out that according to their projection, the implementation of the Health Protection Scheme (HPS) might require an increase of around 9% to 30% in capacity for private healthcare services over the next 10 years, and possibly up to 50% by 2036, and that the implementation of the HPS and expansion of private healthcare capacity would require additional healthcare manpower. Regarding the supply and training of doctors, will the Government inform this Council:*

- (a) *of the number of medical graduates in each of the years from 2000 to 2009, and the forecast number of medical graduates in each of the coming years from 2011 to 2015;*
- (b) *whether the authorities have carried out manpower planning for the annual demand for doctors in the public and private sectors as well as the entire healthcare system, having regard to the population size and demographic changes in the past 10 years, the number of non-local people using the local healthcare services and the policy on developing the medical services industry; if so, of the methodology of such planning, and the projected annual demand for doctors from 2000 to 2009; if not, the reasons for that;*
- (c) *of the number of doctors and the turnover figures of doctors in the public healthcare system in each of the years from 2000 to 2009, together with a breakdown by their length of service; and*
- (d) *whether it has projected if additional doctors are required over the next 10 years in light of the increase in the capacity for healthcare services arising from the implementation of the HPS; if additional doctors are required, of the respective numbers of additional general practitioners and specialists required; given that it takes more than 10 years to train a specialist, of the specific measures that the authorities have put in place to increase the supply of doctors (especially in the next few years), and the respective numbers of new doctors expected to be brought into the local healthcare system by each measure?*

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

- (a) According to information provided by the Education Bureau, the number of graduates from the University Grants Committee (UGC)-funded medical undergraduate programmes in the academic years from 1999-2000 to 2009-2010 are as follows:

<i>Academic year</i>	<i>Number of graduates</i>
1999-2000	313
2000-2001	328
2001-2002	345
2002-2003	328
2003-2004	307
2004-2005	314
2005-2006	307
2006-2007	320
2007-2008	283
2008-2009	268
2009-2010	266 (provisional figures)

On the basis of the actual number of students currently in different years of study in the UGC-funded medical undergraduate programmes provided by the respective institutions, the estimated number of medical graduates completing five years of study in each of the coming academic years from 2010-2011 to 2013-2014 are as follows:

<i>Academic year</i>	<i>Estimated number of graduates</i>
2010-2011	257
2011-2012	253
2012-2013	273
2013-2014	329

Note:

The estimated figures above may be different from the eventual numbers of graduates actually emerging due to possible repeats, transfer, suspension, and termination of studies by some students for various reasons.

The estimated number of graduates in 2014-2015 is not yet available.

(b) and (d)

The Food and Health Bureau has been providing advice on manpower requirements for healthcare professionals, including doctors, in accordance with the triennial academic development planning cycle of the UGC. In projecting the manpower requirements, the Government will take into account the views of the major employers of healthcare professionals, including the Hospital Authority (HA), the Department of Health (DH), welfare service providers and private hospitals.

These organizations and departments will take note of the number of retirees each year and the trend of wastage, and make an assessment on the long-term manpower requirements having regard to such factors as population ageing, demographic changes and the special needs of the community for particular areas of services.

In making overall manpower requirement projections for healthcare personnel, the Government will also take into account the manpower implications of healthcare service delivery model and other related policies such as the development of primary healthcare services, promotion of private hospital development and the HPS.

In addition, the DH conducts survey on manpower of healthcare professionals (including doctors) regularly to collect the latest information on the numbers, characteristics and employment of healthcare professionals and keep track of changes in the trend. We have all along been monitoring the manpower requirements for doctors closely and make recommendations to the UGC on future publicly-funded student places for reference by the institutions in their academic planning.

The actual enrolment figures of medical students in the tertiary institutions under the UGC in 2000 to 2009 are as follows:

<i>Academic Year</i>	<i>Enrolled Students</i>
2000-2001	329
2001-2002	316



<i>Academic Year</i>	<i>Enrolled Students</i>
2002-2003	325
2003-2004	282
2004-2005	281
2005-2006	255
2006-2007	254
2007-2008	259
2008-2009	255
2009-2010	323

As regards specialist training, the HA employs every year the vast majority of the medical graduates from the two local universities, and on-the-job specialist training is provided to them in public hospitals and relevant medical services. Meanwhile, the Hong Kong Academy of Medicine is responsible for arranging, monitoring and assessing all the specialist medical training through its 15 colleges and awards specialist qualifications to qualifying candidates.

The HA, as the major public medical institution in Hong Kong, has to ensure that its services meet the needs of the public and will take into account service growth and development in its manpower resources planning. In assessing the future demand for specialists, the HA's main considerations are the implications of the growth and structural changes of the population on various service areas (including in-patient, ambulatory care, out-patient, acute care and community services, and so on), the development of medical technologies, the direction in enhancing primary care and estimated staff turnover rate, and so on. Based on the assessment results, the HA will formulate measures to recruit and retain staff so as to meet the growth in service demand.

- (c) The public healthcare services in Hong Kong are mainly provided by the HA and DH. The strength and turnover figures of doctors (including departure through retirement, natural wastage, completion of contract and for other reasons) in the HA and DH in each of the years from 2000-2009 are at Annex 1 and Annex 2 respectively.

The strength and turnover figures of doctors<sup>(1)</sup> in the HA

Length of service <sup>(2)</sup>	2000-2001		2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007		2007-2008		2008-2009		2009-2010	
	Strength <sup>(3)</sup>	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures	Strength	Turnover figures
Five years or below	1 705	53	1 515	47	1 455	73	1 693	99	1 604	150	1 590	122	1 642	101	1 715	87	1 819	76	1 752	81
Over five years to 10 years	2 158	42	2 563	53	2 159	47	1 927	94	1 670	94	1 228	106	977	71	949	41	954	54	1 102	40
Over 10 years to 15 years	18		23	3	663	3	998	54	1 319	51	1 787	74	2 037	136	1 630	135	1 408	77	1 220	61
Over 15 years to 20 years	11		12	1	12		5	3	8	1	10		17		485	10	749	33	991	38
Over 20 years	13	1	12	1	11	1	15	2	13	2	15		14	2	13	1	9	4	11	2
Total	3 905	96	4 125	105	4 300	124	4 638	252	4 614	298	4 630	302	4 687	310	4 792	274	4 939	244	5 076	222

## Notes:

- (1) The turnover figures refer to departure through retirement, natural wastage, completion of contract and for other reasons. It includes all permanent and contract full-time and part-time doctors.
- (2) The length of service is calculated as follows:
  - (i) For those employed on HA's terms of employment: only the length of service in HA is counted, the length of service in the government hospitals before the establishment of HA is not counted;
  - (ii) For those employed on civil service terms of appointment before the establishment of HA and transferred to HA after its establishment while remaining as civil servants: counted by the length of service in the civil service.
- (3) The strength of doctors refers to the total number of doctors, including all permanent, contract and temporary full-time and part-time doctors, as at the end of the financial year (that is, 31 March).

## Annex 2

The strength and turnover figures of doctors in the DH<sup>(1)</sup>

(The DH does not keep annual strength and turnover statistics of its doctors by their length of service)

<i>Strength</i>		<i>Turnover figures</i>	
1 April 2000	610	2 April 2000 to 1 April 2001	36
1 April 2001	591	2 April 2001 to 1 April 2002	40
1 April 2002	582	2 April 2002 to 1 April 2003	42
1 April 2003	616	2 April 2003 to 1 April 2004	54
1 April 2004 <sup>(2)</sup>	434	2 April 2004 to 1 April 2005	26
1 April 2005	451	2 April 2005 to 1 April 2006	26
1 April 2006	438	2 April 2006 to 1 April 2007	15
1 April 2007	457	2 April 2007 to 1 April 2008	33
1 April 2008	445	2 April 2008 to 1 April 2009	27
1 April 2009	457	2 April 2009 to 1 April 2010	17
1 April 2010	486	Total	316
		Average	31.6

Notes:

- (1) The turnover figures refer to departure through retirement, natural wastage, completion of contract and for other reasons.
- (2) Due to reorganization, 147 doctors serving in the DH's general out-patient clinics were transferred to the HA in 2003-2004.

### **Regulation of Clinical Trials of Pharmaceutical Products**

11. **DR PAN PEY-CHYOU** (in Chinese): *President, pursuant to section 36B of the Pharmacy and Poisons Regulations (Cap. 138, sub. leg. A) (the Regulations), for the purpose of conducting a clinical trial on human beings or a medicinal test on animals, application shall be made in writing to the committee under the Pharmacy and Poisons Board (the Board). It has been reported that the Hospital Authority (HA) is currently conducting a clinical trial on the use of Avastin beyond its licensed indication (off-label use), but it has not applied for or obtained a certificate from the Board in accordance with the Regulations. In this connection, will the Government inform this Council:*

- (a) *whether it knows for how long the clinical trial on the off-label use of Avastin has been conducted, and the total number of patients who have undergone the trial;*
- (b) *whether it knows the reasons why the HA has conducted the aforesaid clinical trial before obtaining the certificate issued by the Board;*
- (c) *how the authorities will deal with the situation where a clinical trial is found to have been conducted without applying for or before obtaining a certificate as required by the Regulations; whether the authorities will immediately prohibit such a trial from continuing; if they will not, of the reasons for that;*
- (d) *whether under the existing mechanism patients can clearly know if the certificate for the clinical trial concerned has been obtained before giving consent to undergoing the clinical trial; if they can, of the details of such mechanism; if not, the reasons for the authorities not establishing such a mechanism, and whether the authorities have conducted any assessment on how the safety of patients can be safeguarded; and*
- (e) *of the penalty for any organization which has been found to have breached section 36B of the Regulations; where the clinical trial of a pharmaceutical product which is conducted without obtaining the required certificate has caused serious side effects in the body of the participating patient, whether the patient concerned will be entitled to compensation; if yes, who will be responsible for paying the compensation?*

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

- (a) and (b)

According to the HA, clinical trials on the off-label use of Avastin are currently conducted by the Faculty of Medicine of the universities. These clinical trials have gone through and passed independent ethical reviews to ensure their safety and scientific

validity. Enquiries can be made with the universities concerned for the details of these trials.

On the other hand, the HA is planning to conduct a local clinical study to compare various drug treatment options (including Avastin) for treating wet age-related macular degeneration so as to accumulate more local experience in the use of the drugs. Details of the study are under planning and the study has yet to commence.

- (c) Generally speaking, a clinical trial is a medical procedure conducted with patients' knowledge and consent. It also requires approval by the Ethics Committee of the institution concerned and has to be conducted by registered healthcare professionals. If any institution is found to conduct any clinical trial without obtaining a clinical trial certificate, the Department of Health will issue a letter to the institution concerned and require it to lodge an application as soon as possible.
- (d) Patient safety is the primary concern of public hospitals in the provision of all their services, including clinical studies. The HA has put in place stringent guidelines and protocols for the conduct of clinical studies. All clinical studies must go through and pass independent ethical reviews to ensure their safety and scientific validity.

The scope of an ethical review mainly covers the theoretical basis of the clinical study, patient safety and information pertinent to the "Participant's Consent". The entire design of a clinical study must be target-oriented and it is necessary to ensure that the potential risks borne by the participants are kept to the minimum within the known extent of the risks. The design of the clinical study must also comply with the HA's patient safety guidelines and requirements and participants need to be provided with appropriate medical support throughout the study. Besides, a mechanism for notification of serious incidents should be set up for the research project.

Institutions and researchers conducting a clinical study must explain the key aspects of the study to participants in detail and obtain their informed and voluntary consent in writing. The language used in

the "Participant's Consent" must be understandable and intelligible to the participants. All information relevant to the participants (including the design, scope, objectives and requirements of the research project as well as any possible discomfort or side effects that may arise in the research process and assessment of potential risks, and so on) must be included in the "Participant's Consent" so as to let the participants know the content of the research project and the potential risks. Participants have a full right to decide and make their own choice as to whether or not to participate in the clinical study. They can also withdraw from the clinical study during the research process.

In addition to the required independent ethical review as mentioned above, institutions conducting a clinical study must also comply with other relevant requirements.

- (e) It is stipulated in section 36B of the Regulations that for the purpose of conducting a clinical trial, application must be made in writing to the Pharmacy and Poisons (Registration of Pharmaceutical Products and Substances: Certification of Clinical Trial/Medicinal Test) Committee. When amending the Pharmacy and Poisons Ordinance and the Regulations to implement the recommendations of the Review Committee on Regulation of Pharmaceutical Products in Hong Kong, we will impose a penalty in the legislation for the conduct of any clinical trial without a certificate.

The "Participant's Consent" is an agreement between the institution conducting the clinical study and the participant. Details about such Consent are provided in the foregoing paragraphs. If a participant institutes any litigation or lodges a claim for compensation in the course of clinical study, the institution conducting the research project would need to bear the legal liability.

### **Precautionary Measures for Earthquakes**

12. **MR WONG KWOK-HING** (in Chinese): *President, an earthquake with a magnitude of 2.8 on the Richter Scale occurred on 19 November this year in Deep Bay of Shenzhen, which is adjacent to Hong Kong, and members of the*

*public in many districts of Hong Kong could feel the tremor. Some members of the public have relayed to me that this earthquake, the epicentre of which was right next to Hong Kong, has not only reminded us that the impact of earthquakes on Hong Kong should not be taken lightly, but has also revealed that the awareness of different government departments and the community towards precautionary and safety measures for earthquakes is poor. In this connection, will the Government inform this Council:*

- (a) whether the authorities have studied and assessed the situation and risk of the epicentres of the felt earthquakes recorded in Hong Kong being closer to Hong Kong, as well as the possibility of such earthquakes occurring;*
- (b) when an earthquake or even an intense earthquake occurs in Hong Kong, apart from the dissemination of relevant information by the Hong Kong Observatory, what early warning and contingency measures other government departments will take; whether the authorities have a comprehensive classification and contingency plan to minimize the casualties and losses caused by unexpected earthquake hazards; if so, of the details; if not, the reasons for that;*
- (c) whether the authorities will review the existing practice and contingency plan in response to earthquakes, including the setting up of an earthquake emergency response centre so that various government departments can effectively handle different emergency situations triggered off by an earthquake; if so, of the timetable for conducting such a review; and*
- (d) given that there have been comments that after the earthquake, not only had the government departments on the Mainland released accurate information, but the Mainland schools had also, upon the release of the news, evacuated students to school playgrounds in an orderly manner, showing that the Mainland is well-prepared and has already adopted various safety measures for earthquakes, yet in Hong Kong, apart from the Observatory releasing wrong information, schools in Hong Kong did not conduct earthquake drills, and there was no territory-wide precautionary contingency measures for earthquakes, whether the Government will step up*

*extensive and in-depth publicity and education efforts for the public on the prevention of various earthquake hazards; if it will, of the details, whether earthquake drills and emergency rehearsals will be carried out in organizations and schools in Hong Kong so as to enhance the awareness and ability of the public in coping with earthquake hazards, so that they will not be at a loss when earthquakes occur; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Chinese): President,

- (a) According to geological structural analysis of the Geotechnical Engineering Office, the faults in Hong Kong and nearby waters are not active. The geological settings are not conducive to causing strong earthquakes. Earthquakes that occur in Hong Kong and its vicinity can shake the ground to the extent felt by people, but the chance of causing serious damage is very low.

The Hong Kong Observatory's record shows that since 1979, a total of six felt earth tremors had occurred with the epicentres located within Hong Kong, whilst others occurred outside the territory. Most of these tremors were minor ones with magnitude below five on the Modified Mercalli Scale (one the lowest, 12 the highest).

(b) and (c)

In respect of emergency response, the Government has put in place a Contingency Plan for Natural Disasters which sets out comprehensive emergency response arrangements in case of major natural disasters including earthquakes. In the extremely unlikely event of a severe earthquake causing widespread damages to Hong Kong, the Security Bureau will immediately activate the Emergency Response System and the Contingency Plan for Natural Disasters. The Emergency Monitoring and Support Centre (EMSC) will start operation and work closely with the command and co-ordination centres of the emergency services and support agencies in discharging the three principal phases of emergency response, that is, the Rescue, Recovery and Restoration Phases. The EMSC will maintain close contact with front-line departments through their



co-ordination centres to obtain and collate information on the overall situation, so as to assess the situation, monitor the course of development and co-ordinate the Government's overall response. It will also ensure that the departments undertake their responsibilities as set out in the Contingency Plan for Natural Disasters.

Generally speaking, in the event of a major natural disaster, rescue operations including saving lives, protecting property and containing the situation will be mainly carried out by the emergency services such as the Fire Services Department, Hong Kong Police Force and the Government Flying Service, with the support from other departments and agencies. The emergency services in Hong Kong are well trained and adequately equipped to handle various emergency situations. The Hong Kong Observatory and the Information Services Department will provide up-to-date information to the public, so that they are aware of the situation and any protective measures that they should take as advised by the Government.

As regards recovery work, the relief co-ordinating departments will oversee and co-ordinate all disaster relief efforts to provide the necessary emergency supplies and other assistance for the victims.

For the restoration of the community to the state prior to the disaster, relevant works departments and agencies will carry out repair works to damaged facilities in the affected areas as soon as possible in order to bring them back to normal.

The current Emergency Response System and the EMSC are effective in coping with different natural disasters. In handling various critical incidents and disasters (including those arising from natural disasters) previously, the system and the centre worked very well.

- (d) In the event of an emergency, the Government will immediately issue warnings through radio, television broadcasting and government website to inform members of the public and help them take appropriate precautions as soon as possible.

Even though the likelihood of having serious earthquake in Hong Kong is very slim, for purpose of prevention, government departments have issued advice as appropriate to enhance public awareness and preparedness for natural disasters as well as drawing public attention to matters of concern in different emergency situations. For example, the Security Bureau has published a booklet entitled "Simple Guidelines in the Event of Major Mishaps" to provide the public with simple and effective precautions against natural disasters and serious accidents, as well as guidelines on how to reduce risks, and protect their lives and properties from mishaps. The booklet covers precautions against natural disasters such as earthquakes, tsunamis, tropical cyclones, storm surges, rainstorms, thunderstorms, floodings, landslips and strong monsoons. Copies of the booklet have been distributed to district offices of the Home Affairs Department, schools and the Social Welfare Department for reference of students and members of the public. The content of the booklet is also available on the Security Bureau's website. Organizations and schools may, in line with their own needs, arrange drills and exercises for various natural disasters.

Apart from monitoring earthquakes and issuing earthquake information, the Hong Kong Observatory also promotes public understanding of earthquakes and safety precautions in case members of the public feel an intense shake. The Hong Kong Observatory has issued safety guidelines for observance during and after an earthquake and uploaded such information onto its website. A leaflet entitled "Earthquake and Hong Kong" has also been issued for public information. In addition, the Hong Kong Observatory has been promoting knowledge on earthquakes during its annual open day and through public scientific lectures. These help the public understand local earthquake risks and basic safety rules.

### **Proposals to Enhance Taxation System and Policy**

13. **MR PAUL CHAN** (in Chinese): *President, in mid-September this year, the Financial Services and the Treasury Bureau submitted the progress report in respect of the motion on "Enhancing the administration of tax policy in Hong*

*Kong" passed by this Council. It was stated in the report that there was a designated unit in the Treasury Branch of the Bureau responsible for reviewing and formulating tax policies. Also, the Secretary for Financial Services and the Treasury (the Secretary) indicated in the briefing session on the Policy Address this year that there was no need to set up a tax policy unit at present. Concerning the proposal of relaxing section 39E of the Inland Revenue Ordinance (IRO) (Cap. 112) (section 39E), the Government invited the Joint Liaison Committee on Taxation (JLCT) to conduct a study. However, on 24 November this year, the Secretary indicated that he had decided not to accept the JLCT's proposal on section 39E because such proposal was not in line with Hong Kong's established taxation principles of "territorial source" and "tax symmetry", and the JLCT had not proposed effective measures to plug possible tax avoidance loopholes. In this connection, will the Government inform this Council:*

- (a) whether the authorities have examined the operation and effectiveness of units set up by other jurisdictions which are similar to the tax policy unit after the aforesaid motion was passed by the Legislative Council; if so, of the details, and the reasons why Hong Kong has not followed their practice; if not, whether they will conduct such a study; if they will not, the justifications for that; and*
- (b) after receiving the JLCT's proposal on section 39E in June this year, of the detailed process of handling the proposal by the Policy Bureaux and government departments concerned, including:*
  - (i) which policy bureaux and government departments were involved, and listing out the dates on which the proposal was handled, the actions taken and the contents of the views raised by them;*
  - (ii) how independent the policy bureaux and government departments in part (b)(i) in handling such proposal are, and whether there is any situation of role conflict; if so, of the details and ways for improvement; if not, whether the Inland Revenue Department was involved and the reasons why there was no role conflict; and*

- (iii) *in handling the aforesaid proposal, whether the authorities have considered from a macro policy point of view the unfairness caused by the existing section 39E to the business sector in Hong Kong, and that the tax regime should facilitate and support the transformation of the Hong Kong economy, and so on; if they have, of the details; if not, the reasons for that?*

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

- (a) As we pointed out during the Legislative Council motion debate on "Enhancing the administration of tax policy in Hong Kong" on 7 July this year and in the progress report submitted in September this year to the Legislative Council in respect of the motion passed, there is already a designated unit in the Treasury Branch of the Financial Services and the Treasury Bureau responsible for reviewing and formulating tax policies.
- (b) The proposal of the JLCT involves relaxation of the restriction of section 39E and would affect the completeness of the anti-avoidance provisions. Hence, it is imperative for the proposal to be considered carefully by the designated unit in the Treasury Branch responsible for reviewing and formulating tax policies in collaboration with the Inland Revenue Department which has ample experience in the implementation of the IRO. It is also necessary to examine whether the proposal is in line with the established fundamental taxation principles of Hong Kong and whether there are effective measures to plug possible tax avoidance loopholes.

As indicated in our reply to the written question raised by Dr LAM Tai-fai on 8 December this year, we have examined whether there is room for relaxing section 39E. During the course of deliberations, we have already taken into consideration the views of the industrial and commercial sector, the accounting sector and tax experts. We have to take into account the overall interests of Hong Kong and all the taxpayers in making each and every policy decision. Our

review has come to a conclusion that there are no justifiable grounds to relax the existing restriction in section 39E.

### **Shared Care Programme**

14. **MR IP WAI-MING** (in Chinese): *President, in March this year, the Government introduced the Shared Care Programme (the Programme) through the Hospital Authority (HA). The Programme is piloted in Sha Tin and Tai Po to subsidize eligible patients with diabetes mellitus (DM) and hypertension (HT) to receive care from private doctors, with a maximum subsidy of \$1,400 per patient per year. In this connection, will the Government inform this Council:*

- (a) *of the number of patients participating in the New Territories East Cluster (NTEC) of the HA since the Programme was implemented; whether the authorities have looked into and compiled statistics on the extra consultation and medical fees private doctors charged the patients after deduction of the aforesaid subsidy; if they have, of the details; if not, the reasons for that; of the number of patients who had been successfully referred by the authorities to private doctors to receive care; whether it knows if there is any change in the average waiting time for patients of specialist out-patient clinics (SOPCs) of public hospitals after implementation of the Programme; if there is, of the details;*
- (b) *as I have learnt that the Programme offers subsidies as an incentive to attract participation of patients with economic capability, but the grassroots who lack financial means have refrained from participating as the subsidy is not sufficient to cover the fees charged by private doctors, whether the authorities have considered if patients who lack financial means are given the same right to choose in a fair manner; whether subsidizing patients with economic capability to receive care from private healthcare institutions is the future policy direction of the authorities;*
- (c) *whether the authorities will consider expanding the Programme for all patients to participate and increasing the subsidy under the Programme to attract participation of more doctors and patients; and*

- (d) *given that the HA has indicated that the Programme will soon be introduced in its Hong Kong East Clusters (HKECs), whether the authorities have reviewed the effectiveness of the Programme before deciding on the expansion; if they have, of the outcome of the review; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Public-Private Chronic Disease Management Shared Care Programme (Shared Care Programme) is one of the pilot projects to enhance primary care services under the healthcare service reform taken forward by the Government. Implemented by the HA, it aims to test a model of public-private partnership (PPP) for enhancing the provision of continuous and comprehensive care and support for chronic disease patients based on the care frameworks for DM and HT developed by the Working Group on Primary Care in order to assess the feasibility and effectiveness of the PPP model and care frameworks.

Under the Shared Care Programme, participating chronic disease patients can choose participating private doctors as the main healthcare providers to follow up on their conditions according to the care frameworks, while the public system will continue to provide support services for chronic disease patients and private doctors. Such support services include comprehensive health risk assessments for patients at least once a year, the required diagnostic and laboratory services and allied health services, as well as referral of patients by private doctors back to the SOPCs of public hospitals for treating more complicated conditions where necessary.

Under this pilot project, the Government provides each patient with a direct subsidy of \$1,600 per year, which comprises a subsidy of \$1,200 for chronic disease management, an incentive of up to \$200 to each patient and a quality incentive of up to \$200 to each doctor. The Government will also bear all the expenses arising from the provision of support services to patients and doctors. Individual participating private doctors may decide on their own the additional fees to be charged on top of the subsidy provided by the Government under the Shared Care Programme. Information on the fees charged is made available to patients to facilitate their choice of private doctors.

The Shared Care Programme is not a replacement for existing public healthcare services. The services provided by the HA's SOPCs or general

out-patient clinics will not be reduced as a result of its implementation. For chronic disease patients currently being followed up in the public healthcare system, the pilot project is an additional choice which allows them to have a private doctor to follow up on their conditions and establish long-term patient-doctor relationship in order to achieve the objective of continuous and holistic care. The public healthcare system will continue to take care of chronic disease patients who have not opted for the pilot project.

The Shared Care Programme has been implemented in Sha Tin and Tai Po in the HA's NTEC since March 2010 and in Wan Chai and Eastern District in the HKEC since September 2010.

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

(a) and (b)

As at November 2010, 36 private doctors in Sha Tin and Tai Po have enrolled in the Shared Care Programme. A list of participating private doctors and additional fees to be charged by them for the management of DM and HT (including consultation/case management and drugs) on top of the Government subsidy is sent to eligible patients together with the invitation letters for patients' reference. The list has also been uploaded onto HA's dedicated webpage on PPP programmes <<http://www3.ha.org.hk/ppp/sopcscp.aspx>> for public access. Patients can choose a private doctor and a service plan as appropriate according to their individual needs.

The NTEC is issuing invitation letters by batches to about 1 000 eligible patients in Sha Tin and Tai Po in the first round of invitation. It is also arranging group briefing sessions to explain the details of the programme to patients. The programme has just been launched for about four months and so far 33 patients have enrolled in the pilot project. Some of the participating patients have started to receive treatment from their selected private doctors. The process of inviting patients to join the programme is still in progress and it is expected that more eligible patients will join the programme later. For the private doctors selected by patients, their additional fees

charged for the basic plan (four consultations a year) range from \$800 to \$3,000 per year, with the median being \$1,600.

As mentioned above, the Shared Care Programme aims to enhance primary care services, particularly chronic disease management, through a PPP model on a pilot basis. It is not a replacement for public healthcare services. As such, the Government has not made any assessment on the effect of the pilot project on the waiting time for public out-patient services. Patients who have not yet participated in the programme will continue to be taken care of by HA's existing public healthcare services to ensure that no one would be denied adequate healthcare through lack of means.

(c) and (d)

According to our original schedule, we have first implemented the programme in Sha Tin, Tai Po, Wan Chai and Eastern District with a view to evaluating the pilot project. HA has engaged the University of Hong Kong and The Chinese University of Hong Kong as independent assessment bodies to collect data on the services provided by private doctors to patients on an ongoing basis during the pilot period. We expect that evaluation of the arrangements and effectiveness of the programme will be available by the end of next year. The Government and the HA will make appropriate adjustments to the direction and detailed arrangements of the programme where necessary having regard to the results of evaluation and experience gained from the programme.

### **Impact of Abolition of Estate Duty and Duty on Alcoholic Beverages on Economy**

15. **MS EMILY LAU** (in Chinese): *President, in order to attract capital from overseas and fortify Hong Kong's position as Asia's asset management centre and a global financial centre, the Hong Kong SAR abolished estate duty in February 2006, and the Government estimated at the time that about \$1.5 billion tax revenue per annum would be foregone as a result. In addition, in order to promote the wine trade and develop local catering industry, tourism as well as*



*the wholesale and retail alcoholic beverage trade, the Hong Kong SAR abolished the duty on wine and that on liquor with an alcoholic strength of not more than 30% in February 2008, and the Government estimated at the time that the revenue foregone would amount to about \$560 million per annum. In this connection, will the executive authorities inform this Council:*

- (a) whether the forecasts of the Government in those years on the reduction in tax revenue are accurate; whether it knows the growth in Gross Domestic Product (in both percentage and dollar terms) as a result of the abolition of the two aforesaid duties, as well as the economic and other benefits it brought every year;*
- (b) whether it knows if Hong Kong's asset management business has grown since the abolition of estate duty, the number of jobs created by the business and other benefits it has brought to the SAR; and*
- (c) whether it knows the number of jobs created in the catering industry, tourism as well as the wholesale and retail alcoholic beverage trade as a result of the abolition of the duty on wine and that on liquor with an alcoholic strength of not more than 30%, and other benefits it has brought?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, my answers to parts (a) to (c) of the question are set out below:

The Financial Secretary proposed to abolish estate duty in the 2005-2006 Budget and to exempt duties on wine and liquor with an alcoholic strength of not more than 30% in the 2008-2009 Budget. As the items are no longer subject to tax, we do not have information on the actual tax revenue forgone after the abolition of the duties for comparison with the estimates in those years.

As regards the amount of investments brought to Hong Kong by the abolition of estate duty, especially those in asset management business, since investment decisions are often influenced by many factors, it is difficult to give an accurate assessment on the additional amount of investment induced solely by the abolition of estate duty. Nevertheless, the financial industry generally agrees that the abolition of estate duty has generated positive impact and is conducive to

the long-term development of the asset management business and the financial sector as a whole. Our asset management business and investment environment have also become even more attractive and competitive following the abolition of the tax. With the abolition of estate duty and the support of government policies, coupled with the continued promising economic outlook and improving business environment, Hong Kong has become increasingly attractive to local, Mainland and overseas investors.

On asset management business, there was a 36% growth in Hong Kong's combined fund management business, from HK\$4,526 billion in 2005 to HK\$6,154 billion in 2006 (that is, the year in which estate duty was abolished). In subsequent years, we saw continuous expansion in asset management business, both in size and growth rate, save for 2008 due to the impact of the global financial tsunami. Consolidated statistics are provided below:

<i>As at year end of</i>	<i>Combined fund management business (HK\$ billion)<sup>(1)</sup></i>	<i>Growth rate</i>
2004	3,618	+22.8%
2005	4,526	+25.1%
2006	6,154	+36.0%
2007	9,631	+56.5%
2008	5,850	-39.3%
2009	8,507	+45.4%

Note:

- (1) "Combined fund management business" comprises fund management business and SFC-authorized real estate investment trusts management business.

The number of staff involved in the fund management business jumped from about 16 100 in 2005 to about 27 700 in 2009.

For wine business, riding on growing demand for wine across Asia (particularly the Mainland), the industry has responded positively since the wine duty exemption in February 2008. There has been much business growth. Total wine imports into Hong Kong amounted to about \$3.2 billion and \$4.6 billion in 2008-2009 and 2009-2010 respectively, representing a year-on-year growth of 80% and 45%. Another growth of 64% was registered in the first seven months of 2010-2011.

The growth in wine business has brought direct economic benefits to wine trading, distribution, auctions as well as other related economic activities such as catering services, tourism, brand promotion and exhibitions, wine appreciation and related educational activities. Nevertheless, wine duty exemption is only one of the many contributory factors affecting the development of the wine-related economic activities. Companies' profitability is also affected by other factors, including their cost-effectiveness, management efficiency and market competitiveness. Likewise, cyclical changes in the domestic and global markets also affect Hong Kong's external trade performance. It is thus very difficult to isolate the direct impact of wine duty exemption on the Hong Kong economy from all these effects.

To better gauge the benefits of the further development of wine-related business in Hong Kong, the Commerce and Economic Development Bureau carried out a survey in mid-2010. The survey indicates that:

- (a) in 2008 and 2009, there was an increase of about 850 wine-related companies in Hong Kong (such as wine trading, distribution, retailing, storage, restaurants, bars, hotels and logistics companies), bringing the total to 3 550;
- (b) companies received \$5.5 billion wine-related business receipts in 2009, representing an increase of over 30% as compared with \$4.1 billion in 2007; and
- (c) in 2008 and 2009, the number of persons engaged in wine-related business increased by more than 5 000, bringing the total to nearly 40 000 by end 2009. The number of job increase is equivalent to about 1 000 full-time jobs.

### **Voluntary Medical Insurance Scheme for Civil Servants**

16. **MRS REGINA IP** (in Chinese): *President, the Standing Committee on Medical and Dental Facilities for Civil Servants (the Committee) introduced a Voluntary Medical Insurance Scheme for Civil Servants (the Scheme) in 1996 which serves as a supplement to the existing civil service medical and dental benefits for civil servants and their eligible dependants. Since October 2002, the Scheme has been extended to non-civil servants employed by the Government*

and their dependants. In this connection, will the Government inform this Council:

- (a) *in each year since the introduction of the Scheme, of the respective numbers of civil servants and their eligible dependants as well as non-civil servants employed by the Government and their eligible dependants participating in the Scheme;*
- (b) *since the introduction of the Scheme, whether the authorities have received any complaint about the insurance policies offered by the carriers of the Scheme from the participating staff members; if they have, of the number of complaints received each year; and*
- (c) *given that at present a total of eight companies are engaged as carriers of the Scheme, and the eligibility of the carriers will be reviewed by the Committee annually, of the criteria adopted by the Committee in considering whether the eligibility of a particular carrier will be continued, as well as its criteria for considering if a particular company will be included as a carrier of the Scheme?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, my reply to the three-part question is as follows:

- (a) Since the introduction of the Voluntary Medical Insurance Scheme for Civil Servants and Non-civil Servants Employed by the Government (the Scheme) in June 1996 till the end of 2008, each concerned carrier only provided a yearly cumulative total of its approved policies, including those policies that were no longer in force. Besides, the number of insured persons covered by each policy varied (insurances taken out by a staff member for himself and his dependants under the Scheme are covered by one policy). The Administration therefore cannot provide the number of staff members and their dependants joining the Scheme each year during the said period.

From 2009 onwards, the Civil Service Bureau has requested the carriers to provide the numbers of in-force policies and insured persons each year. As the carriers would not distinguish whether

persons joining the Scheme are "civil servants and their dependants" or "non-civil servants employed by the Government and their dependants", the Administration can only provide the number of insured persons under the Scheme in 2009 and 2010 as follows:

	<i>Number of insured persons</i>	
	<i>2009</i>	<i>2010 (As at 31 October)</i>
Civil servants and their dependants, and non-civil servants employed by the Government and their dependants	44 060	44 203

- (b) According to records since June 1996, the number of complaints received from staff who have joined the Scheme about the insurance policies offered by the carriers are as follows:

<i>Year</i>	<i>Number of Complaints</i>
2006 :	1
2007 :	1
2009 :	1
2010 (as at 30 November) :	1

- (c) Under the existing arrangement, the Civil Service Bureau is responsible for co-ordinating the implementation of the Scheme. Every year, the existing carriers of the Scheme, companies which have written to express their interest in the Scheme, and the 10 companies with the highest gross premiums for medical insurance in the previous year in Hong Kong are invited to submit proposals for consideration by a Working Group under the Standing Committee on Medical and Dental Facilities for Civil Servants (SCMDF). The Working Group will make recommendations to the SCMDF for decision. The SCMDF and the Working Group comprise representatives from the Management and the four Central Civil Service Consultative Councils. The Working Group will consider factors such as coverage of the scheme, premium levels and compensation arrangements as proposed by the insurance companies before deciding whether to recommend to the SCMDF their

appointment as new carriers of the Scheme. As for companies which have been appointed in the previous year, the Working Group will also consider the number of persons who have joined the Scheme with the concerned companies before deciding whether to recommend their reappointment.

### **Change in Use of Residential Units**

17. **MR KAM NAI-WAI** (in Chinese): *President, regarding the conversion of private residential units for other uses, will the Government inform this Council:*

- (a) whether it knows the number of old-type private residential units which have been converted by their owners for uses different from those specified in their occupation permits (OPs) (for example, converting their residential units into small shops), which are in breach of the terms and conditions of OPs and even the land use conditions in Government leases;*
- (b) whether the authorities had received complaints and enquiries about the aforesaid situation in the past five years; if they had, of the respective numbers of such complaints and enquiries received in each year, together with a breakdown by District Council (DC) district;*
- (c) whether the authorities had uncovered the aforesaid situations during inspections in the past five years; if they had, of the number of such cases uncovered in each year, together with a breakdown by DC district;*
- (d) how the authorities follow up and handle such cases when they are aware that private residential units have been used for purposes in breach of the prescribed uses in OPs or Government leases; and*
- (e) regarding cases in breach of the prescribed uses in OPs or Government leases, whether the authorities had made orders in writing in the past five years according to section 25(2) of the Buildings Ordinance (Cap. 123) (BO) to prohibit or discontinue*

*such situations; if they had, of the number of orders in writing made in each year, together with a breakdown by DC district; if not, of the factors considered by the authorities in deciding not to make such orders in writing?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, regarding the conversion of private residential units to other uses, in general, there are two types of situation that need to be handled. One is illegal building works (commonly known as unauthorized building works (UBWs)); and the other is change in use of buildings.

According to the requirements of the BO, building works carried out in private buildings which do not involve the structure of buildings are exempted works and can be carried out without the prior approval of the Buildings Department (BD). However, such works must comply with the building standards stipulated in the BO. Otherwise, they will be regarded as UBWs. The BD has all along been following the established policy to tackle UBWs and accords priority to those requiring immediate enforcement, covering mainly UBWs which constitute obvious or imminent danger to life and property, are newly constructed and, constitute serious hazards or serious environmental nuisance. For UBWs requiring immediate enforcement, the BD will take follow-up actions according to the BO, including issuing statutory orders to require the owners to rectify the irregularities to ensure public safety.

As regards changes in use of buildings, section 25(1) of the BO requires that prior notice shall be given to the Building Authority (BA) of any intended material change in the use of a building by the person concerned. The BO stipulates that the use of a building shall be deemed to be materially changed if the carrying out of building works for the erection of a building intended for such use would have contravened the provisions of the Ordinance. Where in the opinion of the BA any building is not suitable for its present or intended use by reason of its construction, he may issue an order under section 25(2) of the BO to prohibit or discontinue such use of the building. As in the case of handling UBWs, the BD will accord priority to deal with cases involving changes in use of buildings which constitute obvious or imminent danger to life and property, or those which constitute serious environmental nuisance.

The reply to the five-part question is as follows:

- (a) In the past five years (from 1 January 2006 to 30 November 2010), the BD received a total of 360 notices of changes in use of buildings submitted under section 25(1) of the BO. It should be noted that the change of the use of a building to one different from that stipulated in the OP is not necessarily in breach of the regulations and this, as mentioned above, would depend on whether such building is suitable by reason of its construction for its intended use. The Government does not have statistics on the number of private residential units that have been converted by the owners for uses different from those specified in the OPs and the number of private residential units throughout the territory currently involved in breaching the user clause of leases.

(b) and (c)

In the past five years (from 1 January 2006 to 30 November 2010), the BD received a total of 3 741 complaints about changes in use of buildings. The BD would take follow-up action after receiving a complaint, including deploying staff to conduct inspection to the unit concerned. If breaches of the requirements of the BO are found, the BD will take appropriate follow-up actions in accordance with the Ordinance. The distribution of complaints by year and DC district is at Annex A. The BD does not have statistical breakdown on the complaints and inquiries specifically about conversion of residential units to other uses and the inspections conducted for such cases.

The number of complaint and enquiry cases concerning private residential units in breach of the user clause of leases received by the Lands Department in the past five years is set out at Annex B by DC district. As the number of leases is voluminous which cover a vast area of land and many types of use, it is impracticable for the Lands Department to regularly inspect all private land and buildings.

- (d) As mentioned above, for UBWs belonging to the category of immediate enforcement, the BD will take follow-up actions in



accordance with the BO, including issuing statutory orders to require the owners to rectify the irregularities to ensure public safety. For cases involving changes in use of buildings which constitute obvious or imminent danger to life and property, or those which constitute serious environmental nuisance, the BD will issue orders under section 25(2) of the BO to prohibit or discontinue such new uses in the buildings.

In general, upon receipt of an enquiry or a complaint related to a piece of leased land, staff of the Lands Department will conduct site inspections. If a breach of lease conditions is established, the Lands Department will, after seeking legal advice, take appropriate lease enforcement actions at different stages. Normally it may issue a warning letter to the lot owner concerned requesting rectification of the irregularities. If the lot owner does not rectify the irregularities by the deadline, the Lands Department may register the warning letter at the Land Registry, commonly known as "imposing an encumbrance", to inform the public of the irregularities concerned. It is believed that the public will be prudent in considering whether to purchase or rent any premises on a piece of land where an encumbrance against the land title has been registered. The imposition of an encumbrance will also arouse the concern of the creditor of the lot owner (if applicable). Besides, where a lot owner applies for regularization of a breach of land lease conditions, the Lands Department will process the application in accordance with the applicable procedures. If the application is approved, the lot owner will have to comply with the relevant approval conditions, such as payment of a land premium or waiver fee. However, if the application is rejected, the Lands Department will resume the lease enforcement action.

- (e) In the past five years (from 1 January 2006 to 30 November 2010), the BD issued a total of 14 orders under section 25(2) of the BO to prohibit changes in use of buildings which constituted obvious or imminent danger to life and property or serious environmental nuisance. The cases involved were all related to changes of non-residential uses to other uses. The distribution of such orders is at Annex C.

As regards the complaints at Annex A, in addition to following up the cases according to section 25(2) of the BO, the BD would issue statutory orders for those cases involving UBWs belonging to the category for immediate enforcement action and require the owners to rectify the irregularities in accordance with the existing policy on tackling UBWs.

## Annex A

Number of Complaints on Changes in Use of Private Buildings  
Received by the BD in the Past Five years

<i>District</i>	<i>Year</i>					<i>Total</i>
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010 (as at 30 November)</i>	
Eastern	27	55	61	30	40	213
Wan Chai	54	61	45	28	87	275
Central and Western	46	106	78	44	45	319
Southern	3	5	55	23	10	96
Wong Tai Sin	11	6	16	13	31	77
Kwun Tong	57	47	181	68	76	429
Kowloon City	56	33	73	90	131	383
Sham Shui Po	98	48	79	57	110	392
Yau Tsim Mong	71	134	146	175	177	703
Sha Tin	7	16	16	20	26	85
Tsuen Wan	10	18	25	28	21	102
Kwai Tsing	9	13	46	32	20	120
North	13	11	12	14	34	84
Sai Kung	7	3	5	4	0	19
Tai Po	5	20	25	14	25	89
Tuen Mun	9	1	20	16	42	88
Yuen Long	15	27	27	89	48	206
Islands	25	7	6	2	21	61
Total	523	611	916	747	944	3 741

## Annex B

Number of Complaint and Enquiry Cases Concerning  
Private Residential Units in Breach of the User Clause of Leases  
Received by the Lands Department in the Past Five Years

<i>District</i>	<i>Year</i>									
	<i>2006</i>		<i>2007</i>		<i>2008</i>		<i>2009</i>		<i>2010</i>	
	<i>Complaint</i>	<i>Enquiry</i>	<i>Complaint</i>	<i>Enquiry</i>	<i>Complaint</i>	<i>Enquiry</i>	<i>Complaint</i>	<i>Enquiry</i>	<i>Complaint</i>	<i>Enquiry</i>
Eastern	2	31	1	15	1	5	7	2	1	1
Wan Chai	4	3	5	8	1	5	6	1	1	0
Central and Western	0	0	0	0	1	0	0	0	2	1
Southern	1	0	0	0	2	0	3	0	2	0
Wong Tai Sin	0	0	1	0	0	0	0	0	0	0
Kwun Tong	3	0	2	0	2	0	0	0	1	0
Kowloon City	2	0	0	0	2	0	1	0	0	0
Sham Shui Po	0	0	0	0	0	0	1	0	0	0
Yau Tsim Mong	4	0	1	0	0	0	0	0	0	0
Sha Tin	1	0	0	0	1	0	0	0	1	0
Tsuen Wan	0	0	0	0	0	0	0	0	1	0
Kwai Tsing	0	0	0	0	0	0	0	0	0	0
North	0	3	0	2	1	4	3	5	0	4
Sai Kung	0	0	0	0	0	0	0	0	0	0
Tai Po	0	0	0	0	0	0	2	0	1	0
Tuen Mun	0	0	0	0	0	0	0	0	0	0
Yuen Long	0	0	0	0	0	0	0	0	0	0
Islands	0	0	0	0	0	0	0	0	0	0
Total	17	37	10	25	11	14	23	8	10	6

Breakdown of Orders Issued  
under Section 25(2) of the Buildings Ordinance

District	Year					
	2006	2007	2008	2009	2010 (as at 30 November)	Total
Eastern	1	0	0	0	0	1
Wan Chai	0	0	1	0	0	1
Yau Tsim Mong	0	0	0	8	0	8
Tsuen Wan	3	1	0	0	0	4
Total	4	1	1	8	0	14

### Obnoxious Community Facilities Attached to Private Residential Developments

18. **MR FREDERICK FUNG** (in Chinese): *President, I have recently received a complaint from the owners of Lai Bo Garden in Sham Shui Po, pointing out that Lai Bo Garden was completed in 1991 and the Cheong Wah Street Refuse Collection Point on the ground floor of Lai Bo Garden is one of the government facilities attached to the housing estate when it was built by the developer, and according to the Deed of Mutual Covenant (DMC), the refuse collection point is owned by the Financial Secretary Incorporated (FSI) (which is represented by the Government Property Agency (GPA)) and the Food and Environmental Hygiene Department (FEHD) is responsible for its day-to-day management. The owners have also pointed out that the public refuse collection point is poorly managed, resulting in the estate's appalling conditions and causing long-term nuisance to the residents. Further, the drains and manholes are often blocked by food waste from the refuse collection point and need to be repaired, but the authorities' share of the management and repair expenses is exceedingly small. In connection with the arrangement of attaching obnoxious community facilities to private residential developments, will the Government inform this Council:*

- (a) *of the current number of private residential developments in Hong Kong with obnoxious community facilities attached; of the number and contents of the complaints about such facilities received by the authorities in the past five years, and how the authorities had followed up these complaints;*
- (b) *in respect of the aforesaid concern of the residents of Lai Bo Garden, whether the authorities have any improvement measures to alleviate the refuse collection point's adverse impact on the residents and environmental hygiene; if they have, whether the authorities have assessed the effectiveness of such improvement measures; in addition to respecting the spirit of contract, whether the authorities can be reasonable and sympathetic and consider sharing the required expenses (including the additional costs for clearing the blockage in drains and manholes), based on the management and maintenance needs arising from the operation of the refuse collection point; if they will not, of the reasons for that;*
- (c) *as the refuse collection point is already 20 years old and its design outdated, and the completion of a number of new buildings in the district will aggravate the burden on the refuse collection point, whether the authorities will consider finding other sites for building a new refuse collection point to mitigate the current impact of the refuse collection point on the residents; if they will not, of the reasons for that; and*
- (d) *whether the authorities will conduct an overall review of the practice of attaching obnoxious community facilities to private residential developments; whether the authorities will, in balancing the needs of the community and the impact on residents, relocate the current obnoxious community facilities within the areas of residential buildings to non-residential developments as far as possible, so as to minimize the impact of these facilities on the community?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the incorporation of public facilities in private developments for public use is intended to achieve integrated design, optimization of land use, as well as to bring forward the completion of some public facilities to serve public need, or to better

match the envisaged increase in population or pedestrian flow brought by the private developments. These facilities can broadly be categorized into:

- (i) Government, Institution and Community facilities, such as community halls, elderly centres, nurseries, public refuse collection points (RCPs), and so on;
- (ii) public open space;
- (iii) public transport terminus; and
- (iv) public access.

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

- (a) The Government does not classify public facilities as "obnoxious" and "non-obnoxious". Public RCPs were mentioned in the question. According to the information provided by the Food and Health Bureau, there are eight public RCPs located within private residential developments. Over the past five years, we have received 13 environmental hygiene related complaints on five of the said RCPs whilst no complaint has been received on the remaining three. The FEHD has investigated the concerned complaints and taken different measures according to its findings, such as stepping up cleansing and rescheduling the removal of refuse collected by refuse collection vehicles at the RCPs, and so on.

(b) and (c)

According to the information by the Food and Health Bureau, the Cheung Wah Street RCP is managed by the FEHD and its management fee is also borne by the FEHD. The RCP is equipped with a number of facilities, including a ventilation system with activated carbon filter to ensure the proper treatment of exhaust air emissions. Also, the FEHD has taken measures to maintain the clean and hygienic condition there, such as removing the refuse collected and cleansing the RCP on a daily basis. Recently, the FEHD has enhanced its monitoring efforts of the RCP by arranging its staff to conduct surprise inspections in order to ensure that there will not be any environmental hygiene problems. The results of the

routine and surprise inspections in the past two months show that the sanitary condition of the RCP has been satisfactory.

The relevant lease conditions require the developer of Lai Bo Garden to construct and provide a RCP (that is, the Cheung Wah Street RCP) in its private development (that is, Lai Bo Garden), and stipulate the detailed information (for example, location, area as well as building and building services requirements) of the RCP, management and maintenance responsibilities of the government facility as well as the basis of apportioning the relevant costs.

Before completion of the development, the developer drafted the DMC according to the lease conditions and the relevant guidelines to stipulate the rights and obligations of owners (including the FSI which owns the RCP) and the financial management arrangements for the building, which include the amount payable by the owners for management and maintenance of the property/facility.

After completion of the development, the developer assigned the ownership of the RCP to the FSI and handed it over to the FEHD for use and management. The GPA, on behalf of the Financial Secretary, exercises the owner's rights and fulfils the owner's obligations as delegated.

The Government has been bearing the management and maintenance costs of the common areas and facilities of Lai Bo Garden. The DMC of Lai Bo Garden provides that the Government should pay its share of the management and maintenance costs of the building's common areas and facilities actually enjoyed by the Government by reference to its management shares. The present management and maintenance costs paid by the Government in respect of the government properties/facilities in Lai Bo Garden are calculated by the management company in accordance with the relevant provisions in the DMC of Lai Bo Garden. The Government will continue to abide by the relevant DMC provisions.

The Government considers it necessary to retain the RCP as it provides refuse collection services for the densely populated community in the vicinity.

- (d) The Development Bureau has completed the review on the policy on the provision of public facilities in private developments and during the process reported its findings to the Panel on Development of the Legislative Council on 8 December 2008, 26 May 2009 and 26 January 2010. Based on the review findings, we consider that the policy on requiring developers to incorporate public facilities in private developments for public use is based on sound considerations. It provides for better planning, enables the provision of needed facilities to the public in a timely manner and optimizes the use of limited land. The public facilities provided under this policy are not classified as "obnoxious" and "non-obnoxious", but we trust that the concerned departments responsible for the management of these facilities will continue to improve their management work and properly address the impact of these facilities on the neighboring environment and the residents within the private developments.

### **District Minor Works Implemented by District Councils**

19. **MR LAU KONG-WAH** (in Chinese): *President, it has been reported that in recent years, quite a number of infrastructural projects have expeditiously been launched, and various kinds of construction works projects have also commenced along with the gradual recovery of the economy, rendering construction companies unable to cope with these projects. Some District Councils (DCs) members have pointed out that this year, quite a number of construction companies are uninterested in making petty profits and they refuse to bid for district minor works (DMW) under DCs, causing postponement and even suspension of such projects. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of DMWs projects under DCs in Hong Kong which have been postponed in the past five years because no construction company had bid for them or contractors had quoted excessively high project costs; the number of projects suspended as a result; and how long such projects have been postponed on average;*
- (b) *of the current number of projects which have been granted funding but have not yet commenced because tenders have not been invited*



*for them; the major reasons for that; the districts in which such projects are located; and the number of projects which are awaiting allocation of funding have been postponed consequentially; and*

- (c) *whether the authorities will introduce measures to expedite the launching of district minor works under DCs, for example, lowering the qualifications of contractors bidding for such works, so that more small and medium construction companies can take part in such tenders?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, despite the launching of many major infrastructural projects in recent years, since DMW projects carried out by DCs are mainly undertaken by contractors of a smaller scale, the award of these projects to contractors has not been affected.

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

- (a) Since the full implementation of the DMW Programme in the 18 districts in 2008, DCs have approved a total of more than 2 400 projects. None of these projects had to be postponed or shelved because of insufficient number of contractors participating in the tendering exercises or tender prices considered to be too high.
- (b) Like other works projects, after the estimate of a DMW project is approved, it usually takes some time to complete the necessary preparation work in accordance with the approved scope of the project before tender submissions can be invited. Such preparation work includes revising detailed designs and plans, preparing tender documents, and so on. At present, the 18 districts have about 220 projects with project estimates approved and pre-tendering preparation work underway. Unless there are unforeseeable technical problems (for example, the site in question being temporarily expropriated for conducting urgent repair), which will result in changes in the project scope and construction period, we expect the tendering exercises of these projects to all proceed as scheduled.

While the tendering exercises of these projects are yet to start, other works projects that are at their preliminary planning stage can still

proceed with the planning work and funding application in accordance with the established procedures without being delayed.

- (c) We have done our best to expedite the pre-construction preparation work of DMW projects. For instance, all the District Offices have vigorously followed up on interdepartmental consultation work. Besides, we encourage the DCs to set up a working group to follow up on project planning and detailed design for each project item. This will help resolve problems promptly without having to recourse to deliberation at District Council meetings.

As regards the contractors of DMW projects, for any DMW project with a cost estimate of not more than \$4 million, we will invite contractors on the list of approved contractors maintained by the Home Affairs Department to submit tenders. These are mainly contractors of a smaller scale. If the cost estimate of a project exceeds \$4 million, only contractors on the list of contractors maintained by the Development Bureau are eligible to submit tenders.

To ensure project quality, contractors who are interested in applying for inclusion in the above lists should meet certain eligibility criteria and have a good track record in the following aspects as proof of their capability in undertaking such projects:

- experience of the contractor's management in works projects;
- relevant qualifications and experience of technical personnel;
- financial soundness of the company (including adequate capital and working capital);
- number of projects completed and experience gained; and
- any record of non-compliance of relevant legislation.

Contractors are welcome to apply for inclusion in the lists. As there is no upper limit on the number of approved contractors, interested contractors who meet the requisite criteria may be

included in the lists. To ensure project quality, we have no intention of lowering the eligibility threshold.

### **Development Opportunities Office**

20. **MR ABRAHAM SHEK** (in Chinese): *President, to enable land development to facilitate the strengthening of Hong Kong's competitiveness and enhancement of economic and social benefits, the Government has in recent years consciously improved the relevant work processes and enhanced efficiency, including setting up the Development Opportunities Office (DOO) in April 2009, to facilitate the implementation of land development projects that are conducive to the development of Hong Kong. The development of housing is also closely related to land development. Regarding measures to promote the land and housing development in Hong Kong, will the Government inform this Council:*

- (a) *as at the end of October this year, of the total number of projects for which co-ordinated service has been provided by DOO, and among them, the respective numbers of community projects proposed by non-governmental organizations and private-sector development projects, the number of projects which sought assistance but was not given assistance, together with a breakdown of the title, address, purpose, investment amounts and progress of these projects;*
- (b) *given that DOO is now half way into the three-year operation period planned by the authorities, whether the authorities have conducted any review on its performance; if so, of the details; if not, the reasons for that; and*
- (c) *given that land and housing policies are at present handled separately by two Policy Bureaux, whether the authorities will let one bureau be solely responsible for these two policies, so as to co-ordinate and collaborate development needs in land and housing; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the DOO was set up in July 2009 to provide an effective platform for relevant bureaux and

departments to jointly assess the merits of individual land development proposals and provide one-stop consultation and co-ordination services to meritorious projects. Projects seeking DOO's assistance should meet a set of eligibility criteria, including that the project proponents should possess the land required for the proposed projects (although some flexibility may be allowed for projects proposed by non-governmental organizations) and that the proposed projects should not be exclusively residential but should carry broader social or economic merits.

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

- (a) As at end October 2010, the DOO had handled or was handling 34 proposed land development projects meeting the eligibility criteria mentioned above. Amongst them, 22 were community projects proposed by non-governmental organizations, while 12 were private sector development projects.

The DOO had been working in conjunction with the project proponents and relevant government departments and had identified the issues of concern for 17 proposed projects. These projects were presented to the Land and Development Advisory Committee (LDAC) for advice and support. Relevant details of these 17 proposed projects (including the title, location, purpose and progress) are set out in the following table:

<i>Project title</i>	<i>Location and purpose</i>	<i>Progress</i>
Projects supported by LDAC		
Scout Association of Hong Kong	In-situ redevelopment of its regional centre in Wan Chai District	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
Tung Wah Group of Hospitals	In-situ redevelopment of David Trench Home for the Elderly in Southern District	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance

<i>Project title</i>	<i>Location and purpose</i>	<i>Progress</i>
Hong Kong Youth Women's Christian Association	In-situ redevelopment of its Kowloon Centre and Anne Black Guest House in Kowloon City District	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
Hong Kong Red Cross	Relocation of its headquarters to Yau Tsim Mong District	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
Scout Association of Hong Kong	In-situ redevelopment of a district headquarters in Eastern District	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
Ever Sun International Holdings Limited	Wholesale conversion of an existing industrial building into an exposition cum hotel complex in Yau Tong	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
The University of Hong Kong	Conversion of a former school building into student hostel in Kennedy Town	The project had completed the planning stage and there is no major outstanding issues requiring DOO's further assistance
Hong Kong Sheng Kung Hui	In-situ redevelopment of its compound in Central	There are still outstanding issues requiring DOO's further assistance
China Resources Property Limited	Retrofitting and redevelopment of China Resources Centre and associated area improvement works in Wan Chai District	There are still outstanding issues requiring DOO's further assistance

<i>Project title</i>	<i>Location and purpose</i>	<i>Progress</i>
Kowloon City Baptist Church	Relocation of the church to Tung Lei Road in Wong Tai Sin District	There are still outstanding issues requiring DOO's further assistance
Hong Kong Maritime Museum	Relocation and expansion of the existing museum from Stanley to Pier 8 in Central waterfront	There are still outstanding issues requiring DOO's further assistance
Hong Kong Clearwater Bay Hospital Limited	Development of a private general hospital at Clear Water Bay, Sai Kung	There are still outstanding issues requiring DOO's further assistance
Taikoo Place Holdings Limited	Redevelopment of a former industrial area and associated local improvement works in Quarry Bay	There are still outstanding issues requiring DOO's further assistance
Projects not supported by LDAC		
The Baroque on Lamma Limited	Comprehensive marina, hotel and residential developments on Lamma Island	DOO has ceased to provide assistance and it is up to the project proponent to decide whether to pursue the project further
New Cheers Limited	Development of columbarium in South Lantau	DOO has ceased to provide assistance and it is up to the project proponent to decide whether to pursue the project further
Uni-Creation Investment Limited	Development of columbarium in Tung Chung	DOO has ceased to provide assistance and it is up to the project proponent to decide whether to pursue the project further
Utahloy Education Foundation Limited	Development of an international school with boarding facilities in Sai Kung	DOO has ceased to provide assistance and it is up to the project proponent to decide whether to pursue the project further

LDAC members supported 13 proposed projects and did not support the other four projects. According to information provided by the project proponents, the 13 land development projects receiving LDAC's support would involve a total capital investment of about \$12 billion (excluding land premium), while the total capital investment of the four proposed projects that did not receive support was about \$11 billion. It should however be noted that not all project proponents are ready to disclose the relevant information and where the information is provided, the DOO has not verified it.

As for projects that have not been presented to the LDAC for discussion, the DOO is providing to them one-stop consultation and co-ordination services. As these projects are still at a relatively early planning stage, we should not disclose their names and particulars prematurely because they may be commercially sensitive information for the project proponents. But when these projects reach a more mature stage, we would present them to the LDAC for advice so that they would be considered more objectively and comprehensively.

- (b) We have undertaken to review the DOO's performance and effectiveness in 2011-2012 before deciding on whether there is a permanent need for the DOO and, if so, whether there is a need to adjust its scope of work, resources and organizational structure. Meanwhile, we are reporting the work progress of the DOO to the Panel on Development regularly. We presented the first work progress report in March this year and will be presenting the second report on 16 December 2010. In our progress reports, we have included preliminary reviews on the performance of the DOO and set out its work progress using quantitative measurements, such as number of projects handled or being handling by the DOO, number of projects presented to the LDAC for advice, the total capital investment of projects supported by the LDAC and job opportunities that would be created.
- (c) The Transport and Housing Bureau is responsible for monitoring the development of the private housing market. To this end, the Transport and Housing Bureau collects data on the private housing

market, including the commencement and completion of private residential projects and units involved, and the expected volume of supply of private housing in the next three to four years. The Transport and Housing Bureau regularly publishes the relevant data for the reference of the public and departments. The Development Bureau is responsible for providing stable and adequate supply of land through effective planning and use of land. The Government has no plan to reorganize the two Policy Bureaux and their work.

## **BILLS**

### **First Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: First Reading.

### **CHIEF EXECUTIVE ELECTION (AMENDMENT) BILL 2010**

### **LEGISLATIVE COUNCIL (AMENDMENT) BILL 2010**

**CLERK** (in Cantonese): Chief Executive Election (Amendment) Bill 2010  
Legislative Council (Amendment) Bill 2010.

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

### **Second Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

### **CHIEF EXECUTIVE ELECTION (AMENDMENT) BILL 2010**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I move the Second Reading of the Chief Executive Election (Amendment) Bill 2010 (the Bill).



In August this year, the Standing Committee of the National People's Congress approved and recorded respectively the amendments to Annex I and Annex II to the Basic Law concerning the electoral methods for selecting the Chief Executive and for forming the Legislative Council. Since then, the Hong Kong Special Administrative Region Government has been working on the local legislation for the two electoral methods. After preparation for a few months, I now move the Second Reading of the Bill to amend the electoral method for selecting the Chief Executive so as to implement the Election Committee (EC) subsector elections in 2011 and the Chief Executive election in 2012. Following this item, I will then move the Second Reading of the Legislative Council (Amendment) Bill 2010 to implement the Legislative Council election in 2012.

Regarding the method for selecting the Chief Executive in 2012, in accordance with the amendments to Annex I to the Basic Law, the EC would be expanded under the principle of balanced participation to provide more opportunities for different sectors of the community to participate in the next election. The number of EC members will be increased from 800 to 1 200 with an increase of 100 members for each of the four sectors. The major proposals of the Administration under the Chief Executive Election (Amendment) Bill 2010 include:

- (i) no new subsector will be added in the first, second and third sectors of the EC. The number of seats allocated to the existing 32 subsectors in these three sectors will be increased generally by proportion according to the existing distribution of seats;
- (ii) of the 100 new seats for the fourth sector of the EC, 75 seats will be allocated to the District Councils (DCs) subsectors, 10 to the Members of the Legislative Council, 10 to the members of the Chinese People's Political Consultative Conference (CPPCC) and five to Heung Yee Kuk;
- (iii) the DCs subsectors will have 117 seats. The existing arrangement of grouping the seats into two subsectors (one for Hong Kong and Kowloon and the other for the New Territories) and the current "bloc vote system" will be maintained. Only elected DC members can register as voters, nominate candidates and be nominated as candidates in the DCs subsectors;

- (iv) when the new term of the EC commences, 10 "Special Member" seats will be created to make up temporarily in February 2012 the difference of 10 seats until the number of seats in the Legislative Council increases from 60 to 70 in October 2012. We propose to allocate four seats of "Special Member" to members of the CPPCC, two to Heung Yee Kuk, two to the Hong Kong and Kowloon DCs and two to the New Territories DCs; and
- (v) to tie in with the development of the registration system of the Chinese medicine practitioners, we propose that registered Chinese medicine practitioners should be allowed to be eligible for registration as voters in the Chinese Medicine subsector. To avoid disenfranchising eligible members of the 10 specified bodies from registering as voters in the Chinese Medicine subsector, we propose that eligible members of the 10 bodies will continue to be eligible for voting in this subsector.

President, the above proposals will enhance participation in the EC election from different sectors of the community. This will also pave the way for the universal suffrage for the Chief Executive in 2017. I hope Members will support the Bill. After this item, I will then move the Second Reading of the Legislative Council (Amendment) Bill 2010.

Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Chief Executive Election (Amendment) Bill 2010 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.

## **LEGISLATIVE COUNCIL (AMENDMENT) BILL 2010**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I move the Second Reading of the Legislative Council (Amendment) Bill 2010 (the Bill).

Regarding the method for forming the Legislative Council in 2012, according to the amendments to Annex II to the Basic Law, the number of Legislative Council Members returned by geographical constituencies and by functional constituencies will each be increased from 30 to 35. The major proposals of the Hong Kong Special Administration Region (HKSAR) Government under the Bill include:

- (i) the number of geographical constituencies will be retained at five. The number of seats for each of the geographical constituencies (which is four to eight seats at present) will be revised to five to nine seats;
- (ii) the five new District Council (DC) functional constituency seats will be returned from the whole HKSAR as a single constituency in accordance with the proportional representation list system. Candidates will be elected by electors who do not have the right to vote in the traditional functional constituencies or those who have not opted to register in these functional constituencies. Only elected DC members are eligible to be nominated as candidates and they must be nominated by no less than 15 elected DC members. For persons with the right to vote in the traditional functional constituencies, they will be given a choice to opt to register in the traditional functional constituencies or in the new DC functional constituency. However, elected DC members may only register in the existing DC functional constituency. Under the existing legislation, persons eligible for registration as electors in the Heung Yee Kuk, Agriculture and Fisheries, Insurance and Transport functional constituencies may only register in those functional constituencies concerned. This arrangement is to ensure that the number of registered electors of these functional constituencies will not be too small;
- (iii) as regards the five new DC functional constituency seats, the maximum amount of election expenses will be \$6 million. The financial assistance provided for a list of candidates or a candidate for the 2012 Legislative Council election will be increased from \$11 to \$12 per vote;

- (iv) similar to the five new DC functional constituency seats, only elected DC members are eligible to be nominated as candidates in the existing DC functional constituency;
- (v) the five new DC functional constituency seats to be returned by approximately 3.2 million electors on a one-person-one-vote basis will substantially enhance the democratic elements of the Legislative Council election. Hence, there should be no substantial changes for the traditional functional constituencies. However, same as the previous Legislative Council elections, we will review whether there is a need to propose technical adjustments to the electorate to reflect the latest developments of these functional constituencies. This includes updating the names of certain bodies and deleting those organizations which have ceased operation; and
- (vi) lastly, having regard to the views of society, we will also propose under the Bill that consular posts and international organizations set up by overseas governments in the HKSAR will no longer be eligible to be registered as a corporate elector. The relevant amendments will also be applicable to the corresponding Election Committee subsectors.

President, this is the first time since the establishment of the HKSAR that, in accordance with the Basic Law, the amendments to the electoral methods for the Chief Executive and the Legislative Council are passed. This enables us to roll forward democratic development in Hong Kong. The SAR Government hopes that the two Bills could amend the Chief Executive Election Ordinance and Legislative Council Ordinance so as to implement the amendments approved and recorded respectively by the Standing Committee of the National People's Congress in August this year. The proposals in the two Bills would increase the democratic elements of various elections. This will also create favourable conditions for implementing the universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020.

We hope that the community will take this hard-earned opportunity and continue to adopt a rational, pragmatic and accommodating attitude to promote

the democratic development of Hong Kong. With these remarks, I would like to appeal to Members to support the two Bills.

Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Legislative Council (Amendment) Bill 2010 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**

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Matrimonial Proceedings and Property (Amendment) Bill 2010.

### **MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT) BILL 2010**

#### **Resumption of debate on Second Reading which was moved on 30 June 2010**

**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): President, in my capacity as Chairman of the Bills Committee on Matrimonial Proceedings and Property (Amendment) Bill 2010 (the Bills Committee), I now report on the major deliberations of the Bills Committee to the Legislative Council.

Under the existing Matrimonial Proceedings and Property Ordinance, Hong Kong courts have no power to deal with claims for ancillary relief after a foreign divorce. The purpose of the Matrimonial Proceedings and Property (Amendment) Bill 2010 is to empower the High Court and the District Court to

order financial relief for a former spouse whose marriage has been dissolved or annulled by a court outside Hong Kong.

Given the increasing number of Mainland-Hong Kong marriages in recent years, members are in general supportive of expediting legislative work to address the existing deficiency in matrimonial legislation. Members are mainly concerned about whether the threshold adopted by the court is too high when considering whether to grant leave to an applicant for making an application for an order for financial relief and whether such financial relief should be approved.

As stipulated by section 29AC of the Bill, leave of the court must first be obtained by the applicant before applying for financial relief. The court will only grant leave if it considers that substantial ground has been shown for the making of such application. Some members have queried whether it is appropriate to adopt "substantial ground" (the Chinese rendition is "充分理由") as the threshold required for granting leave.

Some members have pointed out that as stipulated by section 29AF of the Bill, provided that the court, having considered each specified matter set out in that section, is satisfied that it would be appropriate for the order to be made by a court in Hong Kong, it may make an order for financial relief. These matters include the connections that the parties to the marriage have with Hong Kong and other relevant places, as well as financial relief that the applicant and children of the family have received in consequence of the divorce outside Hong Kong. Members have questioned whether it is reasonable that the threshold for granting leave is higher than that for making an order for financial relief.

The Administration has explained to the Bills Committee that section 29AC(2) of the Bill is similar to section 13 of the English Matrimonial and Family Proceedings Act 1984 (the 1984 Act). Having made reference to the background information on the United Kingdom's enactment of this act, the Administration considers that the purpose in setting this relatively high threshold is to filter *ex parte* applications for financial relief so as to safeguard the respondents' interests.

The Administration has also provided the Bills Committee with some relevant precedents in the United Kingdom. Members have noted the interpretation on the "substantial ground" threshold made by the Supreme Court

of the United Kingdom in *Agbaje v Agbaje* in 2010. Generally speaking, the Supreme Court of the United Kingdom considered that it is perhaps best expressed by saying that "substantial" means "solid". The Administration has confirmed that such interpretation accords with its policy intent.

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

The Bills Committee concurs with the Administration's proposal to amend the Chinese rendition of "substantial ground" in section 29AC(2) of the Bill from "充分理由" to "實質理由" so as to denote more properly the threshold to be adopted by the court when considering the granting of leave.

Deputy President, some members are also worried that the court in Hong Kong may make an order for financial relief only when the financial provision made by a foreign order is manifestly unjust or inadequate.

Most of the members of the Bills Committee opine that as stipulated by section 29AF(1) of the Bill, the court shall only consider whether in all the circumstances of the case it would be appropriate for the order for financial relief to be made by a court in Hong Kong. Hence, the threshold set is not high. In *Agbaje v Agbaje*, the Supreme Court of the United Kingdom set out clearly the proper approach for the courts to take when considering applications for financial relief under the 1984 Act. The Supreme Court of the United Kingdom specifically stated that hardship and injustice should not be the pre-conditions of the exercise of jurisdiction by the court.

The Administration has explained that the courts must have regard to all relevant circumstances of the case in making an order for financial relief. In *Agbaje v Agbaje*, the Supreme Court of the United Kingdom held that the courts must also take into account the legislative purpose, which is the alleviation of the adverse consequences of no, or inadequate, financial provision being made by a foreign court for the applicant or the children of the family.

Deputy President, in response to the views of the Bills Committee and its legal adviser on the drafting of the provisions, the Administration will propose

some amendments at the Committee stage later. The Bills Committee supports these amendments.

Deputy President, I would like to take this opportunity to thank the Government representatives for the information and assistance they have provided to the Bills Committee, and the staff working for the Bills Committee and the staff of the Secretariat for the support they have given us. Now I am going to express my personal opinion on the Bill.

Deputy President, actually this is a good example which shows that if there is deficiency in our laws and the court has pointed out such deficiency in the current laws of Hong Kong during a trial, the executive authorities should take action as fast as possible, while the legislature should also consider enacting corresponding legislation to plug such loopholes. This time the Bill has proved that we still need to do such work.

Two days ago the Court of Final Appeal gave a ruling which stated clearly that foreign divorce is indeed recognized by the existing laws. Under the existing legislation, the court actually has no way to consider any further financial relief for people who have divorced in foreign places. Thus we can say it is rather timely for us to enact this legislation today.

Deputy President, another point I need to raise is that usually when we are scrutinizing a Bill, we will consider the impact which the Bill will bring about on all parties after it is passed. However, regarding this Bill, we cannot consider this factor because it is very difficult for us to predict what will be the actual consequences after the Bill is passed. For example, many divorce cases in Hong Kong require a very long processing time with intense procedures. Sometimes they even involve exorbitant fees. However, the merit of legal proceedings is that impartiality of the court can be seen by everyone. As such, after the law is passed, will there be a lot of people who divorce on the Mainland applying for financial relief in Hong Kong? If that will be the case, what adjustment do we need to make to the workload of the court? Or how will the legal service provided by the legal sector be affected? We will know what would happen after the legislation is put into effect.

At the same time, we have asked the Government about the situation in foreign countries. There is not much financial relief of this kind in foreign countries. However, the practical situation in Hong Kong is very special



because there are many Mainland-Hong Kong marriages, and China and Hong Kong are, in fact, geographically very close to each other. Hence, in cases where the applicant divorces on the Mainland and applies for financial relief in Hong Kong, the circumstances will be vastly different from the experiences of foreign countries. We will possibly have a number of such cases.

However, why can this not be our factor of consideration in determining whether or not to pass this Bill? Because if there is a loophole in our legislation and such an existing legal loophole is indeed undesirable, definitely we have to amend the law according to principles. Nevertheless, may I point out here that enactment of laws will affect the behaviour of the general public. So we have to be mentally prepared and pay close attention to the possible effects which the passage of this Bill may bring to the legal system in Hong Kong.

With these remarks, I support the resumption of the Second Reading of the Bill and all the amendments.

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

**MR LAU KONG-WAH** (in Cantonese): Deputy President, as the saying goes, "discussions about money will hurt relationships". If a marriage ends up in dividing up family property, I believe it certainly is not a pleasant issue.

The divorce rate of Hong Kong people remains on the upward trend. As indicated by the information of the Census and Statistics Department, last year Hong Kong recorded nearly 20 000 divorce cases. Compared with the figure five years ago, that means about 15 000 cases in 2005, the increase was over 30%. The percentage of the number of divorces over the number of marriages was almost 50%. In other words, one out of every two couples would separate.

Under the existing legislation, even if one party to a marriage has obtained a divorce decree in a jurisdiction outside Hong Kong, since Hong Kong has not entered into any arrangement with foreign places for mutual recognition of divorce orders, a spouse cannot apply to the court in Hong Kong for financial relief. This may cause hardship to the spouse if the financial provision received is insufficient.

At present, there is still no mutual recognition of divorce orders between China and Hong Kong. As such, matters concerning how to fight for custody, how to distribute the property, how to enforce Mainland divorce orders in Hong Kong and how to protect the interests of both the husband and wife as well as those of their children have all become problems.

With the increasingly high visitor flow between China and Hong Kong, the number of cross-boundary marriages is on the rise, while the number of divorces also increases correspondingly. A number of people even end up in court owing to issues of property distribution. Some friends of mine who are lawyers have told me that nearly 70% of the divorce cases handled by them in recent years involve cross-boundary marriages.

The Department of Justice proposes to amend the current legislation through the Matrimonial Proceedings and Property (Amendment) Bill 2010 in order to fill up the existing legal deficiency, thus safeguarding the interests of the divorcing couple as well as those of their children. Although the nature of this task is mostly just copying words on paper, it is highly important because the divorce problem, if handled improperly, will not simply be a legal issue. It will further sabotage ethical relationships and even develop into other livelihood problems.

After the Bill comes into operation, spouses from the Mainland holding a Mainland divorce order may directly apply to the court in Hong Kong for property distribution or alimony. In this way, the interests of spouses from the Mainland will be protected indirectly. I have heard that people seeking assistance in Hong Kong claimed that they have relatives or friends on the Mainland who was abandoned after marrying a Hong Kong resident. The husband deserted the wife, leaving all the troubles behind. Eventually the wife, who looked after the family day after day, was unable to get any alimony. She and her children were suddenly left with nothing to rely on.

Furthermore, Hong Kong is an international city. There are many people who come from different countries working and residing in Hong Kong. The Bill can help to reduce legal disputes over property distribution among such divorcees. It will also enable spouses to resolve problems expeditiously so as to obtain the property or alimony they deserve. This will have a positive effect on Hong Kong's image as an international metropolis.

The Bills Committee has altogether conducted four meetings with the Administration. Members are in general supportive of the Bill. We consider that the Bill can further supplement the existing matrimonial legislation. However, we are also concerned that with the growing number of Mainland-Hong Kong marriages, implementation of the Bill will greatly increase the workload of courts in Hong Kong. The Administration has pointed out that at the present stage, it is difficult to estimate the caseload arising from the implementation of the Bill, but additional resources will be sought should there really be a substantial increase in caseload. I find such an arrangement reasonable.

As for the details of the Bill, we are concerned about section 29AB(3), which provides that remarriage includes "a marriage that is by law void or voidable", and such a marriage may operate as a bar to an application for financial relief. We find this very unreasonable. I very much hope to see that the Administration will practically consider the scope of protection under the Bill from the perspective of members of the public and eventually delete the relevant provisions.

Members are also concerned whether the Chinese wording in the Bill is appropriately employed in correspondence with the English wording. An example is the expression "充分理由" (the Chinese rendition is "substantial ground") in section 29AC(2). After discussion, now it is substituted by "實質理由". Similarly, this point was raised and considered from the applicants' perspective in the hope of providing, as far as possible, a lower threshold for application to help those divorcees in need.

After confirmation that the Bill is applicable to applications for financial relief by those who have been allowed by a foreign court to divorce or separate, I think the next step the Administration may consider is to extend the scope of application to divorce cases filed on the basis of "*de facto* marriage" to enable a spouse in such marriage to apply for financial relief. These persons include couples have lost their certificates for marriage conducted in foreign places but are unable to get a replacement, or couples who married according to the old Chinese marriage customs and cannot produce any proof of their marriage. Such persons can only be regarded as heterosexual cohabitants by law. Very often they are unable to get any protection when they divorce.

A more extreme case is that a man and a woman register their marriage in Hong Kong, and the original better half of the man or the woman then becomes a

third party to their marriage. I hope the Administration will seriously examine how to deal with problems arising from "*de facto* marriage" with a view to affirming the traditional matrimonial concept of heterosexual marriage and protecting divorcees from "*de facto* marriage".

Chinese people pay the highest regard to ethical relationships. As the saying goes, "It takes hundreds of reincarnations to bring two people to ride in the same boat, and thousands to bring two people to share the same pillow." Marriage is a precious relationship. I believe the spirit of this Bill is not to encourage people to scramble for property or even vie for it across the border, or to share half of the spouse's wealth through divorce. Rather, it aims at giving both the husband and the wife more protection. At the same time, it is hoped that they will perform their responsibilities so that divorce, an imperfect relationship, can have a more satisfactory ending.

The Democratic Alliance for the Betterment and Progress of Hong Kong supports the passage of the Matrimonial Proceedings and Property (Amendment) Bill 2010 and the amendments proposed by the Administration.

**MS AUDREY EU** (in Cantonese): Deputy President, I am speaking to state clearly my certain connections with this Bill, but this is not any declaration of interests. It merely explains that I am kind of related to its history.

Deputy President, first of all, I would like to make it clear that the laws of Hong Kong have always recognized foreign divorce decrees. However, regarding how to distribute property, given the wording in Cap. 192, it seems that the laws of Hong Kong allow the Hong Kong courts to handle distribution of property, especially for the wife, only after a divorce decree has been granted in Hong Kong.

Deputy President, since 1984, such a situation has improved in the United Kingdom because some amendments or laws have been passed so that when a divorce case is tried in the English courts, even if the relevant decree was granted in a place other than the United Kingdom, as long as the relevant divorce decree is recognized by the English courts, then the English courts may handle property distribution based on the application made by either party to the marriage.

In the past or in recent years, Hong Kong has always acted in accordance with the English legislation. Every time the United Kingdom introduces a legislative amendment, Hong Kong will follow suit. However, Hong Kong did not follow this amendment made in 1984. As a result, there arises a situation where, if the divorce decree granted is foreign, even though the decree is recognized by the Hong Kong courts, since a divorce has already been granted for the marriage, the Hong Kong courts cannot grant another divorce, and thus they are unable to deal with distribution of property.

Deputy President, the relevant case is *ML v YJ*. The man in the case is surnamed YEUNG. Therefore we could see the letter "Y" in the name of the case. He and his wife married on the Mainland and then moved to Hong Kong. They had property in Hong Kong. Yet the husband had more properties on the Mainland. As a result, when the two of them divorced, property in the two places was involved, entailing the problem of how the property in Hong Kong and the Mainland should be distributed.

Deputy President, in the first trial of the case I represented the woman, that means the wife. She demanded that the properties on the Mainland should also be divided up in the property distribution. The case originally started in Hong Kong. On 18 May 2002 the wife filed with the court in Hong Kong for divorce, and the Hong Kong court proceeded with a number of steps, including that for the children's custody. Deputy President, as you know, there are two stages in processing divorce in Hong Kong. First, it is necessary to obtain a decree nisi, and then a decree absolute. All along the case had been handled in Hong Kong according to Hong Kong's procedures. That included all sorts of applications made in Hong Kong with regard to property distribution, ancillary relief and order for financial relief. These procedures were carried out in Hong Kong all the way. Unexpectedly, the husband applied to a Mainland court to handle the divorce. At first the wife had no idea. When she later learnt about it, she already had to go to the Mainland to attend the trial. In fact, she objected to the Mainland court handling their divorce application because she said it was already being processed by the Hong Kong court. Moreover, the Hong Kong court had simultaneously processed a number of issues regarding their children's custody and various injunctions for both parties. A lot of things were already under way. However, the Mainland court insisted on having its jurisdiction, and so the Mainland was going to process the husband's divorce application.

As we know, the Mainland courts have their own procedures which are usually much faster than those in Hong Kong. Hence, even though the wife kept raising objection, the objective was overruled in the end, and eventually the court granted a divorce decree. In other words, although the divorce lawsuit in the two places was first initiated and processed in Hong Kong, since the judicial procedures on the Mainland were faster, finally the Mainland court granted the divorce decree first. In this situation, the Hong Kong court advised that according to the laws of Hong Kong, it must recognize the Mainland divorce decree. So it could not grant another divorce order for the couple.

For this reason, a question arose in handling the matter according to the laws of Hong Kong. That is, could the Hong Kong court then deal with property distribution for the two parties, which involved handling the property in Hong Kong? Having granted the divorce decree, actually the Mainland court had dealt with the distribution of part of the property on the Mainland. However, it stated clearly that it did not deal with the distribution of the Hong Kong property. As a result, when I represented the wife in the first trial of the case, I called on the court to have the distribution of the Hong Kong property handled by the Hong Kong court. Even though Hong Kong did not adopt the practice of the relevant provisions from the United Kingdom in 1984, it does not mean the Hong Kong courts would have insufficient jurisdiction.

During the first trial, the wife, whom I represented, won the case. At that time Justice Johnson LAM held that the court in Hong Kong could handle distribution of the property. I already realized then that this issue might arouse a big controversy. So I wrote a letter to the Secretary for Justice — now Secretary WONG Yan-lung is present too. At that time I wrote a letter about this case, expressing my hope that the Government would amend the legislation as soon as possible by following the amendment made by the United Kingdom in 1984 to supplement the Hong Kong legislation.

Later, I no longer represented the wife. She had appointed other lawyers to represent her. When the case was submitted to the Court of Appeal for trial, the result was 2:1. The wife lost the case. She then appealed to the Court of Final Appeal. As mentioned by Dr Margaret NG just now, the Court of Final Appeal previously gave its ruling on 12 December. Deputy President, the result of the ruling was 3:2. Mr Justice BOKHARY and Mr Justice CHAN ruled in favour of the wife. In other words, the court in Hong Kong should follow the

existing legislation and could still handle both parties' property in this situation. However, unfortunately the other three judges of the Court of Final Appeal, namely, Mr Justice RIBEIRO, Mr Justice LITTON and Sir Anthony MASON, ruled against the wife in favour of the husband. The result was 3:2. The Court of Final Appeal held that in this situation the court in Hong Kong could not deal with the distribution of property.

Deputy President, it so happened that after finishing the scrutiny of the Bill proposed by Secretary WONG Yan-lung at that time, the Legislative Council resumes Second Reading today. I support this Bill, and I hope the relevant legislative amendments will be able to avoid recurrence of similar situations.

As mentioned by the two Honourable colleagues just now, there are actually a large number of cross-boundary marriages. We have seen many people settle in Hong Kong after getting married. There are also lots of people who simply come to Hong Kong for giving birth. It is because the policies of both China and Hong Kong encourage integration of the two places. You see, such a situation will easily lead to marriages where one party is from the Mainland while the other party is from Hong Kong. Even if both parties are from Hong Kong or both are from the Mainland, in case they divorce, it is possible that their property is situated not only in one place but in both places.

Just now I also mentioned that even though this case of *ML v YJ* was tried by the Mainland court, actually when the court concerned deals with property distribution, usually it will only handle a small part of the property which is on the Mainland. However, very often other property such as real estate in Hong Kong will be involved. The court on the Mainland court also finds this difficult to handle. Hence, this can explain that we really need to pass the relevant legislation. This is not only a matter of fairness to both parties. It also involves law enforcement because if any real estate is to be transferred, sold, leased or loaned out, it will involve or require assistance of the local law-enforcement agencies to facilitate implementation of the ruling. This also explains why we should have formulated the relevant legislation long ago.

Just now Dr Margaret NG mentioned in her speech that we are very concerned about the threshold. It is because when such a situation arises, the applicant cannot file the application to the court directly. He or she must first apply for leave. In other words, it is only after the court has granted him or her

leave to submit the application that distribution of the property can be handled under such circumstances. We are worried that the threshold set for application for leave or for approving such applications will be too high.

Just now Dr Margaret NG also mentioned in her speech that we are rather worried because the wording in the draft is "充分理由" (substantial ground). Such a requirement seems to be even higher than the one set for application for leave under many situations. However, we have also seen some relevant English precedents. Just now Dr Margaret NG also mentioned the precedent of the Agbaje case. We find it acceptable. No matter what words were used in the relevant precedents, and although there are not too many precedents, there are indeed such cases which we can follow, and such precedents have indicated that the authorities concerned should adopt a lenient attitude in handling such matters.

Hence, speaking here today, I simply wish to state clearly that we pass this law because we know not only Mainlanders but also people from other places may marry Hong Kong people. They may have children, and may have property in more than one place which requires distribution. As a result, we very much hope that the court — where real estate or immovable property is involved in Hong Kong — will adopt a lenient approach in processing this kind of application so that both parties to the marriage (including their children) will get the most suitable arrangement for property distribution.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR JUSTICE** (in Cantonese): Deputy President, as I explained when I submitted the Matrimonial Proceedings and Property (Amendment) Bill 2010 (the Bill) to the Legislative Council in June 2010, the purpose of the Bill is



to amend the existing Matrimonial Proceedings and Property Ordinance (the Ordinance) to empower the High Court and the District Court so that in cases where a marriage has been dissolved or annulled in judicial or other proceedings outside Hong Kong, or the two parties to a marriage have been legally separated in judicial or other proceedings outside Hong Kong, under certain circumstances, the courts may order financial relief for the former spouse.

Deputy President, just now Ms Audrey EU mentioned a relevant case which highlighted what we can call a deficiency in our laws. Here I would like to thank Ms Audrey EU, who wrote me a letter about this subject at that time, requesting us to consider and fill up the deficiency in this regard. Just now Ms EU and Dr Margaret NG also mentioned that the Court of Final Appeal gave its ruling on this case this Monday. The case involved a divorce decree granted by a court outside Hong Kong, the situation of which has already been mentioned by Ms Audrey EU. The Court of Final Appeal has concurred that the existing legislation should be amended to enable the Hong Kong courts to deal with issues of financial relief for those people concerned who have got a divorce from a court outside Hong Kong. This is exactly what this Bill intends to handle and improve at this opportune time today.

Since we submitted the Bill, the Bills Committee on Matrimonial Proceedings and Property (Amendment) Bill 2010 (the Bills Committee) has held a total of four meetings. I would like to take this opportunity to thank Dr Margaret NG, Chairman of the Bills Committee, and every member for their exhaustive scrutiny into the Bill and the precious opinions they have made. In response to the views of the Bills Committee, the Administration agrees to make some technical amendments to the Bill. I will propose the amendments later at the Committee stage.

Now perhaps let me first make a brief introduction of a few major amendments among the others.

The new section 29AB(2) proposed by the Bill provides, "If after a marriage has been dissolved or annulled in a place outside Hong Kong, one of the parties to the marriage remarries, that party is not entitled to make an application in relation to that marriage." Section 29AB(3) provides that "remarriage" includes a marriage that is by law void or voidable. Some members have queried whether it is reasonable that a "remarriage" which is by law void or

voidable can still be used to restrict a former spouse from applying for financial relief.

Having reviewed the relevant provisions and consulted legal professional bodies and the Judiciary, the Administration considers that the restriction in the proposed new section 29AB(2) is consistent with section 9 of the Ordinance, which prohibits a former spouse who has remarried from making applications for ancillary relief. Since the same restriction applies to divorce proceedings initiated in Hong Kong, the Administration finds it inappropriate to adopt more a relaxed stipulation on those who divorce in other jurisdictions and seek financial relief in Hong Kong. For this reason, the Administration considers that the relevant stipulation in section 29AB(2) should be retained. To my understanding, most of the members have agreed to that.

As regards section 29AB(3) which the Administration originally proposed to add, since section 2(2) of the Ordinance already contains similar provisions, the Administration agrees to move an amendment to delete section 29AB(3).

Here may I clarify, when Mr LAU Kong-wah spoke on this issue earlier, there might be a little misinterpretation. He said that focusing on the matter of "remarriage", we discovered some irregularities and then made some changes. Actually, as I have just mentioned, after thorough examination and consideration, we find it necessary to maintain our proposal. What we have removed is only a technical deletion. Since the Ordinance already contains such terms, there is no need to repeat them. This is a brief clarification which I would like to make here.

The Bill has stipulated that anyone who wishes to apply for financial relief must first obtain leave from the court. As stipulated by the new section 29AC(2) proposed by the Bill, the court must not grant leave unless it considers that there is "substantial ground" for the applicant to make the application. As mentioned by a Member earlier, the Bills Committee has queried whether it is appropriate to adopt "substantial ground" as the threshold for granting leave, and whether "充分理由" is a proper Chinese rendition for "substantial ground".

Deputy President, the stipulation in the new section 29AC(2) proposed by the Bill is actually similar to that in section 13 of the English Matrimonial and

Family Proceedings Act 1984. Having made reference to the relevant judgment given by the English courts on the interpretation of section 13 of this Act, especially the Supreme Court's interpretation of the expression "substantial ground" in *Agbaje v Agbaje*, the Administration considers that the relevant interpretation is consistent with its policy in adopting "substantial ground" as the threshold. Therefore we find it appropriate for the proposed new section to use the words "substantial ground".

As for the Chinese rendition of these words, taking into account the views of the Bills Committee, we agree to change it to "實質理由" so as to denote the meaning of "substantial ground" more accurately, especially when this expression is more accurate with regard to the clarification of such words in that case. We will move the relevant amendment at the Committee stage.

Furthermore, we will make an amendment to the basis on which the court makes an order for sale of property. Originally the new section 29AG(2) proposed by the Bill only empowered the court to make an order for sale of property under section 6A(1) upon making an order for financial relief under certain sections of the Ordinance (that means sections 4(1)(b), 4(1)(c), 5(2)(b), 5(2)(c) and 6). In other words, the court would have no power to make an order for sale of property upon making of an order for periodical payments under section 4(1)(a) or 5(2)(a) of the Ordinance.

After discussion and further examination with the Bills Committee, we consider that upon making an order for periodical payments under sections 4(1)(a) and 5(2)(a), the court should also be able to make an order for sale of property. Hence we will move to make a corresponding amendment to the new section 29AG(2) proposed by the Bill so as to realize the purpose of this policy of the Administration.

Apart from the above amendments, the Administration will move other amendments which mainly involve the presentation of the Chinese text to better convey the original meaning of the provisions. Earlier on, the Bills Committee already considered the various amendments and did not raise any objection.

Deputy President, some individual Members have put forward some views earlier, to which I would like to respond briefly.

We are all concerned about the effects which this Bill will bring upon its implementation. I absolutely agree that we must pay careful attention. For example, situations and frequency of its application are among our concerns. In fact, the Administration has consulted the Judiciary, the Hong Kong Bar Association, The Law Society of Hong Kong, the Hong Kong Family Law Association and the Legal Aid Department, seeking their advice on the estimated number of applications under the Bill once the Bill is passed. The organizations concerned remarked that they did not have the relevant information. They were actually unable to make any guess, but they reckoned that the introduction of the relevant legislation would not have any significant impact on the existing resources. The Judiciary advised that the number of relevant cases might increase. Deputy President, should there be a substantial increase in the number of applications after the Bill is passed and comes into effect, the Administration will definitely seek extra resources through the established resource allocation mechanism to cope with the need.

In addition, just now some Members were also very concerned about the issue of Mainland-Hong Kong marriages. In fact, this is a substantive issue which we need to face and which has a profound impact on members of the public. To a certain extent, the passage of this Bill will be helpful in this aspect. At the same time, as I have said before, the Department of Justice and the Supreme People's Court have been exploring the feasibility of reciprocal enforcement of court orders for cross-boundary marriages. Previously we have reached a consensus and have made arrangements for certain civil and commercial matters to facilitate reciprocal enforcement of court orders, which has been put into practice with legislation. Now we are actively studying the matrimonial issue. In the face of the prevalence of Mainland-Hong Kong marriages and the substantial increase in number, we have been actively studying in this regard. However, we need to understand, owing to the differences in the legal system of the two places, we have to be very careful in handling this issue, and we will continue to make efforts to do so.

Deputy President, the purpose of the Bill is to enable the people concerned who divorce in foreign places and have connections with Hong Kong to apply to the court in Hong Kong for an order for financial relief if no or insufficient financial provisions have been made under foreign court orders. The Administration has consulted legal and professional bodies as well as the

Judiciary and secured their support. I hope Members will support the Second Reading of the Bill and pass the amendments proposed by the Administration at the following Committee stage.

Thank you.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Matrimonial Proceedings and Property (Amendment) Bill 2010 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): The Matrimonial Proceedings and Property (Amendment) Bill 2010.

Council went into Committee.

### **Committee Stage**

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

**MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT)  
BILL 2010**

**DEPUTY CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Matrimonial Proceedings and Property (Amendment) Bill 2010.

**CLERK** (in Cantonese): Clauses 1, 2 and 4 to 16.

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

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1, 2 and 4 to 16 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3.

**SECRETARY FOR JUSTICE** (in Cantonese): Deputy Chairman, I move the amendments to clause 3. The relevant amendments are set out in the documents which have been circulated to Members.

Earlier on I have explained three of the amendments. As regards other proposed amendments, they mainly involve the presentation of the Chinese text to better convey the original meaning of the provisions. These amendments involve the new sections 29AB(2), 29AJ(5) and 29AK(1) proposed by the Bill.

The above amendments have been discussed and endorsed by the Bills Committee. I implore Members to pass these amendments.

*Proposed Amendment*

**Clause 3 (see Annex I)**

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

(No Member indicated a wish to speak)

**DEPUTY 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)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**DEPUTY PRESIDENT** (in Cantonese): Bill: Third Reading.

### **MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT) BILL 2010**

**SECRETARY FOR JUSTICE** (in Cantonese): Deputy President, the

Matrimonial Proceedings and Property (Amendment) Bill 2010

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



**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Matrimonial Proceedings and Property (Amendment) Bill 2010 be read the Third time and do pass.

Does any Member wish to speak?

**MR PAUL TSE** (in Cantonese): Deputy President, my speech will be short. Deputy President, first of all, I am grateful to the Department of Justice for reacting really fast to this matter. Very often, before the Court of Final Appeal gives its final ruling on a certain case, actions which involve significant controversy or apparent legal loopholes may only be taken after the judgment is delivered. By the time action is taken, there has already been a long delay. In this case, the Department of Justice has reacted relatively fast. It can be said that the loophole has been plugged. Of course, for the people affected in individual cases, this may be too late to be of any help. Yet it can help tens of thousands of other applicants who may encounter the same kind of situation, so that they can get appropriate or reasonable relief.

Deputy President, just now some Honourable colleagues mentioned the prevalence of Mainland-Hong Kong marriages nowadays. This is an irrefutable fact. At present there have been a growing number of Mainland-Hong Kong marriages which also involve properties in both China and Hong Kong. While equality between men and women has become more and more common, it seems that financial relief is more often provided by the husband, and there are more cases where the wife is the applicant. Hence, very often when the wife submits an application in Hong Kong, she will face considerable difficulties. Since there are definitely differences in the judicial process, system, style, practice and the so-called credibility between China and Hong Kong, the people concerned will often selectively adopt an approach which is more favourable to them in the lawsuit. This is actually understandable, but if it results in numerous unfair situations, we hope this time we have done our best in this area.

Nevertheless, I would also like to take this opportunity to point out to the Department of Justice, like what Ms Audrey EU has mentioned earlier, it is not until some relatively unfair cases have taken place that we see the unfairness in law, and we hope improvement will be made expeditiously.

As we can see, at present the development in the United Kingdom has reached a so-called ..... First, the practice of a couple splitting up their assets into halves has gradually developed and has even been acknowledged. Second, regarding the so-called prenuptial agreement, with the emergence of the trend of equally sharing the assets by husband and wife, the importance and pressing need of the prenuptial agreement has been enhanced. I hope the Secretary will give consideration to this issue; do not wait until another thorny case has emerged which has to be tried all the way up to the Court of Final Appeal again with a large amount of money spent before setting out the development and principles in this respect. On the contrary, we can plan ahead by making early preparations and arrangements for legislation regarding this trend. I believe that such an approach matches the overall trend in the other countries. It also fits the matrimonial trend in Hong Kong and the Mainland with regard to the actual needs. I hope the Secretary will consider this proposal.

Thank you, Deputy President.

**DR MARGARET NG** (in Cantonese): Deputy President, actually I seldom speak during the Third Reading, and usually no Member will speak at this point in the Council. However, Mr Paul TSE has just raised a point. As the Bill is to be passed today, it may be the most suitable occasion for members of the public to learn about the relevant legislative amendments.

Mr Paul TSE has just mentioned that the relevant legislative amendments may not be able to help the two parties in litigation, that is, the two parties in the original cases. In fact, we have enquired about this point during our scrutiny of the Bill. Applicants who have already divorced will not be restricted. Even if the relevant case has already been closed, they can still make an application to the court according to the new procedures after the Bill is passed. Deputy President, if I have understood it wrong, I hope the Secretary for Justice will correct me right away because today may be the best time for us to promote this Bill and its effects to members of the public.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Secretary for Justice, do you wish to reply?

**SECRETARY FOR JUSTICE** (in Cantonese): Since the point which Dr Margaret NG has just raised will affect the public, may I confirm here that Dr NG's understanding is correct.

**DEPUTY PRESIDENT** (in Cantonese): If no other Member wishes to speak, I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present.

**CLERK** (in Cantonese): The Matrimonial Proceedings and Property (Amendment) Bill 2010.

## **MEMBERS' MOTIONS**

**DEPUTY PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect.

**DEPUTY PRESIDENT** (in Cantonese): First motion: Report of the Select Committee.

I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debate. The mover of the motion may speak for up to 15 minutes on each occasion for moving the motion, speaking on the amendment and giving reply; the movers of amendments and other Members each may also speak for up to 15 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

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

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

## **REPORT OF THE SELECT COMMITTEE**

**MS LI FUNG-YING** (in Cantonese): Deputy President, in my capacity as Chairman of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (Select Committee), I now move that the motion, as printed on the Agenda, be passed.

On 1 August 2008, New World China Land Limited (NWCL) announced the appointment of Mr LEUNG Chin-man as an Executive Director and Deputy Managing Director of the company. This had aroused widespread public concern. In order to enable people to have a better understanding of the circumstances leading to the incident and address public concern, the Legislative Council passed a resolution on 10 December 2008 to appoint a select committee to inquire into the vetting and approval for Mr LEUNG to take up post-service work with NWCL and other real estate organizations, and whether there was any connection between such work and the major housing or land policies which Mr LEUNG had taken part in their formulation or execution and decisions which he had made pursuant to such policies while serving as Director of Buildings, Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing, that had given rise to any potential or actual conflict of interest, and

based on the results of the above inquiry, to make recommendations on the policies and arrangements governing post-service work of directorate civil servants and other related matters.

The Select Committee has completed its work and a report was submitted to the Legislative Council on 8 December 2010. Throughout its two years' work, the Select Committee had held a total of 90 meetings and 23 public hearings during which evidence was taken from 24 witnesses. The Select Committee had conducted a thorough inquiry into the vetting and approval of Mr LEUNG's applications for post-service work with NWCL, as well as his involvement in the handling of the Hunghom Peninsula Private Sector Participation Scheme (PSPS) development while in government service, given that the project was developed by the subsidiary of NWCL and thus relevant to his application.

(THE PRESIDENT resumed the Chair)

The conclusions of the Select Committee are: Since Mr LEUNG was deeply involved in the Hunghom Peninsula case, and assumed a steering and co-ordinating role in the matter, there is plainly conflict of interest for Mr LEUNG to take up employment with NWCL (a company belonging to the same group of companies as the developer of the Hunghom Peninsula development), and Mr LEUNG's taking up the employment with NWCL was therefore inappropriate. Officials responsible for the vetting and approval of Mr LEUNG's applications had failed to discharge their due responsibilities to assist the Secretary for the Civil Service, Ms Denise YUE to consider Mr LEUNG's application. In the approval of Mr LEUNG's application, Ms YUE had not discharged her role as the final gatekeeper of the Control Regime and protected public interest, resulting in the Government's credibility being damaged and disappointment of the public.

The Select Committee noted that in the course of the execution of their duties and exercise of their powers within the government structure, directorate civil servants make policies and administrative decisions which may in fact be to the interest of some sectors or organizations. While there is nothing against the

senior recruitment of civil servants leaving the Government by business organizations in a free society, this nonetheless creates a situation in which the public may be concerned about possible conflict of interest, particularly the concern that a directorate civil servant may so exercise his powers and functions while in government service as to pave his way for post-service employment in a related sector or organization, or may unilaterally do something in the hope that he may stand a better chance of getting some lucrative post-service employment with these organizations or sectors. Such acts or hopes would affect the public's confidence in his impartiality in the performance of his public duties. Conversely, business organizations which benefited as a result of the policy or administrative decision made by directorate civil servants may offer employment to the officers concerned after they left the Government, and this may influence serving directorate civil servants as an encouragement. The Select Committee considered it necessary for the Government to adopt effective policies and measures to safeguard public interests and prevent civil servants from taking up inappropriate post-service employment, so as to address public concern. While the Select Committee agreed that directorate civil servants should not be deprived of their right to take up post-service work such that they can make contribution to the community with their expertise, it was of the view that safeguarding the public interest is the cornerstone of the Control Regime. While an appropriate balance has to be struck between the protection of the public interest and protection of the individual's right to work, the Select Committee was firmly of the view that the protection of the public interest must take precedence at all times.

Evidences obtained in the inquiry showed that there are inadequacies in the existing Control Regime, and the Select Committee Report has made 23 recommendations on improvements. Regarding the length of the control period, the Select Committee suggested that the control period for directorate civil servants should be extended to four years for D4 to D7 officers and five years for D8 officers. The purpose of such an extension is to reduce the possibility of conflict of interest, thereby strengthening the protection of the public interest. Since the case of Mr LEUNG Chin-man has aroused public suspicion about the involvement of deferred benefit in the appointment, the Select Committee thus included this as a factor for consideration in assessing post-service work applications. The Select Committee suggested that officials should adopt standardized practices when processing and vetting applications. It is therefore

necessary for the authorities to provide clear guidelines to ensure that they fulfil their responsibilities, and to assist them in assessing applications and making sound judgment.

The Select Committee suggested that before submitting an application for post-service work, directorate civil servants should provide the information as required in the application form and disclose possible conflict of interest involved in his application, and to assess and evaluate his application for post-service work against the assessment criteria set out in the relevant Civil Service Bureau circulars in a frank and honest manner. Furthermore, the relevant Civil Service Bureau circulars should specify the good conduct expected of civil servants in respect of their taking up of post-service work, as stated in the Civil Servants' Guide to Good Practices. In order to enable greater public scrutiny, the Select Committee suggested that the Government should extend the coverage of the public register to include all approved cases of D1 to D8 directorate civil servants, and the register be made accessible to the public on the Government website.

The Select Committee considered that the Advisory Committee on Post-service Employment of Civil Servants (ACPE) is the only external assessment body under the Control Regime, responsible for advising the Secretary for the Civil Service on post-service work applications. The Government should consider reforming the role of the ACPE by expanding its functions and enhancing its independence, as well as improving its operation by, *inter alia*, holding regular meetings to consider applications, and enhancing the transparency of the ACPE's operation.

The Select Committee also urged the Government to carefully consider the various recommendations, and hoped that active responses would be made. Furthermore, in the course of the inquiry, members had expressed concern about the control over the taking up of post-service work by directorate civil servants on grounds other than retirement and over post-office employment of politically appointed officials. The Select Committee urged the Government to conduct reviews on these two matters, and recommended that the Legislative Council should follow up the issues in question.

Last of all, on behalf of the Select Committee, I would like to extend my special gratitude to the Legislative Council Secretariat for their assistance and

support to the Select Committee. Their strenuous efforts and professionalism had enabled the smooth completion of our work. Also, gratitude should be extended to witnesses who had attended the hearings and people who had provided us with information.

President, next, I will express some of my personal opinions.

After the Report was released, I noticed mixed reactions from the community. Some senior officers associations were unhappy about the proposal of the Report to extend the control period for directorate civil servants leaving the Government on retirement. They considered that this would seriously undermine the morale of civil servants, and they had even considered seeking a judicial review. On the other hand, some junior officers associations complained that no punishments have been imposed on civil servants who have made mistakes in the incident, which is obviously a double standard when compared to the imposition of punishment on junior officers committing minor mistakes. There were also public views that the Independent Commission Against Corruption (ICAC) should inquire into the incident and the Secretary for the Civil Service should assume her responsibility by stepping down.

I respect these divergent views. As I had pointed out in my speech when I moved a motion in this Council for the appointment of this Select Committee in December 2008, "..... it is not my intention in taking part in the Select Committee's work to make a senior official step down ..... The terms of reference of the Select Committee only cover making recommendations based on the results of the inquiry on the policies and arrangements governing post-service work of directorate civil servants and other related matters." My attitude has not changed.

Regarding the concerns expressed by civil servants on the recommendations of the Report, as stated in the Report, I respect the right of directorate civil servants to work after their civil service career. Nonetheless, this right must be subject to the public interest not being compromised, and that the protection of the public interest must take precedence at all times. I understand that some civil servants opine that the professional grade, though also belongs to senior civil servants, is only required to provide professional services for the Government and is completely different from the Administrative Officer grade which formulates policies. Even if there is a need to tighten the control



over the applications of senior officers for post-service work, broad-brush approach should not be adopted. I agree that the control of post-service work of civil servants should be flexible, such that different considerations can be made to professional grades, whose job nature can be identified more easily. However, for posts which cannot be clearly distinguished, the benefit of doubts should go to the public interest.

In the course of the Select Committee's inquiry, I had a strong feeling that the established procedure is a mere formality. Officials are only concerned about defending people within their small social network, but not safeguarding the top-priority public interest which the procedures serve to protect. The manipulation of procedures and officials shielding each other is a tumor easily formed under a self-vetting mechanism. To prevent the formation of this tumor, there must be a monitoring system which is genuinely independent of the self-vetting mechanism. The ACPE should play this important role, but to our great regret, not only has it failed to perform its functions, it has even become a lubricant of the tumor of officials shielding one another. In this case, it can be said that the reaction of the ACPE is more or less the same as that of the approving officials concerned.

In my opinion, how the ACPE performs the function of monitoring the approval of applications in a practicable and independent manner is of vital importance. This is actually a key factor guarding against the recurrence of similar incidents in future. I eagerly hope that the Government will reform the composition and operation of the ACPE, and widely consult public views on the basis of the Select Committee's recommendations.

President, last of all, there are two points that I must mention. Firstly, I am very glad that the inquiry of the Select Committee has led to two witnesses seeking judicial review. This Council has successfully withstood the Court's challenge by invoking the Legislative Council (Power and Privileges) Ordinance, thereby building an even more solid foundation for the Council to exercise such power. Secondly, Mr LEUNG Chin-man has published a seven-page article in response to the Select Committee's Report. I have no intention to refute his arguments here. Nonetheless, in the concluding part of his article, he has compared himself to a renowned poet Mr AI Qing by quoting the second half of section 11 of "*Shi Ren Lun*", which reads "Life should be loved as the process is overwhelmingly bumpy and frustrating". In my opinion, however, the first half

of this section — "The old world is eyed as it is full of frauds, dissension and persecution" — is a better description of the present situation.

With these remarks, President, please support the motion. Thank you.

**Ms LI Fung-ying moved the following motion: (Translation)**

"That this Council endorses the Report of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man."

**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): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will call upon Mr CHEUNG Man-kwong to speak first, to be followed by Ms Audrey EU, Mr Albert CHAN and Mr Ronny TONG respectively; but no amendments are to be moved at this stage.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, the Legislative Council has inquired into the incident of the highly paid employment of Mr LEUNG Chin-man, former Permanent Secretary for Housing, Planning and Lands (Housing), by Henry CHENG's New World China Land Limited (NWCL). The Report touches on the honesty and integrity of civil servants in public administration; it touches on the possibility of an infiltration of transfer of benefits through collusion between the Government and business into the establishment of senior officials; it touches on a new mode of corruption in the form of deferred benefits for retired senior officials; it touches on a collective dereliction of duty on the part of accountable officials and Heads of Grade as gatekeepers; it touches on the weak and inadequate disciplinary mechanism for accountable officials; it touches on the double standard applied to the post-service employment of accountable Directors of Bureaux and senior officials, and it also touches on the misgiving of whether the Independent Commission Against

Corruption should inquire into LEUNG Chin-man's alleged abuse of power for personal gains. The Report has attracted waves of responses, and as members of the public and the media are resentful, the Legislative Council must therefore make a fair response.

The Report of the Legislative Council, having 440 pages in total, is carefully worded and endorsed paragraph by paragraph, and a very important conclusion has been drawn: The employment of Mr LEUNG Chin-man has aroused public suspicion of whether he had acted impartially in the disposal of the Hunghom Peninsula development, and even public suspicion of the possibility of reward from the New World group of companies in return for the favour Mr LEUNG had done for the developer in the Hunghom Peninsula case. Having regard to the steering and co-ordinating role of Mr LEUNG in the Hunghom Peninsula case, the exceedingly low lease modification premium in the eyes of the public, the circumstances surrounding Mr LEUNG's employment with NWCL (including the possibility that the post was tailor made for Mr LEUNG), as well as the intricate connections among Dr Henry CHENG, Mr Stewart LEUNG, Mr CHUNG Kwok-cheong and Mr LEUNG Chin-man as mentioned above, the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man agreed with the view expressed by Mr Michael SUEN at the hearing that, there were grounds for the public suspicion that Mr LEUNG Chin-man's taking up of the employment with NWCL was a deferred benefit related to the Hunghom Peninsula case. The Select Committee considered that there was conflict of interest in Mr LEUNG Chin-man's taking up of employment with NWCL, and it was inappropriate for Mr LEUNG to accept the appointment.

The conclusion of the Legislative Council Report is really a very candid one. LEUNG Chin-man has seriously betrayed the code of ethics for senior officials. The ICAC should consider the evidence obtained from the Legislative Council hearings to see if there is room for criminal investigation, with a view to examining if LEUNG Chin-man's behaviour is a "misconduct in public office", handling the case in accordance with law, as well as plugging the corruption black hole of deferred benefit.

On the day when the Report was delivered, LEUNG Chin-man fought back by publishing a statement. In his lengthy and strongly-worded statement, he criticized that the Legislative Council Report is purely politically motivated, and Members have racked their brains to persecute him and fabricate charges against

him. Despite such words, he decided not to seek judicial review. LEUNG Chin-man said, "Given my weak force, I can no longer fight against this powerful group alone. After all, genuine statesman can hardly be found in this world, whereas politicians and suppression of justice are common. No one can change this." The message of LEUNG Chin-man is loud and clear: he uses political censorship to smear the criticisms of the Legislative Council, and contemplates to end the scandal by giving up judicial review.

However, the story should not end here. In his application for a job at NWCL, LEUNG Chin-man had not only withheld his co-ordinating role in selling the Hunghom Peninsula at low price, but also his contacts and relations with Henry CHENG and Stewart LEUNG of New World Development Company Limited (NWDCL). His evidences were contradictory and have brought the Civil Service into disrepute. Even if he quoted from the poet AI Qing, he could in no way get free. On the contrary, what he did would only arouse public resentment. Frankly speaking, this is a report compiled by different political parties and groupings of the Legislative Council, the hearings are open to the public and the conclusions are written in black and white. Justice lies in people's hearts. How would there be any political motives in the name of all Members to prosecute, after 113 meetings, and fabricate charges against LEUNG Chin-man as well as Henry CHENG and Stewart LEUNG of NWDCL?

Honestly speaking, the Legislative Council can no longer tolerate deferred benefits involving post-service employment of senior officials. During the colonial era, Hong Kong advocated the policy of offering competitive salaries to ensure a clean Civil Service, under which civil servants, especially senior officials, were offered attractive remuneration packages and retirement benefits. To be fair, Hong Kong people have treated senior officials pretty well. Looking back at the 13 years after the reunification, while former officials like Stephen FISHER, LEE Ming-kwai and Gordon SIU had left the Civil Service clean-handed, and they worked as volunteers; many others such as LI Kwan-ha, HUI Ki-on, TSANG Yam-pui, CHUNG Lai-kwok and Rafael HUI Si-yan had become CEOs soon after they left the Civil Service. With their remaining bureaucratic authority, all of them have turned themselves into icons of consortia. They might feel happy, but hatred grew in people's hearts. People wonder if the offering of competitive salaries to ensure a clean Civil Service is a beautiful but outdated fairy tale.

What LEUNG Chin-man has done was much blatant, unscrupulous and impudent than his predecessors. How can we turn a blind eye to this case and allow him to be so flippant? And yet, what people feel genuinely regretful is that the Report has exposed the Achilles' heel of the Government: The mechanism to inquire into the post-service employment of senior officials has completely collapsed in handling the case of the arrogant LEUNG Chin-man. Although it was audacious for LEUNG to apply for NWCL's job, his application had been approved after scrutiny by the Transport and Housing Bureau, the Development Bureau, the Head of the Administrative Officer Grade Management, as well as the supposedly independent Advisory Committee on Post-service Employment of Civil Servants (ACPE) led by Justice PANG Kin-kee; and it had even passed the different levels of scrutiny of the Civil Service Bureau led by Denise YUE. It seems that nearly all officials had suffered from "memory loss about the Hunghom Peninsula case", and had therefore approved the conditional employment of LEUNG Chin-man with NWCL. If LEUNG Chin-man's withholding of information relating to his co-ordinating role in the disposal of the Hunghom Peninsula development and his relations with NWCDL's boss is likened to driving without a licence, it would mean that the red traffic lights at Lower Albert Road were all out of order. The oversights and omissions were unimaginably queer.

The collective errors of government officials and the ineffective monitoring system not only constituent the collective negligence of officials, it also demonstrates their failure to gauge public sentiments. They were unaware of the widespread public suspicion and deep-rooted resentment towards collusion between the Government and the business sector, the transfer of benefits and deferred benefits. During the past 13 years after the reunification, people saw how the Government disposed land and public assets at exceptionally low price in various development projects, such as the Island Resort, Cyberport, Grand Promenade, Park Island and Hunghom Peninsula. There were tricky deals in all these projects and huge profits were reaped. While estate developers have, by force or trickery, reaped substantial profits by raising property prices, the general public has to spend the rest of their life paying property instalments, as affected by the numerous tangible and intangible transfers of benefits. Seeing senior officials being employed by estate developers in a high-profile fashion upon retirement, the public is even more antagonized. As officials are paid by the people, they should share people's worries. We have reason to request officials

at all levels to perform their gate-keeping role, and eliminate all irregularities and possible corruptions.

There is plainly a dereliction of duty on the part of the team of senior officials led by Denise YUE. The vetting and approval procedures were lousy and members of the public were disappointed. The Legislative Council Report accused Denise YUE of committing "a grave error of judgment", and there were strong public demand that she should step down. During the eight years since the implementation of the accountability system, three officials had stepped down: In 2003, the former Financial Secretary Antony LEUNG was accused of "jumping the gun" in buying a car before the introduction of tax increase, thus calling into question his personal interest and integrity. In 2003, the former Secretary for Security Mrs Regina IP's mishandling of the legislation of Article 23 of the Basic Law had led 500 000 people taking to the street to call for her resignation. Furthermore, in 2007, the grave error made by the former Secretary for Health, Welfare and Food Dr YEOH Eng-kiong in the fight against SARS had resulted in the death of 299 Hong Kong people. The families of the deceased thus demanded his stepping down.

Although the mistake made by Denise YUE was not as serious as those of Antony LEUNG, Regina IP and YEOH Eng-kiong, and her fault did not involve any personal interest; and although it was an error of judgment made collectively by officials, it was also a personal fault; and although the error is not serious enough to demand her stepping down; Denise YUE should, being a principal official under the accountability system, be subject to more stringent disciplinary actions than those imposed on other Heads of Grade who had made mistakes. As the repeated apologies of Denise YUE still cannot allay public resentment, I have proposed an amendment on behalf of the Democratic Party.

Furthermore, apart from Denise YUE, five other Heads of Grade would also be subject to disciplinary actions for the errors committed. There are eight different types of disciplinary actions, namely warning, reprimand, reprimand plus financial penalty, severe reprimand, severe reprimand plus financial penalty, reduction in rank, compulsory retirement or dismissal. If an accountable Director of Bureau leading a team of civil servants can easily get off by a mere apology, members of the public will definitely not be convinced; nor can this properly reflect the severity of the error. What is more, if the disciplinary action imposed on Denise YUE is unfair or not heavier than other officials in question,

she will not be able to maintain the discipline of civil servants in future. Therefore, the Democratic Party will follow up on this matter to ensure that today's motion will be squarely dealt with.

The Democratic Party would also like to point out, as there are different degree of seriousness of errors, the existing accountability system having only the disciplinary action of resignation, is indeed too simple and differs greatly with that of the civil service system. Rectifications should be made by increasing the types of disciplinary actions. Therefore, the second amendment proposed by the Democratic Party is to review the disciplinary mechanism under the accountability system to deal with errors of different degree of seriousness. The Democratic Party fully supports the conclusion of the Select Committee. The reason for proposing these two amendments is that those points have not been touched on in the Legislative Council Report. The fact that the amendments are proposed by me but not LEE Wing-tat just reflects the supplementary views of the Democratic Party after reading the Report.

The major drawback of the Report is that it fails — it utterly fails — to eliminate the provision of deferred benefits to senior officials. If a senior official makes use of his residue power to offer substantial benefits to consortia before leaving the Civil Service in return for a high-paid job after his leaving the Government, may I ask what the Government would do to monitor the situation or stop this from happening? What if the deferred benefit does not take the form of high-paid jobs, but huge benefits for his family and relatives, how can the ICAC bring them to justice? Although the Report recommends an extension of the sanitization and control period for the taking up of post-service work by senior officials, the benefits will eventually go into their pockets, only at a later time. All they need to do is to be patient and meet the sanitization requirement. If this is the case, is the ICAC incapable of doing anything?

The provision of deferred benefits to senior officials has become more prevalent in the aftermath of the colonial rule, and this had dealt a serious blow to the clean politics which Hong Kong has been proud of. The policy of offering competitive salaries to ensure a clean Civil Service has become a myth. Even though senior officials receive high salaries or attractive retirement benefits paid by taxpayers, the remuneration package can in no way be compared to the handsome deferred benefits. LEUNG Chin-man said he would pursue his ideal till the end of time, but people doubted if he had actually made a good fortune

after leaving the Civil Service. Just as Sir CHUNG Sze-yuen has described, the highest level of corruption is the provision of deferred benefits to senior officials. Subject to our power, the Legislative Council cannot conduct criminal investigation. But how can the ICAC neglect this corruption black hole of deferred benefit? It should make good use of the offence of "misconduct in public office" to eliminate the incidence of abusing powers for personal gains, combat corruption and eliminate deferred benefits, thereby upholding a clean Civil Service with a view to building a corruption-free Hong Kong.

With these remarks, President, I propose my amendment.

(Mrs Regina IP rose)

**PRESIDENT** (in Cantonese): Mrs Regina IP, do you have any question?

**MRS REGINA IP** (in Cantonese): President, in the speech made by Mr CHEUNG Man-kwong earlier, he mentioned my name when he said that many senior officials had stepped down as a result of incidences involving personal interests. May I ask him to elucidate, what kind of personal interest was I involved in my leaving the Civil Service?

**MR CHEUNG MAN-KWONG** (in Cantonese): President, what I mean is that three officials had stepped down. Regarding personal interest, Mrs Regina IP had not been involved. I ask for her understanding if there is any misunderstanding.

**MS AUDREY EU** (in Cantonese): First of all, I have to thank Ms LI Fung-ying, Chairman of the Select Committee and other colleagues who have joined the Select Committee. President, when this motion is put to vote later, the Civic Party will absolutely vote for the original motion and we respect all the conclusions set out in the Report. President, the fact that I propose an amendment does not mean that I do not respect the original motion or the Report. There is nonetheless a genuine need to follow up on the problems raised in the conclusion of the Report.



President, I guess colleagues who are going to give a speech later, especially Members from the Democratic Alliance for the Betterment and Progress of Hong Kong, may, as reported in the press, probably query why the amendments were not proposed by members of the Select Committee and that the issues highlighted by me should have been dealt with in the Report. First of all, Members joined the Select Committee in their own capacity, not as a representative of the party. They are thus not obliged to and should not disclose details of the discussions to other Members, as most of the information is confidential. And yet, this is not the major reason. The most important reason is that the Select Committee report usually requires a consensus of seven members of the Committee, and this is a minimal requirement. A report can only be published with the consent of seven members of the Committee.

Very often, however, Members from different political parties and groupings may take different follow-up actions in respect of the conclusion of the Report. For this purpose, I have read through the previous motions and amendments related to various select committees. Regarding the report on the short-piling incident in 2003, the original motion moved at that time intended to request the Council to endorse the report of the select committee concerned. There were also a number of amendments, which include urging the Council to condemn the former Secretary for Housing Mr Dominic WONG Shing-wah and the former Director of Housing Mr John Anthony MILLER, and demanding the imposition of punishment on them. The original motion and the amendments were endorsed.

There was another select committee report on SARS in 2004. The original motion moved by Mr LAW Chi-kwong was endorsed at that time, Dr YEUNG Sum's amendment which urged the Council to condemn the then Director of Health Dr Margaret CHAN FUNG Fu-chun was also endorsed. Although the condemnation motion was endorsed, no follow-up action had been taken by the Government to take disciplinary action against Dr Margaret CHAN FUNG Fu-chun.

I mention these information to prove that there are precedents in the Legislative Council that amendments can be proposed to a motion which seeks to endorse a select committee report, and such amendment can get the support of other Members. This is in no way a disrespect to the reports of the select committee. Furthermore, upon release of the reports, members of the public and

interested parties would very often demand follow-up actions. Even civil servant associations have made some responses this time. Therefore, we as Members are obliged to propose some follow-up amendments.

This Select Committee Report and the LEUNG Chin-man incident have highlighted three major problems. First of all, as Ms LI Fung-ying has said earlier on, senior officials who seek post-service employment must be subject to a vetting and approval system. However, as evident in the LEUNG Chin-man incident, it seems that the system only exists in name. According to Ms LI Fung-ying, the relevant procedure is a mere formality with officials defending each other; a tumor has been formed, and the system has actually become a lubricant for the tumor.

In fact, we are very surprised that, just as Mr CHEUNG Man-kwong said in his speech earlier, the senior officials concerned have all suffered from "collective memory loss about the Hunghom Peninsula case". In the Report, a number of officials were criticized for their serious omissions and oversights in the different rounds of vetting. They were perfunctory and failed to discharge their responsibilities. There was plainly a dereliction of duty on their part and this is regrettable.

The public was taken aback to see that the numerous officials involved in that layered system had different understanding of the procedures, and there were different ways to apply the six assessment criteria. While some people said that the period under investigation should be the last three years of government service, other people said that it should be the last six years. Surprisingly, the most objective view came from the Works Branch as two officials from that Branch had raised a public perception alert in case the application was approved. On the contrary, there was a collective dereliction of duty on the part of the departments having sufficient information at that time. This is plainly an institutional problem which must be reviewed, and this point is covered under Mr CHEUNG Man-kwong's amendment.

Another major problem is that the accountability system fails to be accountable. When reports of the two abovementioned select committees were released, the accountability system had yet to be introduced. However, accountable officials are involved in the LEUNG Chin-man incident. Many people queried why punishments have not been imposed on the official in question under the accountability system. Certainly, the person we are referring

to is Secretary Denise YUE, who has apologized on a number of occasions. She had apologized as soon as the inquiry began, and time and again thereafter. Nonetheless, a recent public opinion poll indicated that 60% of the respondents considered that just apology was not enough. A pretty interesting point to me was that nearly 40% of the respondents called on Secretary Denise YUE to step down. As a matter of fact, this reflects that the public opines that the whole incident has failed to realize the spirit of accountability. The civil service system is comprised of different layers. If any staff makes a mistake, he would receive a warning letter or some negative comments would be made in his record, which may have negative impact on his promotion, or subject him to a possible salary reduction. As evident in the case of Mike ROWSE, specific punishments or penalties could be imposed. And yet, under the accountability system, apart from apology, the alternative move is to step down.

If the seriousness of the event does not warrant stepping down, what else should be done to realize the spirit of accountability? This is the question asked by many people. Even those whom I know to be politically apathetic and consider the performance of government officials acceptable would ask: Why is there an absence of punishment for serious dereliction of duty or grave errors under the accountability system? When Mr Ronny TONG speaks later, he will discuss the review in this regard. This is a problem highlighted by the LEUNG Chin-man incident.

The third issue is even more serious, and Mr CHEUNG Man-kwong has also briefly touched on this point in his speech. It is the issue of deferred benefit as stated in paragraph 8.88 of the Report. President, I think I have to read it out: "Having regard to the steering and co-ordinating role of Mr LEUNG in the Hunghom Peninsula case, the lease modification premium which was considered to be too low by the public" — the premium here refers to the premium of the Hunghom Peninsula development — "the circumstances surrounding Mr LEUNG's employment with New World China Land Limited (NWCL) (including the possibility of the creation of the post in NWCL for Mr LEUNG), as well as the intricate connections among Dr Henry CHENG, Mr Stewart LEUNG, Mr CHUNG Kwok-cheong and Mr LEUNG Chin-man set out above, the Select Committee agrees with the view expressed by Mr Michael SUEN at the hearing that there were grounds for the public suspicion that Mr LEUNG Chin-man's taking up of the employment with NWCL was a deferred benefit related to the Hunghom Peninsula case."

This is the query raised by members of the public and this Council. In his earlier speech, Mr CHEUNG Man-kwong said that even if the Select Committee is vested with certain investigation powers, the investigation conducted cannot be as thorough as those conducted by the police or the Independent Commission Against Corruption (ICAC), especially when the issue of premium is involved. We consider it necessary for the Government to follow up on the matter. If the authorities consider that the premium of the Hunghom Peninsula development is reasonable, it would be obliged to give an explanation; otherwise, people would have reason to believe that the "ludicrous" or exceptionally low premium received by the Government for the Hunghom Peninsula development is actually a seed sown by Mr LEUNG Chin-man when he acted as a co-ordinator of the matter, such that he could get a deferred benefit or reward after leaving the Government.

When Dr Margaret NG speaks later, she will talk about a very important issue, and that is the possibility of senior officials in taking up of post-service employment in private sector, which offers a remuneration package far better than what they used to receive as civil servants. What measures should be taken by the Government to safeguard and ensure a clean Civil Service, so that civil servants taking up post-service employment with giant consortia would not arouse public suspicion that this is a deferred reward?

President, I wish to read out the book, entitled *Land and the Ruling Class in Hong Kong* written by Ms Alice POON, which has been mentioned by Members lately. It reads, "Decisions on the allocation and restriction of land supply, plot ratio of developments and land premium only rest with a few government officials, and there is a lack of transparency. It seems that the Government has not learnt a lesson from the LEUNG Chin-man incident as directorate civil servants can still look for post-service employment which has direct conflict of interest. Yet, the Advisory Committee on Post-service Employment of Civil Servants has no binding force at all. Officials who know how to 'tailor their acts' can, upon retirement, receive pension payments as well as high salaries from the consortia in a high-profile fashion."

In additional, in *My Generation of Hong Kongers* written by Mr CHEN Guanzhong, it is mentioned that (I quote): "The recognition of the government comes from Beijing and a small group of people dominated by major consortia. It will naturally tilt towards the Beijing bureaucrats ruling Hong Kong and the consortia. The incumbent Hong Kong senior officials and smart people of my

generation will certainly not impede the behind-the-scene control of the ruling Beijing bureaucrats and consortia over the Government. All along, consortia and sovereign state bureaucracy have been very influential. Their influence after 1997 is only a continuation. And yet, it should be noted that the Chief Executive of the Special Administrative Region appears to be less independent than the London-appointed Governor. Collusion under capitalism has therefore been aggravated."

The purpose of quoting from these two writers, paragraph 8.88 of the Report and the remarks of Mr CHEUNG Man-kwong is to highlight the impact of the real estate sector on Hong Kong people's daily life. Even those who do not own any property but have rented a place for business are affected by the high land price policy. If a senior official responsible for formulating land policies made a under-the-table decision to enable the giant consortia to reap billions of profits, so that he can, upon leaving the Civil Service, work for these consortia even after a lapse of three to four years, what can the Government do to deal with this kind of situation? What can members of the public do? This is a question that has to be handled seriously. We cannot just dismiss the case by saying that there is a lack of evidence. If there is evidence, it will be a case of corruption; it is the absence of evidence that has tied our hands, therefore dealing a serious blow to the credibility of the Government.

For this reason, I propose this amendment today. We are of the view that Mr LEUNG Chin-man is actually the culprit. The Select Committee Report has mentioned about his integrity. In his application form for post-service work, he had filled in "Introduced by a family friend" for the question regarding the offer of the job, which is downright a lie. According to the facts disclosed by the Select Committee, it was Dr Henry CHENG who approached him in person. Mr LEUNG Chin-man had not mentioned the Hunghom Peninsula development in his application; and when he was asked about it, he said that he was very surprised as he thought the whole Government should have learnt about it and he was therefore not obliged to make any declaration. What is more, in the initial hearings conducted by the Select Committee, he had also played down his role in the Hunghom Peninsula case. Against this background, we are of the view that the Government should consider taking proper punitive actions and inquire into Mr LEUNG Chin-man. This is the only way to prevent any further damage to the credibility of the Government caused by this incident.

I therefore propose this amendment and hope that Members will, like what they did in the past, support the taking of punitive actions against the culprit of this incident — Mr LEUNG Chin-man. Justice may also be returned to him if the findings prove that he is innocent. Thank you, President.

**MR ALBERT CHAN** (in Cantonese): President, first of all, I have to thank the Select Committee led by Ms LI Fung-ying for what it did over the past two years. A few days ago, Ms LI told me that the Select Committee had conducted 98 meetings to deal with the matter. In my opinion, the Report is comprehensive, thorough, accurate and convincing. It has basically given us a clear understanding of the circumstances leading to the incident, as well as a concrete description of the processes, circumstances and reasons for the appointment of LEUNG Chin-man. After the Report was released, people have explicitly expressed their resentment through various opinion polls and phone-in radio programmes, and their demands and aspirations seem to be in stark contrast to the recommendations of the Select Committee and, in particular, to the stance of Members in this Chamber.

Let us take a look at the comments and views arising from this Report. President, I am going to read out an article entitled "The existence of a giant corrupted ring in the SAR Government" written by NG Chi-sum. In the first paragraph, it says that: "After reading the inquiry report of the LEUNG Chin-man incident, a foreigner who is not familiar with Hong Kong might think that there is a well-established corrupted ring in the SAR Government. This ring, comprising senior civil servants and accountable officials, has an extensive, penetrating and deep-rooted network; people inside the ring will cover up for each other and collaborate together to send, by legitimate means, their former colleagues into the major consortia to secure high-paid jobs, so that they can make a fortune in their golden years. If they let go these former senior officials today, they will hopefully receive the same treatment in future. If a person does not act properly and impede others' pursuit of a fortune, they will probably be treated in the same way in future. Just as the saying goes: "As my body turns to dust today, so will yours in the future".

President, I think many Hong Kong people share the view of NG Chi-sum. The Government led by Donald TSANG is indeed a bureaucratic authority, it is a party comprising former civil servants and in particular, administrative officers.

The governance and policy formulation of the whole government is manipulated by the Directors of Bureaux and Permanent Secretaries.

The series of problems highlighted in the Report have fully reflected LEUNG Chin-man's total disregard of the due responsibility and integrity required of civil servants, and the public's expectation of senior officials. While he was serving in the Civil Service, he was arrogant, having great ambition but little talent. When he was the Director of Buildings, he once mentioned that he intended to handle the million cases of unauthorized structures in five years. Later, it was proved that these were just empty words. Furthermore, his handling of The Link REIT incident when he was the Permanent Secretary for Housing, Planning and Lands (Housing) had also aroused great public resentment. Madam LO alone had caused him a lot of trouble. Yet, no one would have thought that he would cause such great trouble to the entire Government upon his retirement, which is more disastrous than the time when he was still in service.

The Report pointed out specifically that in the course of inquiry, it is found that LEUNG Chin-man did not give all information relevant to his application in a frank and honest manner. This clearly revealed that it was his deliberate act to shirk responsibility by withholding some relevant information. The Select Committee, on the other hand, has accurately, comprehensively and thoroughly uncovered facts about the incident and the relevant processes. Certainly, no one involved in the incident was willing to openly admit or describe the underlying cause. Therefore, the League of Social Democrats calls on the Independent Commission Against Corruption (ICAC) to conduct a fresh investigation, just as I have proposed in my amendment. Soon after LEUNG Chin-man was employed by New World, I led a group of people to the ICAC to lodge a formal complaint. Before the Report was released, the ICAC gave me a reply, saying that there was no concrete evidence indicating possible corruption, and the case was therefore closed. However, after reading this Report, just as a number of Members have said, the case actually involves deferred rewards. There was an obvious intention of getting deferred rewards. His employment with New World is plainly a special appointment as no open recruitment has ever been conducted for the post concerned, neither did the company recruit a replacement after the departure of LEUNG Chin-man. Obviously, there is a special underlying reason for this unique arrangement. The Report has provided sufficient material, facts and information to be investigated into by the ICAC. I hope that investigation

would be conducted, whether prosecution can be instituted in the end is not a matter of concern. If the case actually involves corruption or deferred benefits, I hope that truth can be revealed and justice can be done.

President, in my amendment, I demand the resignation of Denise YUE. Although my request has failed to solicit the support of Members in this Chamber, I am pleased to see that in an opinion poll, 40% of the respondents support such a request. Some Members said that the mistake made by Denise YUE is not very serious, and is not comparable to the three officials who had to resign due to their wrong-doings. Let us take a look at the Report, which pointed out that Denise YUE had made a number of mistakes. I shall classify them into seven sins: First of all, there is a grave error of judgment. Secondly, there is an obvious gap between her assessment of the case and public views, showing that she had failed to grasp public sentiments and she did not understand public expectations and concerns. Thirdly, she failed to discharge her role as the final gatekeeper of the Control Regime. Fourthly, she had not given priority to the protection of the public interest. Fifthly, she had not upheld the approval criteria of the Control Regime. Sixthly, she and other officials, or I should say officials under her leadership had suffered from collective memory loss. Seventhly, she has damaged the Government's credibility.

President, the background and facts of these seven sins have been clearly set out in the Report. She has damaged the credibility of the Government, she has failed to discharge her due responsibilities and she suffered from a collective memory loss, all these are grave errors. Being an accountable official, and one of the top leading officials of the three Secretaries of Departments and 12 Directors of Bureaux, she had committed a series of errors. In the past, some civil servants were forced to resign, yet their errors were not as serious as hers. Later, I will give some examples for Members' consideration.

Some people said that since she had not received any benefit, she did not deliberately make such mistakes. During the SARS outbreak, although Dr YEOH Eng-kiong had done his very best to deal with the situation, he still had to assume political responsibility by stepping down because of his staff's work — I must highlight the misconduct of CHAN FUNG Fu-chun. The efforts made by him at that time were definitely greater than that of Denise YUE in vetting the relevant application. In the end, however, he had to assume political responsibility under the objective circumstances and the dereliction of duty on the



part of other Heads of Department. This is precisely the fundamental principle and spirit of the political accountability system. Accountable officials are obliged to assume political responsibility, take the blame and resign.

President, let me give you nine cases in which foreign officials took the blame and resigned. On 29 June 2009, Argentina's health minister Graciela OCANA resigned amid a dengue outbreak in the country. On 27 November 2009, Germany's labour minister Josef JUNG resigned for a NATO airstrike in Afghanistan which killed dozens of civilians when he was the defense minister. He stepped down because of an incident which happened when he was in another minister post. On 11 March 2010, Taiwan's justice minister WANG Ching-feng resigned for her article against death penalty had led to social controversy. On 7 September 2010, South Korea's foreign minister YU Myung-hwan resigned for the Foreign Ministry's employment of his daughter with high pay. On 7 June 2007, Taiwan's foreign minister resigned to assume responsibility for Costa Rica's cutting ties with the Republic of China. On 25 August 2007, Japan's female defense minister resigned to assume responsibility over an information leak scandal concerning the Japan Maritime Self-Defence Force. On 13 March 2008, Taiwan's finance minister resigned after accompanying legislators to barge into the campaign headquarters of HSIEH Chang-ting, which had adversely affected public perception and thereby weakening the support of the MA-SIEW pair. On 25 November 2010, South Korea's defense minister resigned following public criticism of the 13-minute delay in military response to the artillery barrage of North Korea. On 11 December 2010, Scotland's transport minister resigned because of the travel chaos caused by the winter cold snap.

President, let us look again at the cases of resignations by foreign officials. Many of them resigned not because of their own faults, but because of the faults of their subordinates. Some of them resigned due to the objective circumstances or the need to assume political responsibility. We cannot say that she should not resign on the ground that she is talented, or that she has maintained amicable relations with other legislators and political parties, or that she is a brilliant administrative officer who is irreplaceable. This is not a matter related to personal network or an individual person. Rather, it concerns with the principle and spirit of the accountability system. How can we say that she is irreplaceable because she had performed so well? Does it mean that she need not resign? Do we still need the accountability system? As an accountable official, she should assume responsibility for her mistakes and resign. The Select Committee

Report has already clearly set out the numerous mistakes made by her, not just one or two mistakes, but a series of mistakes. What is more, it is not the fault of one person, the large number of administrative officers under her leadership have suffered from collective memory loss. For a government with so many administrative officers suffering from collective memory loss, it leads to a serious credibility problem. Should junior officials also suffer from collective memory loss, they would probably be fired. Later, I can cite some relevant examples for Members' information. All civil servants involved were dismissed, reflecting that under the leadership of Denise YUE, the existing system is fattening the top and trimming the bottom, and the standards are lax at the top but stringent at the bottom. While top officials are subject to lax standards, junior staff may be deprived of their pensions if they make mistakes. What kind of system is this? Will the 160 000 civil servants be convinced? Will the 7 million Hong Kong residents be convinced? In Hong Kong, many front-line staff have been sacked by their boss for minor mistakes. How about the senior accountable official who has committed seven sins? She simply got away by making apologies twice. She may later announce donating a portion of her salary to charity funds, can she do so? Does she think that her donation can win people's hearts? It is not a matter of money, but responsibility and institution. Regardless of how capable or outstanding she is, she has to resign for this incident.

Just now, I mentioned the example of Taiwan's justice minister WANG Ching-feng, who is a renowned talented woman with great capability. She resigned because her article had aroused public controversy. The mistake made by Denise YUE is 10 or a hundred times more serious than that of WANG Ching-feng. In the nine examples cited by me earlier, the mistake involved in any one of them is less serious than that of Denise YUE. What kind of system is that in Hong Kong? What is meant by accountability in this context?

I have recently provided assistance to a group of police officers who have been dismissed or forced into early retirement. They gathered together to take joint actions. In the course of proceedings, many of them were unfairly treated as they were not allowed to engage lawyers. As reflected in some recent precedents, some officers had missed the period for initiating legal action, while some were accused of imprudent financial management, resulting in the Government's credibility being damaged, hence they were forced to resign and to retire early. In some cases, officers have to file for bankruptcy or restructuring of their debts as the properties which they or their families bought have become negative assets due to the financial tsunami. Although some officers had

already cleared their debts, they were still required to attend disciplinary hearings. In the end, they were either dismissed or forced into early retirement.

In the past, I have received many cases concerning junior civil servants and the investigation of one case has lasted as long as two years. I had also relayed the case to the then Secretary responsible for civil service matters, alleging that the relevant investigation had dragged on for two years until the subject officer retired. Finally, it was found that the subject officer did not need to undertake any liabilities.

In conclusion, the whole accountability system will exist only in name and completely collapse if Denise YUE does not resign.

**MR RONNY TONG** (in Cantonese): I believe some people, including our colleagues and definitely both Mr LEUNG Chin-man and Secretary Denise YUE, may think that the focus of our discussion today is either Mr LEUNG or Secretary Denise YUE. President, I do not think so. In my opinion, the focus of our discussion today is a syndrome relating to the quality of governance. While some people may call it a "government-business collusion syndrome", some may call it an "abuse of power for personal gains syndrome". To me, however, these names are too negative. I prefer using a more neutral name called the "LEUNG Chin-man syndrome". Why would I call it the "LEUNG Chin-man syndrome"? Because this is probably the first time a discussion is held at the Legislative Council on someone having obvious symptoms of this syndrome.

Just now, a colleague Mr Albert CHAN said that a doctor should be dismissed if he fails to diagnose the symptoms. President, I do not .....

(Mr Albert CHAN rose)

**PRESIDENT** (in Cantonese): Mr TONG, please hold on. Mr CHAN, do you have any question?

**MR ALBERT CHAN** (in Cantonese): President, I said no such phrase or remarks.

**MR RONNY TONG** (in Cantonese): President, he has certainly said so. This is a "bei2 lai6"<sup>1</sup>. In his amendment, Mr CHAN demanded the resignation of Secretary Denise YU, so I use this "bei2 lai6", I hope that Mr CHAN would understand the purpose of my using "bei2 lai6" ..... (*Some Members pointed out that it should be "bei2 yju6"*) ..... a metaphor. President, if a doctor fails to detect the symptoms, obviously he has not done his job well. Under the accountability system, he should be penalized, especially when there is a genuine need to demonstrate to Hong Kong people the spirit of accountability. As regards whether the penalty should be suspension of duty, suspension of salary, or other ways, I am not going to make comments, neither do I agree with the punitive action suggested by Mr Albert CHAN. As this is not the focus of my speech, I do not wish to spend too much time on this.

Turning back to the "LEUNG Chin-man syndrome" mentioned by me earlier, some people think that the syndrome is attributable to the characteristics of the Chinese people, which is, unfortunately, true. When officials are empowered to carry out supervision and when they have the power to be in absolute control, they might have this idea in mind: if today I treat you well, someday when I retire, I hope you will be nice to me in return. President, people who can gain benefit would definitely endorse this mentality, but this might involve criminal liability. Even if no criminal liability is involved, the presence of such a mentality among officials is definitely detrimental, as this will have direct implication on the quality of governance. What is most frightening about this syndrome is that it is incurable. It can be prevented but not cured. As it may take years to diagnose the syndrome, nothing can be done by that time the syndrome is detected. We cannot rebuild the Hunghom Peninsula, neither can the Grand Promenade be demolished and rebuilt. Even if he is reprimanded or penalized today, can the loss incurred by Hong Kong people in these projects be compensated? Is their loss measurable? How can they be compensated? President, I think compensation is almost out of the question

The second characteristic of this syndrome is that it is highly contagious. Not only are civil servants susceptible to this syndrome, so are the accountable officials and Hong Kong people. Any one who is taking up the top management position and with such a mentality would think that he need not abide by the

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<sup>1</sup> "bei2 lai6" (比例) in Cantonese means proportion, "bei2 jyu6" (比喻) in Cantonese means a metaphor, the Member has mixed up the two.

rules, and by treating his counterpart well, he can eventually be rewarded. This is actually a symptom of the syndrome.

President, as I have said, this syndrome is incurable but it can only be prevented. Thus, prevention is of paramount importance. The best way of prevention is to avoid officials from having the idea that by treating someone well today, one will be rewarded some other day. This is a very bad governance culture. How can we change this culture? I think the best way is to minimize the incidence of the syndrome. What shall we do then? Limitations should be imposed on the system, so that even if people have such a mentality, they cannot achieve their aim. As a matter of fact, many people have actually grasped this prevention method long ago, the so-called accountability system has thus been established; similarly, relevant provisions have also been laid down in the relevant civil service laws.

Recently, while we were discussing the inquiry report, Mr Ronald ARCULLI, a member of the Executive Council and Chairman of the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Review Committee) had proposed a similar preventive method. According to the proposal, if there is absolutely no chance of getting deferred rewards, officials would not have contacted the "LEUNG Chin-man syndrome" during their governance. Whether such a preventive measure is adequate depends on the public perception of the severity of the syndrome. Some people may find it a very common syndrome, just like a flu which is not serious at all, and can be cured in one year. But is this true?

Another point which I have mentioned earlier is that the syndrome is not unique to civil servants. Accountable officials are also vulnerable to this syndrome. Is there some sort of imbalance in the existing system? For an official who is about to leave the Civil Service, the existing preventive measure is the imposition of a four-year sanitization period. However, if he is appointed by the Chief Executive to serve as an accountable official for a term of five years, he will not be subject to the four-year sanitization period. He might at most be required to comply with the one-year sanitization period prescribed by the Chief Executive before taking up the job.

Insofar as accountable officials are concerned, is this system sufficient to prevent the possibility of contracting the abovementioned "LEUNG Chin-man

syndrome"? First of all, I doubt the accuracy of this remark. Secondly, I find it extremely unfair to civil servants. How come they are subject to stricter limitations than those government officials who are at a much higher rank? This is a question of simple logic. If the community thinks that the "LEUNG Chin-man syndrome" is serious and has great implications, we should review the sanitization period of accountable officials to see if there is a need to put it on a par with civil servants.

President, in mentioning the existing accountability system, I have all along refused to admit that the system has been truly recognized by us, because a genuine accountability system should be like the ones illustrated in the examples cited by Mr Albert CHAN earlier. The present accountability system was invented during the TUNG Chee-hwa era, and was inherited and recognized by Donald TSANG. The most special feature about this accountability system is that officials are accountable to the Chief Executive but not to the electors. Neither is the Chief Executive accountable to his electors. Thus, there is no well-established and highly transparent system to tell us what penalty should be imposed when an accountable official makes a mistake. No one knows what the Chief Executive would do.

If the Chief Executive is in a good mood, he might think that the official at fault only needs to make an apology. Yet, when he learns from the press the following day about the great public resentment, he might think that the official should step down. The method of handling the incident has not been institutionalized, and hence the practice is inclined to become rule by man. I think we should rely on the system but not personal preference. In this connection, I hope that colleagues would agree with the general thinking of Hong Kong people. All officials, either accountable officials or senior officials, are obliged to perform a holy duty in the face of Hong Kong people, and that is, to be fair in performing their governance duty, to be clean-hand and efficient. If their performance is not up to the standard, they should be condemned by Hong Kong people. There should not be any difference in the requirements of accountable officials and civil servants in this regard.

The Chief Executive once explained why a one-year sanitization period was set. As he had to recruit most accountable officials from the private sector, these officials were at first reluctant to enter join the governing team and they only accepted the offer after his repeated persuasion, hence he had to be held

responsible for the post-office employment arrangement of these people. President, these are specious remarks. Is it a shame to become an accountable official? Not only are these officials highly paid, they may also win high reputation and have ample room for development upon retirement. It is therefore very natural and logical to require them to respond to public aspirations by declaring that they will not get the "LEUNG Chin-man syndrome". I do not think this demand is too unreasonable and stringent. Against this background, I think the problem does not lie in the willingness of accountable officials to do so, but the responsibility of the Chief Executive to revisit the matter. He should consider if there is a need for the accountability-deficient Government to improve its officials' immunity, so that the public will be convinced that fortunately after this incident, the "LEUNG Chin-man syndrome" can be contained.

President, I hope that colleagues will think about what I have said from this perspective. I am not asking colleagues to support me because I belong to the pan-democratic camp, or because they have good feeling about the Civic Party or Ronny TONG. This is absolutely not the case. And yet, even colleagues in the pro-government camp should think carefully how the quality of governance in Hong Kong can be further enhanced and what can be done to prevent the recurrence of similar incidents. As I have said earlier, the worst thing about these incidents is that some things are irreversible. Thus, we can only do our very best to prevent any recurrences.

President, LIU Xiaobo said he hoped that he would be the last victim of literary inquisition. Here, I would also like to say that I hope LEUNG Chin-man will be the last patient to contract the "LEUNG Chin-man syndrome". Thank you, President.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I do not wish to speak now.

**MR LEE WING-TAT** (in Cantonese): President, the Select Committee has spent much time and effort in preparing this Report. Now that both the Chief Secretary for Administration and the Secretary are here, I hope they can read through the whole Report. I have thought of giving an induction course on the Report because many Honourable colleagues have said they could not finish

reading the some 400-page Report. This morning, I held an induction course for Members of the Democratic Party. Having been guided through the Report, they now understand what has happened.

President, being the Deputy Chairman of the Select Committee, I would only raise several points today. First, I hope the Chief Secretary for Administration and the Secretary can read through the Report and take actions to implement our recommendations expeditiously. The recommendations were arrived at after meticulous debate amongst the 12 Members of the Select Committee. I trust that they represent a consensus across different political parties and groupings. I also hope that after this incident, the whole system would be buttressed and improved.

President, the second point I would like to raise concerns the core values of the entire Civil Service, or the so-called value of "nurturing a clean and honest Civil Service with an attractive remuneration". I have said more than once that even though the remuneration of Directors of Bureaux and Permanent Secretaries can be up to \$200,000 a month, which is so much more than that of Members of the Legislative Council, we do not mind; because if they can do their jobs well and benefit the several million people of Hong Kong, their salaries will just be a small sum if shared out among several million people. But we have to bear in mind, Directors of Bureaux and senior civil servants have the great responsibility of representing the integrity of the entire government system and earning the respect of the people.

We always say, "A person who lacks trustworthiness is good for nothing." It is the same with a government. It will be extremely difficult, if not impossible, for a government which lacks trustworthiness or does not have the respect of the people to implement any policies. When I say the value of "nurturing a clean and honest Civil Service with an attractive remuneration" has been impacted upon, I have my reasons. I would like to quote from paragraph 9.8 of the Report. I must read out the entire paragraph so that it will be recorded in the Hansard. I quote, "The Select Committee believes that overall, our civil servants have great integrity and are dedicated to their duties. The Select Committee notes that in the course of the execution of their duties and exercise of their powers within the Government structure directorate civil servants make policies and administrative decisions which may in fact be to the interest of some sectors or organizations. At the same time, civil servants



leaving the Government are among the targets of senior recruitment for business organizations. While there is nothing against this practice in a free society, this nevertheless creates a situation in which the public may be concerned about possible conflict of interest, particularly the concern that a directorate civil servant may so exercise his powers and functions while in government service as to pave his way for post-service employment in a related sector or organization. The concern is not confined to the situation where an unlawful agreement or actual transaction exists between the civil servant and the organization, whether or not such agreements or transaction can be substantiated. The real possibility of the directorate civil servant unilaterally doing something in the hope that he may stand a better chance of getting some lucrative post-service employment with these organizations or sectors is enough to affect the public's confidence in his impartiality in the performance of his public duties. Conversely, business organizations which benefited as a result of the policy or administrative decision made by directorate civil servants may offer employment to the officers concerned after they left the Government, and this may influence serving directorate civil servants as an encouragement. In these circumstances, the public will be worried about the presence of a conflict of interest. Public confidence in the good administration where powers are exercised with fairness and impartiality by the directorate civil servant concerned will be undermined and the credibility of the Government will suffer, if proper measures are not put in place to deal with these concerns effectively. The Select Committee considers it necessary for the Government to adopt effective policies and measures which will prevent civil servants from taking up inappropriate post-service employment, so as to address the public's concern." (End of quote)

President, this long paragraph describes the grave challenge currently faced by the entire rank of directorate civil servants. We all know that the hands of the real estate sector can reach very far. Of course, we have not counted how many senior or directorate civil servants who had worked in the government departments responsible for lands, buildings, planning, engineering or housing matters have taken up post-service employment in the real estate sector. The real estate sector is very smart. The ex-civil servants are not necessarily hired as employees for they can be retained as consultants. According to past records, there are many precedents, including the employment of Mr LEE Kwan-ha by Cheung Kong Holdings; the employment of TSANG Yam-pui (the Chief Executive's younger brother), Adolf HSU Hsung, Bowen LEUNG Po-wing and LEUNG Chin-man by New World Development; the employment of Elaine

CHUNG by Henderson Land; the employment of John CHAN Cho-chak and Rafael HUI Si-yan by Sun Hung Kai Properties; and the employment of YEUNG Kai-yin by Sino Land. President, the list is indeed very long. Why do real estate developers like to employ retired senior civil servants? According to the Select Committee's inquiry, real estate developers like their network. In fact, this situation is mentioned in the paragraph that I just read out. The offer of employment could serve as a hint for officers working in these departments that if they intend to get another job after retirement, they must, in the capacity as civil servants, be "smart" when dealing with work related to real estate developers and make the so-called "favourable" decisions.

President, we notice that in the past five or 10 years, many scandals in the eyes of the public are related to property development projects, such as the Hung Hom Peninsula, the Grand Promenade and 39 Conduit Road, as well as the recent case of 1881 Heritage (former Marine Police Headquarters in Tsim Sha Tsui) or the earlier case of Cyberport. Each scandal perceived by the public is related to the real estate sector. Why? Because real estate developers are powerful and wealthy and they know that by recruiting these former senior civil servants, they can tap on the professional knowledge of these former civil servants in making applications or formulating policies; gain access to the information acquired by these former civil servants during their service, as well as benefit from their networks. That explains why the real estate sector has employed ex-civil servants with attractive remuneration.

President, I would like to raise another point. The Government's performance in handling this matter has undermined its prestige and credibility, and the accountability system for principal officials has also come under further query. Last Thursday, the Chief Executive made a comment after a function, he said that he knew the current application system had inadequacies. President, "inadequacies" imply nothing serious, is that so? Regarding what is meant by "inadequacies", I am not eloquent in speaking Cantonese, and this can be taken as an inadequacy. Yet, the Chief Executive had responded to such a serious report with just one word: "inadequacies", this is really disheartening. By defending the mistakes made by his subordinates with an unreasonable excuse, the Chief Executive is not helping his subordinates. Instead, his subordinates will be under more public criticisms. The public would think that the whole event is just a formality, that the government officials are shielding one another and that "the penal statutes do not go up to high-ranking officers".

I will not repeat the examples cited by Honourable colleagues earlier. Although I do not agree that the Secretary should resign — I will give my explanations later — I consider that a mere apology cannot adequately reflect her mistakes. Yes, the system has not given many choices to the accountable officials and civil servants concerned, but self-executing sanction can also be an option. In addition, for the many civil servants including various deputy directors and permanent secretaries whom we have severely criticized, will the Government and the Bureau open files for their investigation? Will disciplinary proceedings be instituted against these officers to investigate whether any sanctions should be imposed? If this time, government officials ranging from the Chief Executive to the Secretary only responded by saying to the public, "Sorry, we are very sorry", I really do not know how the Chief Secretary for Administration and the Secretary think of the accountability system? Will the accountability system become a system of no accountability? Will this system become an even greater laughing stock in the so-called "vogue word" community? I hope the Secretary, the Chief Secretary for Administration and the Chief Executive can do some serious self-reflection.

Thirdly, I would like to say, after seeing how senior civil servants had performed at the hearings, I have, for the first time, serious doubts about their integrity and ability. During the hearings, I noticed that many senior civil servants had given similar answers. While all of them said they had little recollection about the Hunghom Peninsula case, almost every member of the general public remembers the incident. How come there is such a great gap between the perceptions of these civil servants (especially the senior ones who are elite Administrative Officers) and the ordinary citizens? To date, I still have no evidence to prove that these civil servants had "plotted together" in telling the Select Committee that they had forgotten about the Hunghom Peninsula incident. But, President, even if you ask me the same question for the hundredth times, I still would not understand why there is such a big difference in perception and practice between the top elites of the Civil Service and ordinary citizens? Are we being stupid or are the senior civil servants being numbed in their thinking? I am really at a loss, President.

Fourthly, in our government system, apart from the important role played by executive departments, there are also several hundred advisory committees to solicit public opinion. President, I am disheartened to say that some advisory committees are corrupted. I have previously mentioned to some civil servants

whom I have known for a long time, "You appoint people who hold the same view as the Government to serve in these advisory committees, I, LEE Wing-tat, cannot raise opposing views. What good is this for you? What good is this for the Government?" Of the 10 or 12 members serving in each advisory committee, every one will sing praises for the Government and every one is a "yes" man.

During the colonial times, I was appointed by Sir David ARKES-JONES as a member of the Housing Authority. I told him right in the beginning, "I don't toe the government line." And, he replied, "This is exactly why I have selected you as a member of the Housing Authority. Of the 20-plus members, at least one person will say something different." More than 10 years have passed and I cannot say all the advisory committees are the same. But as we can see, some advisory committees have only convened one meeting even though more than 300 applications were received. In handling more than 300 applications, it has only convened one meeting in six years. The applications were handled according to routine procedures, no questions have been raised and the decisions were made according to the information provided by civil servants. I would like to ask, is this the kind of advisory committee that the Chief Secretary for Administration and the Secretary would like to have? Yes, for some advisory committees, they may feel at ease because they are in absolute control of powers; but when some incidents occur, the great deviation from public opinions can be revealed.

President, lastly, I would like to respond to the criticisms made by Mr LEUNG Chin-man and Dr Henry CHENG on the Report of the Select Committee. Actually, I do not want to make any excessive or lengthy response because justice really lies in the people's heart. This Select Committee is the second one I joined. Later, I will apply to the Democratic Party for lifetime exemption from similar duty because it is an extremely arduous task. It is not easy for the 12 members of the Select Committee to come to these conclusions. That is why I really do not want to respond to the claims made by Mr LEUNG and Dr CHENG that our conclusions are political, black-box operations, and so on. I can only say that the Government must carefully review and improve the current regime so that the system of "nurturing a clean and honest civil service with an attractive remuneration" can be sustained in Hong Kong. Thank you, President.

**MR ANDREW LEUNG** (in Cantonese): Last week, the Legislative Council Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Select Committee) released its Report on the case involving Mr LEUNG joining New World Development after retirement. The incident has aroused grave public concern because an honest and efficient Civil Service has always been a factor of success that Hong Kong is proud of. Given that Mr LEUNG Chin-man had, as an ex-senior civil servant, once served as the former Permanent Secretary for Housing, Planning and Lands and the Director of Housing, his employment with New World China Land Limited (NWCL) would indeed arouse public suspicion about his involvement in any conflict of interest, deferred reward or deferred benefit in return. The Select Committee criticized Mr LEUNG as deliberately withholding the facts relating to his application for employment with NWCL, whereas Mr LEUNG considered that he could accept the employment with NWCL without the need to avoid public suspicion of conflict of interest. I concur with paragraph 9.14 of the Report of the Select Committee which says, "..... Mr LEUNG had not fulfilled his responsibility to provide, in a frank and honest manner, all relevant information for his application, and had failed to observe the good practices that civil servants are expected to follow when taking up post-service work as set out in the 'Civil Servants' Guide to Good Practices'. Mr LEUNG's conduct was unbecoming of a former senior official and liable to bring the civil service into disrepute."

The Report of the Select Committee has also pinpointed the oversight of the Government. As the head of the Civil Service and the final gatekeeper of the Control Regime, Secretary Denise YUE has been named for criticism, she was reprimanded for failing to give precedence to the protection of the public interest and uphold the approval criteria of the control regime, resulting in the Government's credibility being damaged. However, any person who knows Secretary Denise YUE should have no doubt about her capabilities and consider her a rare and commendable official who is both able and responsible. In a media session held immediately after the release of the Select Committee's Report, Secretary Denise YUE stressed that she was willing to take responsibility for the matter and apologized to the public again. As a principal official under the accountability system, she had made two public apologies and these apologies themselves were already extremely severe punishment. In addition, the Report of the Select Committee has directed some extremely harsh public censure and criticisms against certain government officials involved in the vetting and approval procedure. A heavy lesson should have been learnt by the officials. I

opine that no one should be held personally responsible for the incident as the existing system of vetting and approval is at fault. The SAR Government should expeditiously review the Control Regime so as to plug the loopholes.

Last year, the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Review Committee), which I served as member, had put forward 23 recommendations in relation to the then policy and arrangements governing post-service work for directorate civil servants. One of the recommendations is that a lifetime total ban on directorate civil servants for paid post-service outside work should not be imposed; and a lifetime specific ban on particular types of post-service employment should also not be imposed. Everyone has the right to work and freedom of choice of occupation. In particular, the right to work is recognized under Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Under Article 39 of the Basic Law, it is clearly stipulated that the provisions of ICESCR as applied to Hong Kong shall remain in force and not be restricted unless as prescribed by law. Other provisions of the Basic Law as well as the Hong Kong Bill of Rights have also stipulated that every citizen of Hong Kong (which of course includes retired civil servants) must be given fair treatment. While some people might say that civil servants should not be allowed to take up post-service work because they have retirement benefits, I must point out that retirement benefits are earned by civil servants for their past service to the Government. These benefits are not a form of compensation for deprivation of their right to engage in paid work for life after leaving the Government.

We often say that talents are the most important asset of Hong Kong. That is why we should make good use of our limited human resources by allowing civil servants (including directorate civil servants) to take up post-service work through a vetting and approval mechanism so that they can benefit the society with their experience and expertise. This is in the best interest of the community. If too many restrictions on post-service employment are imposed, it would undermine the Government's ability to attract quality people from the private sector to join the Civil Service and this is not conducive to promoting good governance. As pointed out in the report submitted by the Review Committee last year, the Control Regime of Hong Kong is the most stringent as compared with the seven overseas jurisdictions studied. The length of restrictions in Hong Kong is the longest both in terms of the period of restriction for directorate civil servants and the minimum sanitization period.

For the United States of America, its key concern for post-service employment of former civil servants of the Federal Government is conflict of interest. Controls are put in place to prohibit certain acts by former civil servants, which involve, or may appear to involve, the unfair use of information and contacts obtained during government employment; and to prevent professional lobbying activities by ex-civil servants who may have insider information through their previous work within the Government. But there is no restriction against any ex-civil servants joining private or public organizations. As we can see from the Report of the Select Committee, while the Civil Service Bureau had recommended approval of Mr LEUNG Chin-man's application, standard work restrictions had been imposed together with an additional restriction which prohibited Mr LEUNG from using or disclosing any classified or market sensitive information acquired while he was in government service to the Hong Kong Housing Society. The Report of the Select Committee has directed severe criticisms against Mr LEUNG's integrity and actions, as well as his conduct as a former senior civil servant. These criticisms are indeed very strong allegations against Mr LEUNG.

Regarding the view held by some Honourable Members that punitive action should be taken against Mr LEUNG Chin-man for matters raised in the Report of the Select Committee, I hope these Members can think it through and read the Report of the Select Committee more carefully. Throughout the 400-plus pages of the Report, we cannot find any word or expression suggesting that the Select Committee had concrete and powerful evidence to prove any deferred reward or deferred benefit in return. Although it has been mentioned repeatedly in the Report of the Select Committee that Mr LEUNG had deliberately withheld information and had taken no initiative to make declaration and disclosure (which are all strictly improper actions), it has no evidence to prove any deferred reward. Under the Pensions Ordinance (Cap. 89), unless a retired civil servant is convicted of any offence in connection with the public service under the Government and the said offence has been gravely injurious to the Government; or any offence under the Prevention of Bribery Ordinance (Cap. 201) and the said offence is related to his public service under the Government; or treason under the Crimes Ordinance (Cap. 200), he is still entitled to his retirement benefits.

Therefore, I do not agree with the amendment proposed by Ms Audrey EU because the rule of law is the cornerstone of Hong Kong's success. We cannot request the Chief Executive to impose punitive action against Mr LEUNG

Chin-man on account of the perception of grave public concern about this incident. Should this happen, it will tantamount to a political trial and this can seriously undermine the judicial independence of Hong Kong.

President, regarding this incident, while there is no precedent to go by, I do not consider the lack of previous examples an excuse for the wrongdoings committed. Hence, I concur with the recommendations set out in the Report of the Select Committee. As Secretary Denise YUE has accepted the views of the Select Committee and acknowledged the existence of inadequacies, I think we should concentrate on how to improve the inadequacies in the current Control Regime so that the future vetting and approval procedure can be fine-tuned while ensuring a balanced consideration for the rights and freedom of civil servants in taking up post-service work.

President, I so submit.

**MR LAU KONG-WAH** (in Cantonese): President, I am one of the members of the Select Committee. After two years of work and more than 100 meetings, I consider the Select Committee has worked seriously and meticulously throughout the entire process. Although sometimes we may have divergent views and arguments on certain issues, such as the choice of wording, say, whether some stronger, weaker or more moderate wordings should be adopted, we have ultimately arrived at these conclusions. Therefore, it is the conclusion reached by representatives of various political parties and groupings. The Select Committee has also forwarded the draft of relevant parts of the Report to the persons concerned for comments. When their comments were returned, members of the Select Committee had reviewed their comments one by one. Therefore, I can bear witness to how meticulous the work of the Select Committee was.

Generally speaking, I consider that the matters laid out in the Report are factual, the comments justified and the recommendations practical. Therefore, I hope the Report will be given due consideration by the Government and I also hope to get due support from Honourable colleagues.

After the Report was released, different reactions have been raised in the community. Some people think that the Report, as so presented, is too lenient as



seemingly there is no call for punitive actions, no body is asked to step down and there are no words of condemnation. Conversely, some people think that the conclusions and recommendations of the Report are too stringent. In particular, some civil servant organizations consider that proposals regarding the control period and the Control Regime may be too stringent. Of course, Mr LEUNG Chin-man's reaction is even more violent and he has raised accusations against the Select Committee. I personally think that all these responses and reactions are understandable. However, as the conclusions in the Report are arrived at after deliberation by, and under the collective wisdom of the whole committee, I consider them appropriate.

President, I wish to express some personal views on the abovementioned aspects, that is, whether the Report is too lenient or too stringent, as well as the response made by Mr LEUNG Chin-man. In fact, for all the facts and comments laid out in the Report, particularly those in relation to the performance of certain officials in the vetting and approval procedure, we had listed and examined the work done by individual officials in each area of work before analysing what mistakes they had made and in what areas they had gone wrong (which is most critical). It is only after this process that we commented on the specific mistakes made by each official. We do not make generalized comments. Personally I consider that every comment differs in terms of severity but all of them are appropriate. In my view, we need not make shocking statements to seek popularity, and we should not make any groundless accusation. Everything must be based on facts, only in this way can our comments be impartial. I think comments made from facts, rather than sensational emotions, are more convincing and illuminating.

President, is the Report too stringent, particularly its recommendations about the control period? Actually, most members of the general public may not understand what sanitization period, control period, and so on, are all about. Former senior civil servants are subject to two kinds of control on post-service employment. Firstly, there is the requirement of sanitization period during which no employment is allowed. Regarding this requirement, the Select Committee has not proposed any changes after giving due consideration on the individual's right to work. Secondly, there is the requirement of control period. During the control period, these ex-civil servants are not prohibited from taking up employment and hence, their right to work is not restricted, but they must submit applications for approval if they intend to take up employment during the

several years of the control period. If no conflict is found after the vetting and approval procedure, they would be allowed to take up employment. As such, there is no confusion about the issue of employment period. In our conclusion, we recommended that the control period be extended from the original two years to four years for D4 to D7 directorate civil servants; and be extended from the original three years to five years for D8 directorate civil servants. Of course, it means that the duration of the control periods would be extended. However, if we look at the case of Mr LEUNG Chin-man, under the current Control Regime, it would be absolutely alright for him if he took up employment with New World just a few months later. But even so, if the case is unveiled, it would still create an outrage among the general public. Therefore, I consider it appropriate to extend the control period so that the Civil Service Bureau can thoroughly process and approve the applications. Moreover, the longer the control period, the lesser possibility of transferring benefits and the lowering risk of conflict of interest. I think this is the purpose of extending the control period. I hope civil servants would understand, the public does not prohibit civil servants from taking up post-service employment, they only expect that civil servants would put public interest in the first place.

In the past, the Government used to say that the Control Regime was intended to strike a balance between the protection of an individual's right to work and the protection of public interest. When Secretary Denise YUE attended the hearing of the Select Committee, she said that protection of public interest should take precedence over the right to work. I hope this point, which has been established in our conclusions, can have the understanding of our friends in the Civil Service.

Regarding the responses made by Mr LEUNG Chin-man, while I do not see the need for giving individual comments, I must give a response, or else it might seem that he is absolutely right. President, I think Mr LEUNG Chin-man is currently faced with the problems that he cannot work for a real estate developer; he has to face strong reactions in the community, and he also has to face the accusations listed meticulously by the Legislative Council. Although I can understand his strong reaction, I cannot forgive him because if his complaints were indeed substantiated by facts, he could as well argue his case again. I will give two examples to illustrate the problem.

First, the introducer mentioned by Mr LEUNG was a very critical person. Mr LEUNG must let the vetting and approving officials know who the introducer

was. Actually, the initial introducer, that is, the first person to approach Mr LEUNG Chin-man about the job, was Mr Stewart LEUNG of New World. That was the first contact. Thereafter, another contact was made when the job offer was mentioned during the lunch meeting hosted by Dr Henry CHENG. However, Mr LEUNG Chin-man had identified Mr CHUNG Kwok-cheong as the introducer, yet Mr CHUNG had never played a role in the introduction of the job. Even though Mr CHUNG had attended the lunch meeting, he had already left by the time the job offer was brought up. Therefore, we queried why the *bona fide* introducer was not mentioned in the application form while another person who was not the introducer was identified as such. It was only when Mr LEUNG Chin-man had to fill out the application form that he asked Mr CHUNG Kwok-cheong whether he could be the introducer. That was why Mr CHUNG was identified as the introducer. Therefore, if one said nothing had been withheld, it was not true. If the information had been clearly stated in the application form, the level of vigilance applied by the then vetting and approving government officials might be different.

Another example relates to the statement made by Mr LEUNG Chin-man. He said, "I would never have dreamt that the Civil Service Bureau would only consult my successor but not my former boss who was then supervising my work." Mr LEUNG was referring to Mr Michael SUEN. Mr LEUNG considered that if the authorities had consulted Mr Michael SUEN, the incident would not have happened because he should remember the Hunghom Peninsula incident. He also mentioned that a relevant Civil Service Bureau Circular had been issued to all Directors of Bureaux. But in fact, it was exactly because of this Civil Service Bureau Circular that this kind of vetting and approval work would not be referred to the Directors of Bureaux for follow-up under the existing Control Regime. Having worked as a Permanent Secretary, Mr LEUNG Chin-man should know the situation very well. Therefore, he was twisting the facts again and I find it very regrettable.

President, I think what actually happened was that Mr LEUNG Chin-man had co-ordinated the entire process of bargaining and negotiation with New World China Land Limited in relation to Hunghom Peninsula development, and his taking up of employment with New World through someone of the company as the introducer would, even in the eyes of ordinary citizens, be obviously considered as a conflict of interest.

President, the title of Mr LEUNG Chin-man's statement is "Nothing can change the truth, not even politics." From the examples I just cited, we can clearly see that nobody can shirk his responsibility even if the truth are turned into politics. I think this Report has highlighted three main themes in modern politics, modern public administration and the control of public officers. First, for all public officers, public interest should take precedence and this standard should equally apply, irrespective of whether you are Mr LEUNG or Mr CHAN, a senior official or a grass-roots employee, a Member or a government official. I hope this point can be established from now on. In fact, the so-called balance is never absolute because there are always primary and secondary considerations. I think it would be most important to put public interest first and foremost.

Second, in modern politics, there is also a need to impose suitable checks and balances on people in power. Mr LEUNG Chin-man has named the Legislative Council as a power group. Undeniably, the Legislative Council is indeed an institution with powers, it has the powers to monitor the executive authorities and maintain checks and balances. We are of course a power group. However, senior officials in the executive authorities also form another power group which controls a vast span of public interests and resources. Therefore, suitable checks and balances is a must. The 20-plus recommendations listed in the Report are "blanket" recommendations, covering all aspects, even the application form. We hope the Secretary will expeditiously study our recommendations so that all these practical suggestions can be implemented.

Third, in modern politics, I think public officers are required to have self-discipline and self-awareness. This incident has demonstrated that despite the imposition of any mechanism, regulation or "external" control, it will have no effect if the persons concerned do not have self-awareness and self-discipline. This spirit is raised in paragraph 9.59 of the Report. In fact, this spirit is embodied in the code of practice issued by the Government. Hence, for any public officer, if his public office and private interest have become too intertwined, he should take the initiative to separate the two and he must act with great prudence. As I see it, the response made by Mr LEUNG Chin-man about the Report well indicates his lack of such initiative.

President, lastly, I will briefly respond to the several questions raised in the proposed amendments. Mr CHEUNG Man-kwong suggested that disciplinary actions should be taken immediately. I think when considering the handling of

the officials concerned (irrespective of their ranking), we must follow the established procedure and refrain from making any premature conclusion of imposing disciplinary actions before the relevant proceedings are conducted. Ms Audrey EU suggested that punitive action be taken against Mr LEUNG Chin-man. She should know quite clearly that under the existing legislation, no punitive action will be taken unless criminal liability is involved. As to whether the matter should be referred to the Independent Commission Against Corruption for criminal investigation, it would have been recommended by the Select Committee in its Report if it is possible to do so. Lastly, regarding Mr Albert CHAN's suggestion that Ms Denise YUE should step down, I think the Chief Executive has already made his criticisms publicly.

**MRS REGINA IP** (in Cantonese): President, first of all, I would like to thank Ms LI Fung-ying and other members of the Select Committee for their utmost effort in completing this detailed and thorough Report which enables us to have a deep understanding about the many facts pertaining to the incident about the post-service work of Mr LEUNG Chin-man.

While I concur with the conclusions of this Report, I certainly do not agree that the control period for senior government officials at D4 to D7 and D8 be further extended, because the existing duration of control period are already quite long. It is extremely unfair to these people if the duration is further extended to five or six years which it is tantamount to depriving them of the rights to work. Moreover, as far as this incident is concerned, these civil servants have not made any mistakes; instead it is the case of "the black dog stole but the white dog took the blame" which is extremely unfair. We can see that the problem does not lie with the duration of the control period, but the mistakes made in the vetting and approving of post-service employment applications. For this reason, I oppose this recommendation.

Regarding the incident of Mr LEUNG Chin-man's post-service employment, my views are as follows. For Mr LEUNG himself, ultimately he had neither worked for New World nor made any real benefits. He had also come under severe criticisms from the public and I believe he must be very disturbed by the whole incident. Nonetheless, the fact that he had rushed to work for a real estate developer to earn real "bucks", without considering that he had, on many official occasions, deal with these real estate developers, has indeed

undermined the clean and honest image of the Civil Service, and has caused doubts about his personal integrity. In particular, as he had indeed handled many cases which involve interest, people naturally have doubts about his withholding the truth and about his integrity. Being a former civil servant myself, I found this regrettable. Moreover, he has created a lot of unnecessary trouble for his former colleagues.

However, I do not agree that his pension should be reduced. First, this is not feasible because under the existing Pensions Ordinance, a pension can only be reduced if the officer concerned has been convicted of a criminal offence. Hence, it is not an option available to the Government. Nonetheless, the Government can consider making necessary amendments to the existing Pensions Ordinance so that in addition to criminal conviction, civil servants involved in any other serious incident which affect the reputation of the entire Civil Service will be suitably sanctioned.

Many Honourable colleagues have suggested that suitable disciplinary actions should be taken against those civil servants involved in the handling of the post-service employment application of Mr LEUNG Chin-man. I concur with the suggestion. As pointed out by many civil service organizations, if the mistakes were made by junior civil servants, their supervisors will surely not hesitate in taking disciplinary actions against them.

Just now, many colleagues have drawn a comparison between the present case of Mr LEUNG Chin-man and other cases involving the resignation of senior officials. If compared with the SARS Incident, this incident is of course not as serious because it has not caused the deaths of several hundred people nor the demonstration by several hundred thousand people. But this incident has indeed brought the Civil Service into disrepute. The investigation into this incident (which involves huge amount of time and public expenditure) has exposed many inadequacies in the operation of government departments. Hence, I consider it appropriate that suitable disciplinary actions be taken against those civil servants and even principal officials under the accountability system (Principal Officials) involved in the handling of the post-service employment application of Mr LEUNG Chin-man.

Earlier, many Honourable colleagues, in particular Mr LEE Wing-tat, have questioned why the Administrative Officers — the elites of the Government —

are so insensitive and ignorant about certain issues which might involve potential conflict of interest or deferred benefits. In the handling of Mr LEUNG's post-service employment application, there is a very special situation, that is, the concern that this issue might give rise to a public perception issue was raised by officials of the Works Branch, which is a professional department.

Their comments were very impartial. They pointed out that since Mr LEUNG had not served in the Works Branch, they barely know about him and they did not have previous work contact with Mr LEUNG. Hence, they could not comment on his application. Nonetheless, as Mr LEUNG had handled the Hunghom Peninsula development and given his previous duties, his joining New World might give rise to a public perception issue. Therefore, this incident has highlighted a point worth noting, that is, the political sensitivity of the Administrative Officers is not so astute after all, and it was the professional officials who discerned the public perception issue and the potential conflict of interest.

From my personal experience, I note that many officials who have handled such applications might be "cocooned" or detached from outside world because their career paths are too smooth, or they get promoted too quickly, or throughout their career life, they are mostly involved in handling the internal administration of the Government. When they are promoted to the rank of D4, they would be travelling on government cars. When they reach D6, the people they get contact with in their living circle are civil servants or peers of comparable ranking in the Civil Service. Should they take up the more busy jobs of Permanent Secretary or Director of Bureau, they would neither have the time nor the opportunity to even take a ride on a bus or other modes of public transport. Like what they say in western countries, these officials are "living in a bubble", cutting themselves off from the outside world.

In this connection, my attention is drawn to a particular witness, Mrs Sarah KWOK, amongst all the witnesses of government officials attending the hearings to give evidence. Mrs KWOK should have already left the Civil Service. Mrs Sarah KWOK could be said to be one of the most competent and clever Administrative Officers. She is a "prim and proper" Administrative Officer, and according to her, she had not thought of the issue of deferred reward. This reflected the pure-heartedness of Mrs KWOK, it also indicated that for many Administrative Officers, the thoughts of these "sneaky" tricks have never

occurred to them. These officials always sit in the office, handling the files of applications by the method of "in tray to out tray". After seeking the views of all persons concerned, they would sign and approve the application if no objections are raised. This really reflects the inadequacy in the training of Administrative Officers. As they get promoted through the system, they lack experience in the foundation level. Even more so, they are quite ignorant about the "sneaky" tricks of interest collusion in the community. Although I am not familiar with Mrs KWOK, I think her integrity is not to be questioned. As I recall, she is indeed a pure-hearted Administrative Officer. I think Secretary Denise YUE is also a pure-hearted Administrative Officer and hence, the thought of any involvement of "sneaky" business has never occurred to her. I believe Secretary Denise YUE is not a calculated person who harbours any thought of earning real "bucks" after retirement.

Nonetheless, this incident has brought the Government into disrepute and the inquiry has incurred huge public expenditure. I consider that the Government must take some actions in this regard. The Government should take the opportunity to deal with a number of issues. First, regarding the Principal Officials, the Government should establish a system for taking punitive actions. Just now, many Honourable colleagues have mentioned that whenever there is any wrongdoings, and even though it is the fault of a senior civil servant but not a Principal Official, the public expect the Principal Official, apart from making apologies, would also resign to accept responsibility. However, resignation is not necessarily the only option. Between resignation on one end and taking no punitive action on the other, many other options should be available. The Government should, in consideration of various factors, including the degree of seriousness, whether the issue of integrity is involved, whether there is any real interest involved, establish a punitive mechanism for Principal Officials. It would be a more appropriate course of action to take than doing nothing at all such that the responsible Principal Official is eventually forced to resign due to mounting pressures from the public.

Second, the Government should review the different arrangements for post-office employment applicable to Principal Officials and post-service employment applicable to senior civil servants, because the gap between the two is huge. For senior civil servants, the control period may easily be five or six years; whereas for Principal Officials, the control period is just one year. Even for that one year, the work restriction on Principal Officials is similar to the practice in overseas countries where the person concerned is merely not allowed



to lobby the Government on behalf of other persons. The relevant requirement is far from adequate. While I understand the Government's consideration that it will be difficult to attract talents if the control for post-office employment of Principal Officials is too stringent, the present gap is just too large and the Government should review the situation.

Third, the Government should review and consider amending the existing Pensions Ordinance, so that apart from being subject to criminal punishment or convicted of criminal offence, a civil servant whose acts after retirement from service has caused shame to the Government or brought disgrace to the Civil Service can be penalized by the authorities.

Lastly, I would like to talk about the feelings I heard from some retired civil servants. The present consensus is that no one considers Secretary Denise YUE should resign. But many people also opine that both the Secretary, being a Principal Official, and the team handling matters pertaining to the Administrative Officer grade, have acted negligently and carelessly when handling the application in question. Therefore, I have heard about the suggestion that instead of asking Secretary Denise YUE to resign, the Government should consider deducting her salary for three months. It is indeed the suggestion I received from some retired civil servants. While I think it is not something the Government will do, I should present it to the Government for consideration. Thank you, President.

**DR PHILIP WONG** (in Cantonese): President, the Select Committee to inquire into the LEUNG Chin-man incident has submitted its Report of some 400 pages on 8 December. In the Report, severe criticisms have been made against Mr LEUNG Chin-man and a number of responsible officials. I consider the Secretary for the Civil Service, Miss Denise YUE, worthy of support for her willingness to take practical actions and to accept responsibility. I also think that her befitting response will gain the understanding of the public and the Civil Service.

As a member of the Select Committee, I generally concur with the contents of the Report. In addition, I would like to express my personal views on two aspects, which can be of value as reference. I think my views will not digress from the main theme of the Report.

First of all, apart from public interest and personal conduct, I am greatly concerned about the right of re-employment for civil servants after retirement or resignation. This right should be safeguarded, either from the point of view of the persons concerned or the general public.

I have always appreciated and treasured talents in our community. I hope precious human resources can, in compliance with legal requirements, be properly and fully utilized. I stress this point because in recent years, the lack of talents in Hong Kong has created succession problems. I do not want to see people, who are generally recognized for their experience, knowledge and capability, being barred from serving the community with their talents after they have left the Civil Service.

Of course, we must strike a balance between personal interest and public perception. We should safeguard the interest of individuals while ensuring proper gate-keeping so as to prevent any transfer of interests. Due regard should be given to both aspects. Although it is still very difficult to list out all the objective conditions for achieving this balance (such as how to properly regulate the so-called "deferred reward" without creating any demoralizing effect on the Civil Service for fear of aggravating the wastage of civil servants), I think the Report has mentioned a critical point worthy of our attention, namely, the exercise of discretionary powers vested by the Government on responsible officials.

From the time of the British Hong Kong Administration to the present SAR Government, discretionary powers have been vested to certain responsible officials. It is of course a matter of judgment as to whether these discretionary powers have been properly utilized. At the Council meetings held on 15 February and 17 May 2006, I had spoken respectively about the exercise of discretionary powers in connection with the relevant Report of the Public Accounts Committee (PAC). At that time, I said (and I quote), "[T]he PAC does not oppose to the exercise of discretionary power by officials. Instead, the PAC is of the opinion that, when they exercise their discretionary power, they should take all relevant factors into consideration and attach appropriate weightings to such factors. However, there is a voice in society which holds that this motion moved by me will deter future Building Authority from exercising his discretionary power, and will have far-reaching negative impact on land

development. I trust our senior civil servants would not harbour the mentality of 'doing less means erring less'."

As far as I know, discretionary powers are not only conferred upon officials responsible for handling building matters. Many government departments, such as the Immigration Department, are also vested with discretionary powers. The Director of Immigration may exercise his discretionary power to allow or disallow entry of certain persons into the territory without any explanation given. This is something which often happens in Hong Kong and it is a common international practice. To be fair, given that the discretionary powers are conferred by the Government upon certain responsible officials, these officials should not be easily challenged unless there are valid reasons. As I see it, the information they get hold of in the course of discharging their duties, including the information they base on to exercise their discretionary powers in relation to building matters, should be more detailed and professional than that held by other people in the community.

Regarding the exercise of discretionary powers, I think there must be proper justifications for its establishment. Otherwise, it would have been abolished by the SAR Government a long time ago. Why is the mechanism still applicable to date? Why must discretionary powers be conferred to officials? How can the Government suitably adapt the mechanism to meet the need of the times? The SAR Government must explain these matters to the public at an appropriate time so that the community will have a clear understanding about the requirements and relevant guidelines for the exercise of discretionary powers.

Secondly, while I support that the Government must properly handle the vetting and approving of post-service employment of civil servants, I am also worried that the Report would become a "political land mine" because some political powers only focus on certain aspects of the Report. As a result, the morale of the Civil Service may be adversely affected and persons who are originally interested in joining the Government may be deterred.

Actually, even before the Report was published, I have always been concerned about the future development of the Civil Service. During the drafting and consultation of the Basic Law before the reunification of Hong Kong, the society unanimously agreed that the system of Civil Service should be treasured and retained. But now, more than a decade has passed and many

people (including myself) feel that the morale of the Civil Service has seemingly been lowered due to various reasons.

I consider the positive impact of the Civil Service a must for Hong Kong to attain harmonious development, sustain economic prosperity and stability, and achieve greater fairness and justice in society. I do not want to see our civil service team only comprises mundane and passive employees. I hope our civil servants have a clear sense of duty and work with dedication to serve the public. They should also have the determination to overcome difficulties and the ability to face all kinds of challenges, which includes making suitable response against some over-exaggerating and senseless verbal violence hidden with ulterior motives.

If, as a result of this Report, the smooth mobility of the Civil Service is adversely affected, or an unreasonably long sanitization period for civil servants is imposed, or as suggested by some people a total ban on former civil servants taking up private-sector employment is put into practice, I think it would be unfortunate, unfair and inconducive to promoting the overall interest of the community. I hope my worry will not come true. I also hope that the Government will learn its lessons from the LEUNG Chin-man incident and make reference to the experience of other advanced countries and places so that the Civil Service Code and other relevant mechanisms would be reviewed, revised and improved. But at the same time, the Government should also avoid the tendency of over-correction.

President, I so submit.

**MR JAMES TO** (in Cantonese): President, I have here with me an article which made front page news of the *South China Morning Post* on 4 October 1998. At that time, I was already a Member of the Legislative Council. According to this news article, nine of 16 directorate officers of the Lands Department who had left the Civil Service from 1995 to 1998 had joined the private sector in estate management or set up their own consultancies with real estate developers as major clients. According to this article dated 4 October 1998, these nine former senior officers of the Lands Department were namely, Victor LEUNG Lok-yiu who had joined Henderson Land; Tim MILLS who joined Sino Land; former district lands officer LEUNG Kam-leung who joined Henderson; Gordon

ONGLEY who joined Swire Properties; Albert SO Chun-hin who set up a large surveying company providing services to major real estate developers; YEUNG KWOK Sau-fong who joined Larry Tam & Co. Associates with Chueng Kong as major client; and former Deputy Director of Lands MO Chan-ming who set up a surveying consultancy in 1997 to provide service to big real estate developers which of course included KCR and MTR.

Why do I mention this front page news article from the *South China Morning Post* dated 4 October 1998? Because at that time, I had already pointed out that matters related to officials at the Lands Department or any officer responsible for lands matters must be dealt with cautiously. As early as 1995 or 1996, I had asked whether consideration should be given to imposing limitation on post-service employment of these officials. I had considered the matter very thoroughly. As I recall, I had a heated debate with the then Chief Secretary Mrs Anson CHAN in this Chamber on this issue. I pointed out that land premium could amount to billions or trillions of dollars and such large sums were incommensurate with the salary of these officials. Earlier, many Members had cited the view held by the committee chaired by Ronald ARCULLI that these persons should not be restricted to take up employment, that is, they have the right to work. Some even say that pension is not a form of compensation and hence, retired civil servants are not "sold for life" and they should not be barred from taking up further employment. I am sorry but I do not agree with this saying. That is why in the former colonial era, civil servants who came from the United Kingdom would invariably return home upon completion of agreement or retirement. The worst precedent is set by David ARKES-JONES. He is the first senior government official from the United Kingdom who broke all the tradition by staying behind to work in Hong Kong. Of course, you can say that the then officials from the United Kingdom were merely going back to their home country. If he does not do so, he is not "honourable". But we are now talking about local officials, not foreigners. Should the relevant officials be banned for a lifetime to work in the same field? Please note that I only suggest banning them to work in the same field, not a total ban of all employment. In my view, retired civil servants under the Old Pension Scheme should be subject to lifetime restrictions. As for those under the New Pension Scheme, in considering the legal advice that such restriction should not be applied, I would prefer the Government provide a compensation payment so that the relevant officials would be "sold for life". They can take up employment in other fields or undertake voluntary work, but not in the same field as they have undertaken in government

service, particularly those related to land development because the monetary interests involved are just too great.

In the past 15 years, I have raised this issue at least five times in this Chamber. Although I am in my forties, I have been a Member for 20 years. My concern for this issue dated back to 1994. Back then, I was insignificant, and I was not the Chairman of the Democratic Party, but I tried by all means to raise this issue. I have raised this issue at least five times. The following myth, legend or rumour has been circulating in the Lands Department, Buildings Department and the Transport Department: If you are working in one of these departments, just take a look at the companies for which your predecessors are now working and remember the surname of their big bosses. If your work involves any projects of these big bosses, then no matter it is about approval, exemption or calculation of land premium, just get your job "nicely" done and they will remember you. If they make you any promises now, they will be arrested by the Independent Commission Against Corruption (ICAC). However, if you treat them well, they will remember you. I am not saying that the nine officials I mentioned were like that, but the above myth, legend or rumour is spreading widely in these departments and many officials believed in it. If there is no system in place to prevent these situations, we will lose our stronghold and the consequences will be disastrous. Similar incidents will happen again.

Nonetheless, the public is already quite convinced that there is collusion between the Government and business, and many irregularities are involved. The present incident which came to light is but the tip of the iceberg. The problem is the big bosses will become more tactful and clever in future. Instead of employing the relevant officials directly, they will set up a separate consultancy company to employ these officials to provide services for a particular development project. Honestly, as far as the facts of such cases are concerned, I am not as familiar as Mr LEE Wing-tat or Ms LI Fung-ying, the Chairman, and other members of the Select Committee. But I have also read through the Report of the Select Committee once and I have received briefings from some research officers. At present, the facts we have are as follows. When holding a certain official post, Mr LEUNG Chin-man suddenly appointed a good friend of his, a Mr CHUNG, into a committee of the Housing Authority for a term of two years, with no declaration of interest. Mr CHUNG later approached him on behalf of New World to discuss the relevant matters. In this connection, Mr LEUNG had also made several applications in relation to employment as

non-executive director. These employments involved work on a one-off basis. The Report has also listed out a series of cases involving the granting of exemptions and the exercise of discretionary powers. Just now, I heard Dr Philip WONG say that this would in future create difficulty for government officials for fear of arrest by the ICAC. I would like to tell Dr WONG, this is not what the whole thing is about.

All along, the ICAC and other departments involved in anti-corruption work would exercise extreme caution when dealing with cases involving positions taken up by technocrats. But when it comes to a case involving someone whose position is as senior as Mr LEUNG Chin-man, it is really a no-holds-barred situation. Just think about it, who was involved in the negotiation, who made the final decision and who gave instructions to the land officers on how to deal with the cases, the problem is plain to see during the entire hearing process. Hence, notwithstanding the requirements on government officials of different ranking under the Control Regime, if these senior civil servants of the highest ranking are not "sold for life" — pardon me for using the expression "sold for life" — and given adequate compensation, it is neither convincing nor unquestionable that these senior officials have no expectation whatsoever when making decisions or exercising their discretionary powers.

Honestly, I only make this suggestion because I have studied the issue for more than 10 years. I understand the civil servants may say that they are conversant with work in these specific areas and they are only using their professional knowledge in the areas of lands, buildings and transportation to continue service. They have already provided service for several decades, which is quite enough. The people of Hong Kong appreciate their service and hope they will no longer be subject to any suspicion or unwarranted accusation that they have been preparing themselves to help real estate developers.

Lately, we note that a loophole existed in one of the terms and conditions of the relevant tender document for the former Marine Police Headquarters in Tsim Sha Tsui. Who caused this loophole? How many people had noted this loophole? Just imagine, if this loophole was deliberately engineered by a person who was an expert in the field, and he had told someone that by making use of this loophole, the submitted tender would be given favourable consideration in the vetting process. If the situation was really like that, Hong Kong would slowly turn into Mainland China.

Lately, I have heard something hilarious. Some local real estate developers told me that they had great difficulties in acquiring land in the Mainland through auction. They cited an example. Three requirements were specified in the terms and conditions for a piece of land. In making valuation, they had to take into account of these requirements and hence the price was rather conservative. Accordingly, they put up a low tender bid. However, they found out that the bids submitted by Mainland companies were very high, which was quite unreasonable. Later, they found out that these three requirements could in fact be rescinded afterwards. By then, the land value could be much higher than the tender prices submitted by the Mainland companies. The successful bidder would surely make huge profits. When real estate developers in Hong Kong tender for land in the Mainland, they could in no way compete with the locals. They honestly considered that the three requirements were mandatory and could not be rescinded. Yet, it turned out that the situations in the Mainland and Hong Kong were different, and even terms and conditions specified in the tender document could be rescinded.

Sir Gordon WU once said in a newspaper article that during the development process of the Hopewell Centre II project, another real estate developer told him that his project would not be approved by the Town Planning Board; but if the project was sold to this developer, he could resolve the problem. Mr LEE Wing-tat and I thought that as Sir Gordon had made such statement for the first time publicly, he should come to testify. But in response, he had declined and said that he should be left alone. In an interview published in the front page of *Ming Pao*, Sir Gordon openly complained that in the past 20 years or so, his project had been hindered and the Town Planning Board could do nothing about it. Of course, it may be the case that another super real estate had deceived Sir Gordon WU so that he would sell his project at a cheap price, or that major developer could really wield tangible and intangible influence over the Town Planning Board as well as the departments responsible for lands and planning matters. Every senior official knows that if you treat him well, he will remember you. He cannot give you money now, but he will make up for it later on. Just look at how your predecessors are doing and you will know.

I have been saying the same thing for more than a decade and I want to take the opportunity to reiterate my point. Although I am only in my forties, someone may consider me as long-winded as an 80-year old man by repeating myself over and again. However, I honestly believe that should the current system continue, Hong Kong will be getting closer to Mainland China; it would



become increasingly lawless, the hegemony of the property sector would become increasingly dominant, and the public would be further pushed towards the breaking point. From the time of his being a Member of the Legislative Council until now in his incumbent position, the Chief Secretary for Administration, Henry TANG, has been listening to this view of mine about the abovementioned legend and myth. Many people say that the Chief Secretary for Administration may advance further in his career. I really hope he can deal with this matter seriously and we expect him to do more in this regard.

**MR JEFFREY LAM** (in Cantonese): President, after two years of work, the Legislative Council Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Select Committee) has finally published its Report. First of all, I would like to thank colleagues of the Select Committee for their hard work in the past two years. While working under the attention of all fronts and the pressure, the Select Committee had investigated into the incident and compiled its Report. Today, it has finally given its account to the public.

With the discussion and endorsement of this Report by the Legislative Council today, it means that the work of the Select Committee has concluded. Subsequent to the release of the Report last week, different voices have been raised in the community, some people demanded that the relevant persons and officials should be reprimanded and punished, some people demanded that the Government should be held accountable and some people requested the involvement of the Independent Commission Against Corruption in investigation and follow up. Different people certainly have different stands and views about the matter.

When the Select Committee was first established, its objectives and mission had been laid down clearly. As stated in the Report, when adjudicating the judicial review in relation to this inquiry in July, the Court considered that the ultimate purpose of the inquiry was for the Select Committee to come up with recommendations on the policies and arrangements governing post-service work of senior civil servants generally, and the specific case of Mr LEUNG Chin-man was used as a sort of object lesson in order to make the recommendations. It remained an inquiry to be held for the ultimate purpose of making relevant general recommendations to the Government.

Hence, it is clear that even though the Select Committee has set out in its Report certain findings and criticisms in relation to the improper conduct of Mr LEUNG Chin-man or the dereliction of duty on the part of some officials, it would be improper for the Legislative Council to suggest any subsequent punitive actions as follow-up or to conduct any other investigations. Members of the public will certainly have their own judgment according to the content of the Report. As a response, the Government should also conduct its review correspondingly according to the recommendations of the Report.

President, regarding Mr LEUNG Chin-man taking up of employment with New World China, the Select Committee has already made its recommendation in the Report. It considered that there was conflict of interest for Mr LEUNG Chin-man to take up the said employment. Moreover, Mr LEUNG had not provided the relevant information in his application and the incident has affected the reputation of the Civil Service.

Regarding Mr LEUNG's application, it involved the participation of and opinions given by officials from three Policy Bureaux and three different branches. Only officials from the Works Branch of the Development Bureau had considered that Mr LEUNG's application might have a public perception issue and alerted the Civil Service Bureau as such. Nonetheless, no definite objection had been raised about the relevant application. Throughout the entire bottom-up vetting and approving process, various government officials and departments were involved. Although the final approval was given by the Secretary for the Civil Service, Miss Denise YUE, who had admitted her responsibility for oversight and omission in considering the application and apologized to the public, it would be unfair for her to take sole responsibility or step down. The Government should expeditiously respond to the conclusions and recommendations of the Report so as to ease the worries of the public, and review the room for improvement regarding the control on post-service employment of civil servants.

President, I have reservation about the Report's recommendation to extend the control period for directorate civil servants. Article 33 of the Basic Law stipulates that Hong Kong residents shall have freedom of choice of occupation. Hence, it is not appropriate for the Government to impose a total ban on directorate civil servants for taking up post-service employment in the same field as that undertaken previously while in government service. It is also not appropriate to adopt any restriction across-the-board. If a stringent and effective

vetting and approving system is in place, I think it is unlikely that former civil servants can take any advantage when making applications for taking up further employment. Under the existing system, a set of controls (in terms of sanitization period and control period) is imposed on directorate civil servants of different ranking in respect of making applications for post-service employment. Such control is more stringent when compared with those applicable in some overseas countries. For example, in the United Kingdom, civil servants must apply for approval before taking up any outside appointment within two years of leaving Crown employment, but there is no requirement on sanitization period or control period. As for senior civil servants equivalent to the rank of Permanent Secretary, they are only subject to a sanitization period of three months. As for Singapore, civil servants can even take up outside appointment immediately after leaving service. In Hong Kong, the community always says we must learn from the lessons of overseas countries and make reference to their examples. These are examples that we should make reference to.

President, I consider that instead of extending the control period across-the-board, the Government should seek improvements to the existing vetting and approving process. What we do not want to see is that after this incident, officials responsible for vetting and approval would adopt an overkill attitude of "rather killing them wrongly than letting them off". In that case, it will only demoralize the Civil Service, affect their inclination to take up post-service employment and undermine their right to work. In the long-run, it will even discourage the educated talents from joining the Government. I hope the Government will carefully strike a balance when reviewing the current arrangements.

President, the incident relating to post-service employment of Mr LEUNG Chin-man has aroused wide concern in the community. It has also attracted some criticisms against former senior government officials, civil servants and the business sector about transfer of benefits and collusion between business and the Government. But this incident is only an isolated case which shows that there is still room for improvement in the system of post-service employment for retired civil servants. When the system is fine-tuned, it will firstly, allow retired senior officials and ordinary civil servants alike to continue putting their talents to good use for the benefit of the society; and secondly, enhance transparency to meet public expectation on the Government and the Civil Service.

As I see it, the doubts and criticisms on the business sector as created by this incident are only one-sided. After all, most of the businessmen in Hong Kong are law-abiding and working whole-heartedly to promote Hong Kong's economic development. If there are any irregularities, the so-called collusion between business and the Government or conflict of interest, I think the Independent Commission Against Corruption would initiate fair and impartial investigation on the case if there is sufficient evidence. We always say that we should believe in the rule of law of Hong Kong. Then we must well and truly have trust in our rule of law by allowing the relevant parties to investigate into and deal with the case. We cannot immediately tag negative labels onto all businessmen in Hong Kong whenever there is any incident involving the business sector. Otherwise, it will give the public a wrong impression about the business sector. In time, the so-called "anti-business and anti-rich" sentiment will accumulate, which is unfair to the business sector as a whole and conducive to the harmony of the Hong Kong society as a whole.

President, I so submit.

**DR RAYMOND HO** (in Cantonese): President, the Legislative Council Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Select Committee) has published its Report. I would like to thank Ms LI Fung-ying, the Chairman, and other members of the Select Committee for their hard work in the past two years. The Select Committee has thoroughly investigated into the whole incident before drawing a conclusion.

First of all, the Select Committee's investigation has in fact not identified any unequivocal evidence to suggest that benefits in return were involved between Mr LEUNG Chin-man and New World Development Company Limited (NWDCL) in the incident. Nonetheless, the Select Committee had stated in the Report that it agreed with the view expressed by Mr Michael SUEN at the hearing that there were grounds for the public suspicion that Mr LEUNG's taking up of the employment with New World China Land Limited (NWCL) was a deferred benefit related to the Hunghom Peninsula case. This accusation has made on the presumption that when handling the Hunghom Peninsula case, Mr LEUNG Chin-man had already had secret dealings with New World. After Mr LEUNG left government service, New World employed Mr LEUNG in return. As the

accusation is very serious, it must be substantiated by evidence and should not be made simply according to perception.

Mr LEUNG Chin-man had deeply and directly participated in the Hunghom Peninsula case, and he had taken up post-service employment with NWCL. Undoubtedly, the Government has not demonstrated enough sensitivity, which may easily give rise to all sorts of speculation. Of course, the error of judgment committed by Mr LEUNG is very disappointing, but it does not mean that he should accept the serious accusation of being involved in any "deferred reward or benefit in return".

In fact, the dire situation currently faced by Mr LEUNG is mainly caused by the Government's carelessness in vetting and approving his application for post-service employment. As Mr LEUNG intended to take up post-service employment, an application was made to the Government. As such, the relevant authorities should have the responsibility to conduct detailed assessment on his application. In the application form he submitted for taking up post-service employment with NWCL, Mr LEUNG had clearly stated that he would be based in a major city in China. He further stated that NWCL's parent company was NWDCL, but he would not be involved in any way in the business of the parent company. If the Government still considered that it might give rise to public suspicion about conflict of interest, it should have rejected his application. But, of course, given the vast working experience of Mr LEUNG and his deep understanding about the regulations which civil servants should observe, he should absolutely not make this mistake.

Nonetheless, the Government has failed to play the role as the gatekeeper. A number of officials have overlooked Mr LEUNG's role in the Hunghom Peninsula case. Moreover, the Advisory Committee on Post-service Employment of Civil Servants responsible for vetting Mr LEUNG's application had only dealt with his case by circulation of papers instead of in a meeting. This would of course give the public an impression that the application had not been dealt with seriously. As the relevant details have already been set out in the Report of the Select Committee, I will not elaborate any further.

In fact, even with Mr LEUNG's heavy involvement in the Hunghom Peninsula case, it does not mean that he had made all the decisions so that he was in a position to receive deferred benefits in return from the relevant company.

The relevant decisions should have been made with the involvement of other senior government officials through a stringent vetting and approval procedure with control and monitoring at different levels. It was not a case where Mr LEUNG could manipulate arbitrarily.

We may still recall that a few years ago, Mr LEUNG had come under the inquiry of the Public Accounts Committee (PAC) of the Legislative Council in relation to the granting of gross floor area concessions to the developer of the Grand Promenade development. In its conclusion, the PAC expressed grave dismay at Mr LEUNG's decision. Afterwards, the Government-appointed Independent Committee of Inquiry had also made its conclusion on the incident and considered that Mr LEUNG had not breached any legal requirement, and he was acting according to established procedure. We can see that the Government has its own practice and procedure and they are not necessarily the same as what we think subjectively.

President, when Mr LEUNG was in office, he had always adopted an open attitude towards the views expressed by this Council. He could resolve different matters through a flexible approach including the exercise of discretionary powers. He was a capable and relatively open-minded government official. This image is somewhat different from that depicted in the Report of the Select Committee. In fact, Mr LEUNG should have learnt a very heavy lesson from this incident. Many people consider that given his many years of experience in government service, he should not have made the mistake. He should have learnt his lesson in this incident.

The Government should also take the opportunity to learn its lessons and review again the application procedure for post-service employment of civil servants. Moreover, it should also conduct a detailed assessment on the practicality and reliability of the operational flow and process. At the same time, lest we forget, we must not consider the matter one-sidedly so that experienced and capable senior civil servants are barred from re-entering the society after leaving government service. They should be allowed to take up further employment and contribute to the society while they are still fit both mentally and physically. I believe that apart from allowing them to teach in universities or undertake voluntary work to kill time, consideration should be given to letting these precious human resources be engaged in employment in the

community. In this connection, a comprehensive and reasonable control regime should be established. This is what we expect to see.

President, I so submit. Thank you.

**MS MIRIAM LAU** (in Cantonese): President, judging from the controversies created by Mr LEUNG Chin-man's post-service employment, the public is very concerned about whether any conflict of interest or deferred benefit may be involved when retired civil servants take up post-service employment. The Liberal Party considers that the Government must deal with the issue squarely, seriously and carefully.

According to the Report of the Legislative Council Select Committee just released, except for two officers, various government officials headed by Miss Denise YUE, the Secretary for the Civil Service, had suffered from collective "memory loss about the Hunghom Peninsula case" during the vetting and approving process, and they granted permission for LEUNG Chin-man to take up employment with New World China. This really defies all reasoning and fully reflected serious negligence of duty on their part. Hence, under the principle of being fair in meting out rewards or punishments, the Liberal Party supports that punitive actions, which commensurate with the seriousness of mistakes, should be taken against officials who are at fault. Otherwise, it would result in unfairness as civil servants in the middle and lower ranks would have the wrong impression that "the penal statutes do not go up to high-ranking officers", that is, even though senior officials have committed mistakes, they would ultimately be "let off". This is hardly convincing for anyone.

During 10 to 12 December, the Liberal Party had conducted a survey by tone-dialling telephone, randomly polling 367 citizens aged 18 and above. According to the survey, the respondents were split at 40% each for approving and disapproving the Government's stance of not taking any punitive actions after the Report was released and only willing to commit on improving the Control Regime. This shows that the public does not entirely agree with the Government's attempted "cold-treatment" of the matter.

When we asked further questions in the survey, another picture emerged. For example, even though Secretary Denise YUE had made another public

apology for the incident, only 25% of the respondents considered this adequate, while as many as some 65% of the respondents considered this inadequate or highly inadequate. As to the handling of the case, public views were relatively divergent. Out of those who considered it inadequate, over 40% took the view that the Chief Executive should issue a censure statement or warning letter, or that Secretary Denise YUE should propose a salary cut herself. There were also nearly 40% of the respondents who considered that Secretary Denise YUE should accept responsibility and resign. Only about 1% of the respondents considered that no punitive action was necessary. The results clearly show that the public expects some action from the Government instead of turning a blind eye to the mistakes made.

Of course, the Liberal Party also notes that although Secretary Denise YUE had been seriously negligent, she was not involved in any conflict of interest. Moreover, during the hearing process, she had recounted details of the incident truthfully. Hence, she does not deserve to be "guillotined". All in all, a few apologies can, by no means, alleviate the discontent generally felt by the public.

Given the public opinion as such, the Liberal Party considers that the Government should seriously consider the question of punitive action. Actually, for principal officials under the accountability system (Principal Officials) such as Secretary Denise YUE, the Code for Principal Officials under the Accountability System (the Code) drawn up by the Chief Executive's Office has not stipulated any clear provisions on punitive actions to be imposed on Principal Officials for dereliction of duty. However, it is clearly stated in the Twelve-month Report on Implementation of the Accountability System for Principal Officials that, "the Chief Executive will consider all relevant factors, including the long term interests of Hong Kong, the overall circumstances of the case and public sentiments, before deciding whether a politically appointed Principal Official should face criticism, make a public apology or leave office."

As such, the Chief Executive absolutely has the power and responsibility to propose appropriate sanctions on any Director of Bureau who is at fault. In the long run, the Government should take a further step and put down the relevant arrangements specifically in the Code.

Henceforth, I consider that it is not enough for Secretary Denise YUE to just make some ineffectual apologies. Instead, the Chief Executive should come forth and impose certain punitive actions on Secretary Denise YUE, for example,



to issue a censure statement or a warning letter against Miss YUE, or order her to make another public apology to show her sincerity.

As for other senior officials who have not even uttered a single word of "sorry", our survey shows that over 35% of the respondents considered that they should be "demoted" as a form of punishment. Separately, over 42% of the respondents considered that warning letters should be issued by the Civil Service Bureau, or public censure be made by the Chief Executive/top hierarchy of the Government. In fact, under the existing civil service disciplinary mechanism and procedures, the range of punishment that may be imposed after formal disciplinary proceeding includes reprimand, severe reprimand, reduction in rank, compulsory retirement and dismissal. Financial penalty may also be imposed. Therefore, the Government should act in accordance with law to impose suitable sanctions against negligent acts of relevant officials.

President, the Liberal Party must stress that it is not a case of us showing no mercy for government officials once they make a mistake. Instead, we hope the officers concerned can seriously learn from their mistakes and it will have a deterrent effect on others.

Nonetheless, the Liberal Party has reservation about Mr Albert CHAN's proposal that the "ultimate penalty" be imposed on Secretary Denise YUE by demanding her resignation for taking the blame. It is because notwithstanding the severe criticisms made in the Report against a number of officials who are at fault, the Select Committee does not consider the mistake made by Miss YUE the most serious. However, as she had said, being the final gatekeeper, she had the ultimate responsibility. This is what a Principal Official under the accountability system should rightfully do.

Regarding the amendment proposed by Ms Audrey EU urging the Chief Executive to take punitive action against Mr LEUNG Chin-man including the deduction of his pension payment, it is in fact stipulated under the Pension Benefits Ordinance (Cap. 99) that the pension of a retired senior official may only be cancelled, suspended or reduced under several conditions which include the conviction of any offence in connection with the public service under the Government and the said offence has been certified by the Chief Executive to have been gravely injurious to Hong Kong, any offence under the Prevention of Bribery Ordinance or the offence of treason under the Crimes Ordinance.

Actually, the Report of the Select Committee has not set out any concrete evidence pointing to Mr LEUNG Chin-man's involvement of any deferred reward in the incident. Of course, the Liberal Party does not object to the law-enforcement agencies to conduct, if considered warranted, investigations on Mr LEUNG to ascertain whether he had received any deferred reward or committed any other offences. If the case is substantiated, the Liberal Party unequivocally supports that actions be taken against Mr LEUNG Chin-man as punishment including the reduction of his pension. But at this very stage, if we decide to punish Mr LEUNG when the case for his investigation has yet to be established, it will be like he is convicted before trial. I notice that there are suggestions to impose punishment first because if he is proved innocent eventually, he can still be exonerated later on and it will be fine. But we simply cannot agree to this course of action.

President, the LEUNG Chin-man case has been lingering on for two and a half years. As the saying goes, "Past experience, if not forgotten, is a guide for the future." As the wrongdoing has been committed, the community should not just focus on the punitive actions against government officials. Instead, we should look forward and hold more discussions on the 23 recommendations put forward by the Select Committee. In fact, as early as July last year, the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Review Committee) appointed by the Chief Executive has published its report and proposed a series of recommendations. Unfortunately, the authorities have yet to make any concrete response. Therefore, the authorities should expedite its work and study the two reports together so as to identify improvements to the existing vetting and approving mechanism.

First of all, the Liberal Party concurs with the view of the Select Committee in its Report that it is not appropriate to impose a ban on the taking up of post-service work by directorate civil servants across-the-board because it is tantamount to depriving their rights to take up post-service employment and continue making contributions to society. This indeed may overkill.

Regarding the need to extend the control period for directorate civil servants leaving the Government on retirement, the Liberal Party concurs with the recommendations set out in the Report that, for D4 to D8 directorate civil servants, the control periods should be extended for two years across-the-board to four or five years from the original two or three years. Moreover, consideration

should be given to taking their last six years of active government service as the assessment period. Given the consideration of public interest, it is understandable that there should be stringent vetting and approving of applications. But we hope the public will not have the misconception that the opportunity of ordinary civil servants to take up further employment after retirement would be deprived as a result. The said measure is only targeted against senior officials who are involved in the decision-making process or vested with approval authority in development projects, so as to avoid potential conflict of interest or deferred benefits arising from their old and new jobs. The Liberal Party is also against adopting the "once bitten, twice shy" approach so that all applications from retired civil servants for further employment would be rejected outright. We have heard many complaints in this regard and hope this situation would not happen again. We hope the Government would rectify the situation expeditiously.

In fact, a more pressing matter for review is the application of two different restrictions on the same officer. At present, the minimum sanitization period of six months or one year is only applicable to senior officials leaving the Government on normal retirement because of age restriction. But if a civil servant resigns and leaves service, he is not subjected to any minimum sanitization period and only the control period is applicable. The Liberal Party considers that irrespective of whether a directorate civil servant left service on the ground of retirement or voluntary resignation, he would have come across a lot of sensitive information in the course of government service. Hence, there is a big loophole with the present arrangement. The Government must review the situation so as to plug the loophole.

As for Principal Officials who are of even higher rank and with greater authority, there is even more relaxed requirement in relation to their post-office employment as they are only subjected to a one-year control period. Thereafter, even if their future employment is related to the specific area they were responsible for while in office, they need not make any application. Take the example of Frederick MA, former Secretary for Commerce and Economic Development, who resigned from office because of health reason. He immediately took up employment with a listed company after the one-year control period. His action had aroused public speculation for a while that health was not the real reason for his resignation.

Of course, we understand that if regulation is too stringent, it may hinder the Government's ability to attract outside talents in joining service. But if regulation is too relaxed, it will create a big gap with the control imposed on civil servants, which is unreasonable. The authorities should also review the relevant arrangement concurrently.

Lastly, regarding the Select Committee's recommendation that public suspicion of deferred reward or benefit in return should be included as a factor for consideration in the assessment criteria, the Liberal Party will, as I have just said, give its full support. Hence, if the authorities can clearly set out the rules of the game for the compliance of the officials responsible for vetting and approving as well as the applicants themselves, and if government officials can ensure proper gate-keeping, it will certainly help prevent the recurrence of similar suspicious incidents.

President, I so submit.

**MRS SOPHIE LEUNG** (in Cantonese): President, after almost two years of work, the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Select Committee) has finally submitted its Report to the Legislative Council. Being a member of the Select Committee, I, on the one hand, feel relieved that the task is completed and, on the other hand, I have had some deep reflections on the problems arising out of the incident.

The Select Committee has made a number of recommendations on the Control Regime, hoping that the Government would give serious consideration. However, as we know, no matter how good the system is, it is essential that the persons who execute the system should comply with the requirements, and the responsible officials must follow each and every procedure carefully. In my view, there is nothing wrong with the existing mechanism, and the six assessment criteria are all very proper factors of consideration. Nonetheless, I think the problem occurred because the officials rely too much on the honour system. The officials concerned believe that the applicant would act with self-respect and account for all the information in an honest fashion. While it is not a wrong approach, human beings are, after all, human beings. Under such circumstances, problems sometimes tend to occur.

Indeed, our society needs bright talents to undertake the duties of serving the community. In particular, the Administrative Officers are the elites and they are the best of the best. However, elitism is not narcissism. Instead, it is the self-confidence of someone who is truly capable and upright. It is the expectation he puts on himself from time to time so that he is constantly motivated to strive for excellence and maintain good conduct.

However, in the LEUNG Chin-man incident, we can see that not all civil servants have good conduct. In assessing the application, perhaps the vetting and approving officials had applied their own standards in assessing other people and trusted that every colleague would have the same self-respect. Therefore, they felt at ease to assess the application under the honour system. Regrettably, in this incident, the applicant's dishonest act had failed to live up to the expectation of his colleagues and the public.

As many Honourable colleagues have mentioned, the officials responsible for assessing the application had obviously been negligent. Even though the information provided by Mr LEUNG Chin-man might be incomplete, being experienced civil servants, they should have given careful consideration to the factor of public perception as set out in one of the six assessment criteria. The negligent attitude adopted by the officials had turned the procedures of the mechanism into a routine practice. Seemingly, the officials had not conducted any serious investigation, owing to their over-reliance on this system which was based on good conduct. I honestly do not want to see this change of attitude on the part of the elitist civil servants, which gives us the impression that they work perfunctorily. This is not how the elitists should perform.

We hope and consider it necessary that a review should be conducted to examine why the attitude of civil servants has changed as such nowadays. Is it because of the undue emphasis on seniority during the assessment process for promotion? Or maybe the criticisms from the public against the Government have exerted such great pressure on them that they fail to discharge their duties properly and they also fail to understand the right attitude of work. No matter what, the public strongly expect and demand that our civil servants should maintain their elitist quality by keeping abreast of the times, and having high demands on themselves in terms of capabilities and conduct, so that they can maintain excellent performance.

The officials must also understand that some of their colleagues still have put in extra efforts. They should not assume that everyone would have the same elitist attitude as them. Therefore, it is still necessary for the authorities to fine-tune the system, particularly in processing and assessing sensitive issues. Even if an effective "honour system" is already in place, more efforts should still be made and we should not lower our guard.

I hope through this incident, all civil servants, especially senior officials would engage in some self-reflection. Their responsibilities are heavy, as every decision they make will affect the livelihood of the general public, the future development of Hong Kong, and even our economic lifeline. Of course, it is important for civil servants to maintain an elitist attitude, but it does not mean being pompous and ignorant about the hardships in society. Instead, they should work diligently in performing their duties and always act with proper conduct. Every civil servant should always strive to maintain an elitist attitude. Being elites, they should recognize their capabilities and mission while serving the people in a humble manner so as to meet public expectation of the civil servants. This is also a form of self-respect, living up to one's expectation.

President, I have said so much just now because I have great expectation for our civil servants. Nonetheless, regarding the many amendments proposed by some Members after the Select Committee has published its Report, I consider such amendments unnecessary; moreover, these Members also disrespect the work of the Select Committee as Members from various political parties and groupings had participated in the Select Committee. Why then are many amendments proposed? About this point, I will not make any comment. I think many Honourable colleagues have already expressed their views. I only want to raise my views on the Advisory Committee on Post-service Employment of Civil Servants (ACPE).

In its Report, the Select Committee has made certain comments about the operation of the ACPE. I hope members of the ACPE, both incumbent and outgoing, would not have any hard feelings. Instead, they should face these comments bravely and reflect on whether there were any shortcomings or irresponsible acts. The Select Committee also understands the limits within which the ACPE operates, including the limited resources available and not having its own secretariat. However, as the ACPE is the only external assessment body outside the Government, it should face up to its important responsibility and give independent advice on the applications. For this

purpose, it is inevitable that meetings should be convened by the ACPE. The comments and relevant recommendations made by the Select Committee are intended to improve the ACPE's operation so that it can better perform its advisory role. Moreover, I hope that through this process, all members of the ACPE can reflect on the work they have done and assess whether their work have met the standards expected by the public. At the same time, I also hope that the experience of members of the ACPE as well as the views of the Select Committee will be well utilized, so that members to be appointed to the ACPE in future can draw on these experience and views.

Another focus of the LEUNG Chin-man incident is the control of post-service employment of civil servants. I would also like to express my views on this issue.

Although I concur with the Select Committee's recommendation that the control period should be extended, I believe this proposal cannot address the problem at root. We must formulate the relevant measures against the prevailing conditions in future and review whether suitable controls are appropriate.

Actually, the current social trend is to make good use of one's life to serve the community; and one's choice of employment or right to work should not be limited. President, nowadays, many old people can live beyond the age of 80. If a person retires in his fifties, what should he do in the 30-odd years from the day of his retirement to the time he is in his eighties? Should he just lay idle and do nothing? In fact, if there is excessive control or regulation, it may convey a wrong message to society that a retiree should better not take up any further employment for fear of stepping over the line easily. If this is the case, people who are experienced and aspired to making contribution to society will have no opportunity to give full play to their outstanding abilities.

Of course, we indeed react strongly to cases involving conflict of interest, transfer of benefits or deferred reward. The society will also have great suspicion because everyone expects Hong Kong to be a fair place free from corruption. Hence, in addition to the system of control, I hold that it is very important for officials who left government service to have self-respect. They should know how to avoid potential conflict of interest and they should always put public interest first. They should become even more vigilant when facing situations which involve interests or benefits. I think most officials have

introspective ability so that when they consider an employment, they will take into account all sorts of situations that might involve interest. Moreover, they would be honest and have self-discipline when making applications to the Government. It is only through this way that our society can make the best use of people.

Lastly, I do not wish to see the stipulation of rigid standards and excessive regulations, because this practice signifies the mutual distrust among people and the assumption that everybody is acting selfishly for his own interest; there is also the presumption that the integrity and character of the persons concerned are questionable. President, in this respect, I often wonder if the persons who are doubtful of others in fact have selfish and self-benefiting thoughts. I know this idea may have no market, and may even lead to refute from some Members. But it does not matter because I think everyone has the freedom of expression in this Chamber. More importantly, everyone should reflect upon themselves. I have also seen people trying to stop others from doing the right thing just because these people are unable to do so themselves.

Of course, in the past, there are people who had made no attempts to avoid conflict of interest and their acts had caused discontent in the community. However, if we easily regard public officers as criminals and regard their community service as a means to gain interest, and hence impose various guidelines or controls, people who really intend to serve the community would be discouraged to do so for fear that they would be wrongly accused, and people who have been silently serving the community would be greatly frustrated.

I strongly believe that what our society needs most is not excessive regulation, but people with upright character and integrity. How should we promote better understanding of the importance of such attributes in our society? Apart from imposing a certain degree of control, we also need mutual trust. I hope that this incident can serve to caution government officials the importance of self-respect and to engage the entire community in some introspection, so that aspiring persons will have the opportunity and freedom to serve the society and the people. As such, the big family of Hong Kong can continue to move forward in prosperity.

President, I so submit.



**DR LAM TAI-FAI** (in Cantonese): President, I think you will agree that the LEUNG Chin-man incident has created a lot of controversies in our society, it has also aroused discontent among members of the public and stirred up heated discussion in the community. As the people of Hong Kong already have a low opinion on the credibility of the Government's governance, the LEUNG Chin-man incident has dealt another blow. I do not know how many remedial actions must be taken by the Government before the damage can be repaired.

Although LEUNG Chin-man was the Director of Housing and the former Permanent Secretary for Housing, Planning and Lands before retirement, he was not widely known by the people before the incident occurred. However, when the incident came to light, he became quite famous, or strictly speaking, infamous. Being a member of the Select Committee, I would frown whenever the name "LEUNG Chin-man" was mentioned, because the meetings held in relation to this inquiry were invariably long and numerous. I would also frown whenever I thought about his conduct. The Chinese name "LEUNG Chin-man" is quite common, particularly amongst Cantonese and Hong Kong people. I think if one looks up the name in the Yellow Pages, the entries will probably spread for a few pages. I think from now on, parents naming their babies will think twice before adopting the Chinese name "LEUNG Chin-man" because it has since acquired certain negative connotation and become synonymous with someone who is rather conniving and greedy. This is really quite unfair for other "LEUNG Chin-mans" — persons with exactly the same name "LEUNG Chin-man" — who are decent gentlemen and act in an honest, upright and down-to-earth manner.

I think in this Chamber today, many Honourable colleagues will express their views on the matter and most of them will rebuke LEUNG Chin-man. In today's fashion, if you do not want to mention somebody's name, you call him Mr X. Hence, in order to be fair to other persons with the name "LEUNG Chin-man", whenever LEUNG Chin-man is to be reproved for his greedy and conniving acts, it is better to call him Mr LEUNG X, so that people with the name "LEUNG Chin-man" would not feel unhappy.

President, the Select Committee published its 440-page report last week, and LEUNG Chin-man immediately released a seven-page statement to the media to refute our Report in a high-profile manner. He claimed that our Report was not premised on facts and the charges were fabricated, and it was a report full of

political motives. He also said that members of the Select Committee was muddled to the extreme, they had quoted his statements out of context, and were working in a confused and unreasonable manner. President, God is watching everything people do. Was he greedy and abusing his power for personal gain? Or was the Select Committee muddled and unreasonable? I think anyone who has perused the Report, followed the incident or watched the relevant reports in the media and newspapers will have his own judgment.

I think the controversy will not stop with the publication of the Select Committee's Report; it may grow bigger. President, when I was travelling on the MTR last week, I heard some people discussing this incident in the train compartment. A man said between clenched teeth that, "This Mr LEUNG (or maybe I should call him Mr LEUNG X) is really unrepentant and schizophrenic. Obviously, he has abused his power for personal gain, yet he even bragged shamelessly and refused to apologize. Poor Secretary Denise YUE, she honestly performs her duties but gets implicated by the incident. Just some careless oversight and omission in the vetting and approving procedure and LEUNG 'slipped' away." I think the LEUNG Chin-man incident has really incited the fury of society and the dislike of the people.

President, past experience, if not forgotten, is a guide for the future. I think because of this incident, all the relevant departments, the people of Hong Kong and the Government must go through a process of reflection, introspection, deep thinking, review and revision. In the past, people often said that in the 30 years of the reform and opening up of the Mainland, while China's economy had taken off, the Mainland Government has always been criticized for the rule of man, corruption, collusion between business and the Government, as well as the practices of being money-minded and using influence to gain advantages. On the contrary, Hong Kong was not like that. The government officials in Hong Kong are clean, law-abiding, fair, impartial and capable. From this incident, we must think deeply, are all our civil servants really so clean and law-abiding, or is this incident just the tip of an iceberg, as there are bound to be black sheep in the midst, or is this incident just an isolated case?

I have actually analysed the situation. As far as I understand, almost all civil servants and officials whom I know are clean and capable. Even for this case, the above saying still applies, just that there are some black sheep. Of course, I hope that in future, in conducting the recruitment or promotion exercise

of civil servants (especially senior government officers), some mechanism would be put in place, so that the candidates' academic qualification and abilities, as well as their character and conduct would be considered.

All along, the measure of nurturing a clean and honest Civil Service with an attractive remuneration has been adopted in Hong Kong and this measure has been considered effective. Regarding the present case of Mr LEUNG, he received attractive remuneration and was also entitled to pension after retirement. He should have enjoyed a "long and happy retirement", yet why did he still try by all means to conceal the facts and seize the opportunity to gain benefit? After his retirement, Mr LEUNG tried to take up an employment before the expiry of the control period or sanitization period, with no regards about the issue of public perception. We should seriously examine whether the measure of nurturing a clean and honest Civil Service with an attractive remuneration is still effective nowadays? Is it still effective in a materialistic and money-oriented world? Of course, I hope this incident is just an isolated case that relates to an individual's character, and the measure is still effective.

In fact, there are many retired civil servants, such as Ms Shelley LEE Lai-kuen and Mr Gordon SIU Kwing-chue, who have been serving the community with their background, experience and wisdom after retirement, and they are not thinking about making money. They are really fine examples of clean and honest civil servants nurtured by an attractive remuneration.

President, there is a strange phenomenon in Hong Kong. If you tell the parents, "Your son is 'smart'." and this child is at schooling age, the parents will subconsciously think that you are praising their son for being "smart" in his studies. If the praise "Your son is 'smart'." is meant for someone at work, the parents will think that you are praising their son for being "smart" in making money. Many a times, the people of Hong Kong will think that "smart" means having good results in studies or making good money. But is being "smart" in studies and "smart" in making money really beneficial to society? Undeniably, as LEUNG Chin-man was such a high-ranking official, he must have been "smart" in his studies; and being high-paid, he must have been "smart" in making money. Then, had he really made contributions to society? Is he a role-model in society or is he a black sheep?

This incident has indeed inspired my thoughts. In the field of education, regarding the education system, the focus, direction and ideals of education in

future, the Government should not just place emphasis on nurturing people who are "smart" in examination and "smart" in studies, it should also consider how to nurture people's character. In terms of civic education, what should be done to make the "smart guys" understand the importance of earning money through the right way; how should we nurture them to be good-hearted and honest people who are steadfast in their work and who would not resort to tricks or manipulate one's powers for personal gain?

In fact, "smart" guys who have gone astray can be more destructive than those less "smart". As "smart" guys can think of some "smart" tricks, they bring more harm to society. Hence, we must make good use of this opportunity to reflect on how our education system should be improved and enhanced by putting more emphasis on moral education. We should not simply focus on attaining good examination results and academic achievement.

President, a few years ago, I visited an enterprise in Mongolia called Mengniu Dairy Group. I think you might have heard about this enterprise. On the walls of its premises, I saw some enlightening slogans. They read: Persons with both virtue and talent should be given accelerated promotion; persons with neither virtue nor talent should never be retained; persons with virtue but no talent should be retained as an exception; and persons with talent but no virtue should be retained with certain limitation. Enterprises in the Mainland also understand the difference between "talent" and "virtue". Virtue must always take precedence. Therefore, in future recruitment of civil servants, particularly the promotion of officials, the candidate's character and conduct should be considered. Officials need not be promoted right away, they should be under observation and evaluation over an extended period of time. Regarding the successive promotions of LEUNG Chin-man in the past, was there any mechanism in the Government to evaluate his character and ascertain whether he had any ulterior motives?

Actually, this incident is absolutely avoidable. For LEUNG Chin-man's application to be approved, it must have gone through various procedures and the scrutiny of various responsible officers. If, at the initial stage, any one of the officials involved had been more diligent, less careless, or more conscientious and careful in the vetting and approving process, the whole incident might not have happened. To our regret, virtually all responsible officers had not strictly adhered to the guidelines when handling the application, so the application was not stringently vetted and approved. To put it more bluntly, their attitude was

just "sloppy". Perhaps, one can say that the officials concerned had overly relied on the honour system of making declarations. They had never questioned the accuracy and reliability of information contained in the application form submitted by the applicant. Of course, it is neither acceptable nor plausible from the public's point of view that the officials had suffered from collective memory loss.

President, after the release of the report, some Honourable colleagues or members of the public opined that Secretary Denise YUE had not properly discharged her function as the gatekeeper and hence, she should take the blame and resign. Insofar as this incident is concerned, Secretary Denise YUE is certainly at fault and she should accept her responsibility. However, personally, I do not think her fault is so serious that she should be heavily penalized, that she should be fired, or that she should take the blame and resign. It is because throughout the investigation, we had pondered over and examined the evidence repeatedly but there was nothing to show that she had any conspiring role, nor she had any motive to play along or any interests involved. To put it bluntly and with due respect, even though she has been a government official for so long, her political sensitivity is far from adequate. Maybe it is a mere oversight on her part, and the price to be paid for this oversight is heavy. I think she would very much regret the mistake she made in this incident, and it will be a blemish throughout her long government service.

Of course, many Honourable colleagues, myself included — because I have also dealt with the Secretary many times at work — had positive comments about her abilities and how she conducts herself. Can her merits offset the mistakes she made? Everybody has his own yardstick and scale. Secretary, instead of asking you to take the blame and resign (which is in fact a waste of your abilities and talents), I would rather you can, upon your retirement, make use of your experience, knowledge or even your savings to do more work for the community and make more contributions. Of course, I do not wish to see you taking up employment with some big enterprises once you leave the government service, I mean retirement. Hence, allow me to put it crudely: if the penalty is to knock you off in one go by asking you to resign or step down, the fix is just too strong. I hope you can see this as a sentence of parole and later on, you will have to serve a community service order because after you leave government service, you should do more for the community.

In fact, if we are to vent our anger on somebody, it should not be Secretary Denise YUE because the real culprit is LEUNG Chin-man. As to whether investigations would be undertaken by the Independent Commission Against Corruption (ICAC), I, being a member of the Select Committee, will respect the Report and refrain from making a judgment. I believe the ICAC will make its own decisions on this matter. Regarding the recommended measures in the Report, I hope the Government can implement them expeditiously so that the mechanism will be improved. I hope that from now on, officials responsible for vetting and approving applications for post-service employment from retired officials will do so meticulously because I believe it is the wish of all the people that similar incidents will not recur. Of course, when making these applications in future, the applicants themselves should also have self-discipline, and I hope they can learn from this incident.

President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, as the Select Committee Report has already made a detailed examination and analysis of the circumstances surrounding the LEUNG Chin-man incident, so I am not going to repeat its content. I nonetheless wish to point out that this incident has again highlighted the core problem of the accountability system.

As Members may recall, it has been eight-odd years since the former Chief Executive TUNG Chee-hwa introduced the Principal Officials Accountability System in July 2002. However, after such an extensive period of time, it is still unclear how this so-called accountability system works. The LEUNG Chin-man incident has again highlighted how the SAR Government has cheated Hong Kong people under this accountability system: the system lacks substantial accountability and it is designed to cheat people.

I still recall that when the Principal Officials Accountability System was launched, many pan-democratic Members present at the meeting and I had queried the Government time and again how officials would be held accountable under the accountability system, and whether the system would merely bear the name of accountability but fail to live up to it. So far, no explanation has been given by the Government and nothing has changed. We have no idea under

what circumstances principal officials would be held accountable and the consequences thereafter. We know nothing about all these.

The reply that we received was that all decisions rest with the Chief Executive alone. In other words, the entire accountability system is not governed by any rules. To put it simply, there is no accountability at all.

As a matter of fact, over the past eight years or so, Secretaries of Departments and Directors of Bureaux have made a number of blunders in the formulation of policy, in the process of decision making and in their behaviour. And yet, so far, no punitive actions have been taken by any former or incumbent Chief Executives against the officials at fault.

Members may recall the incident of former Financial Secretary Mr Antony LEUNG "jumping the gun" in buying a car in 2003. At that time, the then Chief Executive TUNG Chee-hwa had not only imposed no punishment, he even praised Antony LEUNG for his noble integrity. Nonetheless, Antony LEUNG was determined to resign in the end.

The Secretary responsible for the legislation of Article 23 of the Basic Law, who is now our colleague, had also aroused serious public resentment at that time. More than 500 000 people took to the street to oppose against the Government. Again, the then Chief Executive had not taken any punitive action against her. Similarly, the then Secretary Mrs Regina IP had resigned for personal reason in the end. Members may also recall that the former Secretary for Health, Welfare and Food Dr YEOH Eng-kiong had resigned to assume political responsibility for blunders in handling the SARS crisis. However, at that time, Mr TUNG still claimed that there was nothing wrong with his approaches and Mr TUNG had attempted to retain him. It can therefore be seen that the then Chief Executive had completely failed to seriously implement the accountability system, and to exemplify the accountability spirit of principal officials for their wrongdoings or dereliction of duties.

Later, Mr TUNG stepped down and Mr TSANG took office. Yet, the situation has not improved in these few years. Two years ago, there was the appointment of Deputy Secretaries and Political Assistants, the so-called further development of the political appointment system. It had attracted serious public controversy and Secretary for Constitutional and Mainland Affairs Stephen LAM,

who is responsible for this policy, did not need to be accountable to the Chief Executive at all.

President, given that the Secretary for the Civil Service has merely apologized for the policy blunder made by her in the LEUNG Chin-man incident, what has the Chief Executive done? So far, nothing has been done. This has again proved that the implementation of the Principal Officials Accountability System has downright no accountability at all.

In my opinion, the problem arose from this incident does not demonstrate that it is an isolated case, and that the Government has to clearly inform the public the core problem of the Principal Officials Accountability System, that is, under what circumstances would principle officials be required to assume political responsibility? What is the concrete detail of the implementation of the accountability system?

If a set of specific rules had been laid down for the accountability system in the first place, including the different level of penalties imposed for different severity of policy blunders, what happened today can be prevented and would not have given rise to so many extreme problems. For example, many people might say that there are apparently only two choices: either the relevant official should step down or no specific measures would be taken, just like this time. These are actually two extreme approaches and both are undesirable, as different level of penalties cannot be imposed on officials for their errors or policy blunders. I therefore consider this incident a very good example to prove again the failure and impropriety of the system in the absence of details about substantial accountability. I want to reiterate that the Government should immediately develop a set of punitive principles and mechanism, or else it will continue to stir up storms when similar issues arise again in the future.

The Report prepared by the Select Committee to inquire into the LEUNG Chin-man incident also pointed out that, apart from the accountable officials, there was also gross maladministration on the part of individual senior directorate civil servants. In my opinion, the Administration should consider how punishments could be imposed according to the Civil Service Code, and should not muddle through the work again.

President, in my speech, I have requested the Government time and again to establish a punitive mechanism for the Principal Officials Accountability



System. Yet, this proposal is made purely because of the existence of an accountability system, which necessitate the establishment of a punitive system. However, as evident from the different examples, the accountability system has actually failed to achieve its purpose. The best way is therefore to abolish the accountability system and establish a government returned by universal suffrage. Only by so doing can we have genuinely an accountable government and accountable officials; otherwise, it would be meaningless. Given that problems have repeatedly emerged, the most effective way is to establish a government returned by universal suffrage. By then, the Government will be fully transparent, the public will clearly understand the work of the Government and they would know which government officials should be held accountable. Only by so doing can problems be resolved.

Last of all, I consider that the implementation of universal suffrage can hold the Chief Executive and Members accountable to the people, thereby developing the best system.

President, I so submit.

**MR TAM YIU-CHUNG** (in Cantonese): President, first of all, I have to declare interest, I am a member of the Committee on Review of Post-service Outside Work for Directorate Civil Servants (Review Committee).

In 2005, the then Chief Executive proposed in his policy address to act "resolutely against collusion between business and the Government to eliminate any transfer of benefits"; he also reiterated the need to ensure that upon the departure of the Chief Executive, principal officials and directorate officers, they do not enter into any business or take up any employment which may constitute a conflict of interest with their previous service in the Government or adversely affect the image of the Government. Unfortunately, there came the LEUNG Chin-man incident in 2008, which had dealt a serious blow to the prestige of the Government.

When Mr LEUNG served as the Permanent Secretary for Housing, Planning and Lands and the Director of Housing, he had been involved in the disposal of the Hunghom Peninsula to a developer in the New World group. And yet, in less than two years after leaving the civil service, he accepted a

highly-paid employment with New World China Land Limited, which has a conflict of interest with his previous duties in the Government. His employment has aroused public suspicion that the employment was a reward from the New World Development Company Limited in return for what he had done in the Hunghom Peninsula case. This incident has aroused widespread public concern and criticisms, reflecting that the public expect senior officials to have high standards of conduct. After the reunification, there were significant changes in social and political behaviour, the media environment, as well as demands on, and expectations of, the Government on the part of the public at large. As for the issue of senior civil servants engaging in employment after they have retired, the public shares two concerns. First, conflicts of interest. Will the retired officer make use of the information obtained and the social links established while in service to assist his new employer in gaining any advantage? Second, favouritism. Will the officer, while serving in the Government, show any favour to any of these giant consortia to pave the way for his or her new job after retirement? These misgivings will affect public confidence in the senior officials and in turn also affect the credibility of the Government. Therefore, the Government must face this problem squarely and take positive steps to improve the system so that senior officials can be prevented from taking up any employment after retirement which would lead to any conflict of interest in relation to their former public office.

Following the LEUNG Chin-man incident, the Review Committee was set up by the Chief Executive and a report containing a total 23 recommendations was submitted to the Government in July last year. As the Government had to wait for the findings of the Select Committee of the Legislative Council, the recommendations have yet to be implemented. The recommendations made in the Select Committee Report shares a roughly similar direction with that of the Review Committee. I therefore agree that measures to tighten restrictions on retirement should be expeditiously put in place by the Government.

In the past, some civil servants associations had reservations about the tightening of restrictions on retirement. We understand their worries but we cannot overlook the fact that in the eyes of the public, the remuneration and retirement protection enjoyed by senior civil servants in Hong Kong are among the best in the world. Their attractive pension payments are sufficient for them to maintain their existing standard of living. There would be no need for them

to join the private sector in such a hurry right after they have retired. Even if they do not involve in any actual transfer of benefits, they would be suspected of causing conflicts of interest. At this time when society is seriously divided and different social classes are in confrontation, the Government must not ignore the misgivings of the public about certain retired senior officials who have joined private-sector organizations and dismiss them as isolated cases. The LEUNG Chin-man incident, in particular, has exposed the loopholes in the vetting and approval process. The Government should therefore expeditiously refine and implement a stringent vetting and approval system to maintain the credibility and impartial image of the Government. Regarding the antagonistic sentiment in the civil service, more explanation is warranted as the recommendations made by either the Review Committee or the Select Committee aim to improve the vetting and approval process and extend the control period. There is no intention of limiting the rights of senior civil servants to work after leaving the civil service.

As pointed out in the Select Committee Report, the existing sanitization period for the taking up of post-service work by directorate civil servants leaving the Government on retirement is appropriate, and thus there is no need for any change. This confirms that the Government has gained recognition in the tightening of the sanitization period over the past four years. When the Control Regime of Hong Kong is compared with that in other countries and regions, the sanitization period for post-retirement employment is undoubtedly the longest in Hong Kong. Under the existing Pensions Ordinance, civil servants who wish to take up employment within two years of retirement must lodge an application with the Government. This provision empowers retired civil servants to apply for taking up of employment within two years of retirement. If all retired civil servants are universally barred from taking up employment in the private sector for a two-year period after retirement, they would be deprived of their statutory right to employment completely and directly. This is not justified on legal grounds. The reports of the two committees have both suggested that the existing sanitization period should be maintained. In addition, the Government should extend the control period and tighten up the vetting and approval process of applications. By so doing, the possible conflicts in law can be avoided while the restrictions can be tightened. Regarding the taking up of post-service work on grounds other than retirement, no concrete proposals have been put forward in the Select Committee Report. As the question of whether the sanitization period

should vary with the grounds for post-service work is rather complicated, I think more thorough consideration should be made by the Government.

The reports of the Select Committee and the Review Committee differ in one aspect. While the Select Committee proposed that the control period for directorate civil servants leaving the Government on retirement should be further extended to four years for D4 to D7 directorate civil servants and five years for D8 directorate civil servants, the extension proposed by the Review Committee is one year longer in both cases. Since the Select Committee is comprised of representatives from different parties and groupings, I respect its recommendations as they are Members' consensus. The Government has stressed on different occasions that if there is any evidence of "deferred reward", it will constitute a criminal offence. Even if the control period of the person concerned has expired, the Government can still refer the case to law-enforcement agencies for action. However, as seen from the present inquiry work, it is extremely difficult to collect evidence for such misgivings; neither is it easy to substantiate the case in respect of the procedures. The only way to reduce the damage of such misgivings to the credibility of the Government is to extend the control period and tighten the vetting and approval of applications.

We must face up to the fact that the LEUNG Chin-man incident has nothing to do with the length of the control period. In order to maintain an effective mechanism of post-service employment of civil servants, it is more important to develop better assessment and vetting procedures. Both the reports of the Review Committee and the Select Committee have proposed a series of recommendations and measures in respect of the operation of the Control Regime and public scrutiny. The Government should expeditiously plug the operation loophole in the Advisory Committee on Post-service Employment of Civil Servants to prevent it from being turned into a rubber stamp, thereby losing its gate-keeping function. On the other hand, in order to enhance transparency, it should also release more information about the private organizations which senior officials were approved to work with upon retirement, and closely monitor the changes in the job nature of their post-service employment, with a view to ensuring that their present work will not have conflict of interest with their previous duties in the Government. Of course, both the Civil Service Bureau and the relevant departments have to bear responsibility in this incident. A number of responsible officials have simply omitted factors that should be considered, thereby causing omissions. They should receive serious criticisms

and proper punishments so as to restore public confidence in the clean civil service and effective governance of the Government.

With these remarks, President, I support the original motion.

**MS CYD HO** (in Cantonese): President, in 2002, the authorities froze the sale of Home Ownership Scheme flats to salvage the property market, and the Hunghom Peninsula was sold to the New World Corporation at an extremely low price of less than \$900 million. The buyer soon revealed the plan of demolishing the entire estate, which had never been occupied, for the reconstruction of luxury flats on the site. One can imagine that it was a "super-value deal" to get this "supreme sea-view site", for the developer would surely make profit despite the cost incurred for demolishing the new blocks and building luxury flats. Lastly, as this plan was too environmentally unfriendly, described by some elderly as "squandering food and resources", and coupled with the public outcry, the developer had to give up the plan.

In 2008, the public learnt from the news that Mr LEUNG Chin-man, the former senior official assuming a significant role in the Hunghom Peninsula incident at the time, had accepted a high position with handsome pay offered by the New World China Land Limited (NWCL). The news caused immediate uproar in the community, and the public queried that it was a deferred benefit for Mr LEUNG for his decision in selling Hunghom Peninsula at a cheap price in 2003.

President, policy-wise, it is quite common for the executive authorities holding different positions and views as that of various political parties and groupings, the legislature and even the general public. If the decision is based on a proper policy judgment, we may respect each other even though we have different views and different value preferences. However, if the public suspect that the decision concerned is made to cater for the interest of individual officials, which involves collusion between the Government and business and an element of corruption, as in the case of LEUNG Chin-man being employed by NWCL, the public can in no way accept it.

Indeed, the incident should be analysed from three levels. First, did it involve the transfer of benefit? Second, in the course of assessment, why would

officials at various levels fail to see that the public might query the collusion between the Government and the business sector? Third, how can we prevent the recurrence of similar incidents?

First, I would talk about the transfer of benefit. The Select Committee of the Legislative Council is not a criminal investigation team. We can only act in accordance with the Legislative Council (Power and Privileges) Ordinance, sending cordial requests in writing to government organizations or other relevant organizations for information, and inviting the people concerned to attend hearings to answer our questions, so as to collect evidence. The Committee will make judgment based on the information provided by witnesses. It is next to impossible to prove whether specific criminal acts of corruption and bribery are involved through this process. But this course of obtaining evidence will at least enable us to collect information and facts that various parties concerned are willing to disclose. This will enable the public to have a relatively complete picture, and the public will see that under the existing application system for post-service work of civil servants, there is a possibility of making deferred reward and benefit.

Corruptions are naturally clandestine deals where the parties involved will not sign any contract, so there is no way for criminal investigation departments to find such contracts and present them as evidence. The party offering the bribe will invariably present the gifts on various pretexts in a subtle and implicit manner, or that the transfer of benefit will be offered in other guises. Hence, President, the Independent Commission Against Corruption has laid down very stringent control over the receipt of gifts. The Legislative Council has also required Members to make declaration upon receipt of gifts exceeding a certain amount in value.

It is important to secure the trust of the public to ensure effective governance. Honesty and righteousness are the fundamental conducts of civil servants. People who understand this principle will know that they should avoid taking actions that may arouse suspicions. They would rather impose stringent requirement to themselves than raise the doubts of the public. Hence, the most important issue in the entire incident is whether public officers concerned, be they retired or responsible for granting the approval, have at any point considered that the incident might raise public suspicion and undermine the credibility and reputation of the Civil Service. As set out in the Civil Servant's Guide to Good

Practices issued by the Civil Service Bureau in 2005, "to maintain the standing and integrity of the civil service, it is important that civil servants, even after they have left the service, should continue to conduct themselves in an appropriate manner as the activities which they take up would continue to be seen by the public as a reflection of the culture and character of the civil service. Retired civil servants should act with good sense and propriety in pursuing post-service work or business and avoid engaging themselves in activities which could be construed as being in conflict with their previous duties in the Government, or might bring the civil service into disrepute, or expose them or the Government to public controversy". Actually, any senior officials responsible for approving applications for outside work of retired or departed civil servants should keep the Civil Servant's Guide to Good Practices at hand and use this as the criteria for granting approvals.

However, in the case where LEUNG Chin-man accepted the employment of NWCL, the first impression of the public was that the incident might highly likely involve deferred benefit. In other words, he had been "lenient" during his office and offered benefit to the consortium concerned, so that he would "harvest" his gains after he left the service. The response of the public to the incident indicated clearly that the employment had exposed the Government to controversy and brought the civil service into disrepute. Hence, I consider it absolutely appropriate to impose punitive action against LEUNG Chin-man. If the investigation department concerned considers that an investigation can be started again after reading the report of the Select Committee, it is also an appropriate approach. However, President, I must stress that from the perspective of the legislature as a whole, I think passing a motion in this Council to request the enforcement agency to carry out investigation is not something we should do. Hence, I am sorry, I cannot support the amendment proposed by Mr Albert CHAN.

Second, I would talk about the existing system. Actually, under the existing system, requirements on making declaration and procedures of application procedures have been put in place, whereas senior officials at different ranks and grades will be responsible for collecting information and act as gatekeepers. Gatekeepers include the departments with which the applicant had worked, Permanent Secretaries of the Civil Service Bureau, as well as the Secretary for the Civil Service. How come officials at various ranks and grades had all failed to recognize this perception and query, formed by the public in the

first instance? Naturally, there were exceptions among the officials. Mr WONG Kwai-kuen and Mr MAK Chai-kwong were aware of the public perception issue. Mr WONG is still serving in the Civil Service and Mr MAK is a senior official. They are only seeing the case from the perspective of an average man. If they can identify the problem, why the others cannot do so? I believe one of the reasons is that many officials are handling lots of work of a similar nature. Since they only regard this as a routine job, they become insensitive and lack the alertness. They do not put public interest and the confidence of the public on the Government on their heart. When we collected evidence, the Secretary said that she was a "skilled worker". In fact, when I heard that phrase, I worried that the Secretary would be complacent because of her "skillfulness" and lost the critical mind and alertness.

The whole incident reveals that despite the incident of Ms Elaine CHUNG, the Civil Service Bureau has not taken stringent and expeditious measures to ensure that civil servants at all ranks have done their best to fulfil their duties and be extremely cautious in vetting and granting approval. If the officer responsible for guarding the first gate fails to collect information properly and submits the document to his supervisor, and then the supervisor, due to his extreme "skillfulness", trusts the information submitted by his subordinate and fails to vet the document with a monitoring attitude of an supervisor, it will lead to the lost of hold at various gates. On the other hand, since the advisory committee appointed by the Government has to rely heavily on the secretariat service provided by civil servants, it fails to perform its required duties.

President, I would like to read out an opinion included in the McKinsey Report released in 1972. The report was a review of enhancing the efficiency of the civil service structure, and the initial concept of accountability of officials. I will read out a paragraph to illustrate that civil servants responsible for providing secretariat services and submitting the first document will, to a great extent, affect the decision process. Since the original text of the report is in English, I will read out the English version of that paragraph: "The papers forwarded to committees for approval give only an outline of the proposal and, by implication, say that the Secretariat have investigated the case and believe it to be justified. The committees probe and cross-question, but they rarely reject a proposal. Rather than actually take the decisions they maintain a valuable pressure on Secretariat staff to get the decisions right. Further, the Secretariat staff have large negative decision powers in that they decide which proposals are put



forward for committee approval. In practice, therefore, the person who issues the papers to the committee takes the decision."

Regrettably, this problem that had been brought up in 1972 persists today. In this connection, I hope that the Secretary for the Civil Service, after listening to this opinion again today, will seriously revamp civil servants at all ranks. She has to ensure that junior officers who have to prepare documents for submission to their supervisors and senior officers who have to vet documents submitted by their subordinates, must be on alert and have a critical mind.

President, at the third level, we have to identify ways to prevent the recurrence of similar incidents in future. Honestly, it is quite a difficult task. For one will not be caught red-handed in cases involving transfer of deferred benefit. Worse still, if the business sector wants to get advantage from the decisions of officials, they need not set out the terms explicitly, nor do both parties need to meet to sign a contract and discuss the terms and conditions involved. The business sector only needs to employ one or two retired senior officials in high positions with handsome pay as the "model". When they employ one or two officials as the "models", it will give a clear message to serving officials that they will have "good prospect" there. This approach of the business sector can well serve the purpose of giving a subjective hope to serving senior officials that they can find a job more easily in future if they act leniently of their own accord during their office. These subjective hopes of gaining private interest at the expense of public interest are the most difficult to handle and prevent. Hence, corruption should be strictly prevented right from the beginning, for corruption once spreads can hardly be wiped out.

The recommendations of the Select Committee seek to amend the system as far as possible and plug certain obvious loopholes. It is most important that the Civil Service must remain corruption-free and righteous. Both officers applying for post-service work or officers responsible for approving the applications should put public interest and maintaining the reputation of the civil service in the first place. Certainly, it is more important that the public must monitor the situation regularly.

We have to look at the incident from a wider perspective. The report of the Select Committee has put forth recommendations on the vetting and approving procedures of applications for post-service work. More so, we have to pay attention to the fact that a batch of politically appointed officials will leave

service in 2012. Furthermore, it is found out that many senior staff of statutory organizations responsible for regulating the finance sector may take up post-service work within a short period of only a few months. If the Government only focuses on regulating civil servants to calm the public uproar now, but does not expeditiously review the regulatory mechanism governing the post-office work of the politically appointed senior officials and senior staff of other statutory organizations, the Government lacks vigilance by all accounts.

When it comes to disciplinary measures, some civil servant groups have expressed disappointment to the double standards adopted by the Civil Service Bureau for being stringent to junior civil servants but very lenient to senior civil servants involving in the present incidents. These senior officials have not made any apologies, and only the Secretary has made an open apology. As for Secretary Denise YUE, she really should shoulder the ultimate responsibility of the incident, but I agree that she does not have to step down. As to what follow-up measures should be taken to fulfil the spirit of politically appointed officials being accountable to the public, I think the existing disciplinary mechanism for politically appointed officials must be amended. Thank you, President.

**MR CHIM PUI-CHUNG** (in Cantonese): President, I congratulate the Select Committee for presenting its report today, for I believe the subcommittee on Lehman Brothers still has to work for a long time.

President, I will discuss the issue today from various aspects. First, we know that civil servants in Hong Kong are often proud of themselves for they are respected by the public. The public even say that civil servants form the pillar of the Government, they maintain political neutrality and their performance is excellent in many aspects.

Look back at history, we know that before the reunification of Hong Kong, particularly before the 1950s, senior officials in Hong Kong all came from the United Kingdom. After retirement, they would return to the United Kingdom. The people of Hong Kong often mocked them for returning to the United Kingdom to peel potatoes. There are of course many potatoes in the United Kingdom. In fact people were saying that their living standard, which probably referred to their financial status, would not be comparable to that in Hong Kong. Hence, the problem now under discussion would not occur to senior officials in

the past. Now that Hong Kong has reunited, a majority of Directors of Bureaux and Secretaries of Departments are Hong Kong residents, our brothers. A majority of them regards Hong Kong as their home and will remain in Hong Kong after retirement.

This will give rise to problems in two aspects. One is on retired civil servants and the other is business organizations interested in employing retired civil servants. Regarding the first aspect about officials, we should not only focus on the incident in question and the officials involved, but should also examine the case of officials of the Hong Kong Monetary Authority. Certain senior officials had used every method to strive for reward, and their bonus and salary for a year might add up to \$10 million or at least several millions. He had been in a respectable position, for he held the lifeline of the economy and the financial sector of Hong Kong. Every remark of him attracted attention. Every time he came to this Council, he acted like an emperor going on an inspection tour. Yet, in less than a year of his retirement, he took up three jobs at the same time. First, this practice involves a conflict of interest. Second, it involves the secret of the financial sector in Hong Kong. Since he has taken up the employment, can he say that he knows nothing? And if he says he knows nothing, who will be interested in employing him? He may know everything and has told all the secrets of Hong Kong to others. The Government needs to review the practice in this respect.

President, on the second aspect, many listed companies or large companies are very willing to employ retired civil servants. Why? Is this another kind of benefit transfer? For the retired civil servant, who has withdrawn from a very high position, may call his former subordinates or fellow colleagues to inquire about certain cases. Will he get great benefit from this? Certainly, President, people may say that this kind of behaviour cannot be wiped out completely. However, I think this issue is worthy of examination, for retired civil servants do not only sell their intelligence, knowledge and talents, but also the internal secrets or information of the Government which they learnt during their service in the past. They are selling these things. Hence, the issue warrants a detailed examination by the Government.

President, another issue of greater importance, which I mentioned earlier, is the aspiration of the public. Many senior officials really regard themselves as the "prominent officials". Nowadays, we often say that civil servants have to serve the people, but many officials above the rank of Director of Bureau and

Secretary of Department consider themselves as the "prominent officials", who keep saying "we being government officials ..... we being government officials". Had they not considered themselves as the "prominent officials", they would not have said "we being government officials". Hence, this is a point that warrants reflection on their part. I often say that anyone taking up a position above the rank of Director of Bureau and Secretary of Department should not only adopt the "get-the-job-done" attitude. If they simply adopt this attitude, they should indeed "go into the sea" (a Mainland expression), meaning to work in the business sector. Only people working in business organizations can say, "I only want to get the job done". Anyone taking up these senior official positions in the Government should: First, have a mission; second, be responsible; third, have a sense of glory, the greater the sense of glory the greater incentive one will have in serving the public. Hence, President, in the whole incident, what we should consider is whether there are loopholes. I think there are definitely loopholes. No matter they are average civil servants or senior civil servants, they are after all common folks not saints, sometimes they will make mistake. However, civil servants must remind themselves during their term of office that: First, their position is really higher than the public; second, their remunerations are really better than those provided by business organizations in general; third, they have job security and they have pension upon retirement.

Hence, the Government should overthrow this system long ago. It should say, "Alright, civil servants are entitled to pension and other benefits upon retirement. But if they choose to serve in business organizations to make money, the Government will suspend their pension payment during the period of employment". Some retired civil servants may say no. But if they do not want their pension payment be suspended, they may indeed refuse taking up employment and simply receive their retirement benefits. If retired civil servants are allowed to take up employment, I think a definitely fair system must be put in place. The public are unconvinced because those officers can take up two to three jobs at the same time and earn a large amount, not to mention the interest resulted from possible benefit transfers or some irregular practices. But since we have no proof that corruption is involved, we cannot make allegation arbitrarily. It will be unfair to them. However, the Government should at least consider suspending their pension payment during their period of employment in private organizations, and resume their pension payment when they stop working. This is a very reasonable approach.

President, this is indeed a matter of personal integrity. Many retired Directors of Bureaux and Secretaries of Departments are contented with their state, and Mrs Katherine FOK is one of them whom I must mention. She has said nothing after retirement and has not worked anymore. However, many people cannot defy the sense of loneliness after retirement.

President, there is another retired senior official who continues making criticisms about social issues, and this also has impact on society. Why do I say so? If he really cannot defy the sense of loneliness, he may as well follow the move of Regina IP to take part in the election of Members of the Legislative Council. If he wins the election, he may express his views. The evaluation of the performance of such Directors of Bureaux during their office had been extremely low. Though they are slightly better than "dead dogs", their performance had indeed been queried. However, once they leave the service, they suddenly become brilliant and wise, and launch strong criticisms against the Government. Honestly, if the Government is wrong, we have to criticize it. But these former senior officials, who know so many secrets and confidential information, take on an unco-operative attitude to sow discord in society. In a way, they are exploiting their past positions to achieve their purposes. It is a disgrace.

Hence, President, in addition to reviewing and criticizing the past behaviour of senior officials or senior civil servants, society should also review and reproach the remarks and behaviour of those former senior officials whom I mentioned earlier. Surely, a lot of newspapers and media think that the employment of these former senior officials will boost the strength of their organizations and win the support of the public. However, we have to review the entire system to avoid the damage from this alternative channel. I am not criticizing the freedom of expression enjoyed by others. Everyone is entitled to freedom of expression, but one should remember that when you left a boat, you should not spit at that boat. This is a matter of integrity in a certain sense.

Alright, President, I will return to the subject today. This report is the outcome of the efforts made by the Select Committee in various aspects. Surely, colleagues may have different views, and there are many different views in society. We should at least respect these colleagues for they have spent a lot of time to complete this report, which is a tough task. It is all too easy to add a paragraph or two at the end of the motion, but since they have made strenuous effort to complete the report, I think we should not take advantage of this. Of

course, some people may say that everyone should have the freedom of expression; if they think so, they may just go on expressing their views.

So, President, personally, I fully support this report of the Select Committee. As for other amendments, be they justified or not, we should review those issues on other occasions. But no matter how, as I always say, a responsible government is not sacrosanct. Most importantly, if it has made a mistake, it should review the issue, particularly when the mistake is an oversight. I have to mention the position of the Chief Executive in particular. All along, I have been blunt in saying that the position of the Chief Executive is not simply "a job", but a great position bringing glory to the family and ancestors. Learning from this incident, he should stand upright, leading his team to serve the people of Hong Kong, the Chinese Government and the people of China bravely and properly. He should be well aware that he no longer carries the title "Sir", but that he has accepted the appointment of the People's Republic of China. If he simply regards the position of the Chief Executive as "a job", what attitude will the Secretaries of Departments and Directors of Bureaux adopt?

We notice that some Directors of Bureaux are condemned by certain Members for their inexperience. However, the severity of the condemnation they faced is invariably disproportionate to one have to take in "a job". So, people in general will not be willing to take up this job. But no matter how, we still have to encourage civil servants, senior civil servants in particular, to serve the people of Hong Kong, the Chinese Government and the people of China with all their hearts. We have to encourage them to address their shortcomings and make commitment courageously. President, people may say that this so-called accountability system is neither fish nor fowl. But by all accounts, a responsible government should enhance the solidarity of its team, and if any inadequacy is identified, it should at all time be willing to make improvement, and if misunderstanding arises, they should enhance the communication with the public, the media and even the Legislative Council and explain the case. However, President, for deliberate sadism and vicious calumnies, I think the Government should bravely shoulder all the responsibility, for only this can address the needs of the public.

**DR SAMSON TAM** (in Cantonese): President, first, I have to express my gratitude to the Secretariat for providing service to the Select Committee, for I am a member of the Select Committee. At the meetings held in the past two years,

the Secretariat had given great support to us. I also have to thank Ms LI Fung-ying, the Chairman of the Select Committee, for encouraging us to attend meetings, enabling us to complete our work earlier than the subcommittee on Lehman Brothers.

In joining this Select Committee, I have spent a lot of time to attend meetings. Does it worth the time? What is the main focus? On the surface, the investigation is about the departure of Mr LEUNG Chin-man, but I believe Members will agree that the meaning involved is more far-reaching than the investigation of an individual incident.

Just now, I heard Members, the Deputy Chairman of the Select Committee in particular, mentioned paragraph 9.8, which has stated our utmost and focal concern. I will not repeat that paragraph. However, Members now know clearly or agree that officials may exercise certain powers in executing their duties, and these powers may likely or will surely enable various organizations to benefit. We may look at society in the past few years, a significant number of retired senior officials had joined these organizations, which had aroused public concern about the possible conflicts of interest involved. I think this is the core issue.

In fact, what had we done in the past two years or so? I think at the first stage, at the stage of obtaining evidence, we had experienced a lot of setbacks. During the process, the witnesses had not been co-operative and they were not truly honest in providing information. Although the picture gradually became clearer after we had raised many questions, there were still some unsolved mysteries.

I would like to specially bring out two mysteries among the many. First, it is the mystery of the relationships between LEUNG Chin-man and CHUNG Kwok-cheong and that between Henry CHENG and Stewart LEUNG. Though we had asked a lot of questions, we failed to disentangle the complicated and confused courses involved. I think the answer to the mystery is only known to heaven and earth and the people concerned.

The second mystery is on the responses given by various senior officials, for they said they had not associated the application with the Hunghom Peninsula incident in their memory. I think the Select Committee also has considerable

doubt about this. Why would that be the case? Had those officials failed to respond honestly to their feeling at the time? In the course of obtaining evidence, this had given me a very bad feeling.

During the deliberation of the Select Committee, I have been most concerned about three points. First, I think an issue of grave concern to many people is: Which officials had been in negligence during the process? In which aspects was the negligence involved? What responsibility should they shoulder? Second, what improvement should be made to the approving mechanism of post-service work? Third, while I think there is absolutely room for improving the mechanism, can the problems be tackled at root after improvement is made? These issues are very important and I am thus greatly concerned about them.

I will first talk about dereliction of duty on the part of officials. In my view, the media had in the past few days widely covered the comments made in the Report regarding the names of officials who failed to fulfil their duties and our comments on their performance. I think, in making these comments, members of the Select Committee had seriously and carefully considered the views, performance and responses of each and every official. I think the evaluations made are fair and just. Certainly, some Members may disagree and some Members may consider that more severe criticisms should be made. I think Members have already expressed their views in this Council. I believe there will be more views in the community and I absolutely agree that we have to listen to the views of the public. In this way, we can get a full picture of the views of society as a whole.

As for the approving mechanism, it is rather controversial, for no approving mechanism in the world is perfect. However, there are many loopholes in the existing approving mechanism or procedures. Many people consider that the procedures have been handled in a slipshod manner. Should the sanitization period be extended; if it should, how long should it be extended? Some Members worry that the extension will undermine the right and interests of civil servants, and in particular, senior civil servants — for the assessment period for civil servants at the ranks of D4 to D6 and D8 has now been extended. They worry that the extension will be unfair to them. I think it will not affect their interests, for they are not prohibited from taking up justified work, just that the assessment period will be extended. If their post-service work has no conflict with his former public office, I think the committee would definitely approve his application to take up the new position. On the contrary, if a better mechanism



of greater credibility is put in place, they need not wait for the expiry of the control period to apply for post-service work under the approving mechanism, and they can take up post-service work in an open manner. I think civil servants will have more confidence then. There are worries that the extension of the assessment period will greatly increase the workload of the approving committee on civil servants applications. However, in the past few years, there were only several hundreds of applications. Hence, I do not believe that the arrangement will increase the workload of the Civil Service Bureau significantly. I therefore consider that the sanitization period should be extended.

President, though we have put forth various proposals, the final implementation of those proposals would be subject to the sincerity and determination of the Government. In my view, if all these procedures and proposals only seek to tighten the restriction on people, it will not be of any help. For despite the tightened restrictions, people with ulterior motive may circumvent the restraints by hook or by crook. Hence, I think the most important thing is to change the attitude of civil servants. In other words, when civil servants apply or accept a new employment, they will put the interest of the public above other considerations, and they will serve the public wholeheartedly by putting public interest above other concerns at their present positions. If they do not adopt this attitude, the mere imposition of restrictions will only prevent the Government, the public and civil servants from establishing mutual trust. In the absence of mutual trust, the problems cannot be solved no matter what mechanism is adopted.

President, in this incident, various Members have put forth their own amendments. I have listened to the speech of Mr Albert CHAN who has pointed out the seven sins committed by Secretary Dennis YUE and requested her to step down. He has said so much about the seven sins that I think he may not remember all of the seven sins that he has touched on, but his remarks are justified in some sense. Though colleagues in the civil service have made mistakes, does it mean that the entire accountability system of principal officials should be vetoed or reconsidered all over again? I think this may be going too far. Hence, I do not support the proposal requesting the Secretary to step down for this incident.

Mr Ronny TONG says that this incident will cause the "LEUNG Chin-man syndrome", a newly coined term, and I think this description is not bad. At the same time, in my view, apart from the "LEUNG Chin-man syndrome", I worry

there will be the "post LEUNG Chin-man syndrome". Once civil servants hear the name "LEUNG Chin-man", they will panic. If civil servants have to perform well for the public, and if officials under the accountability system have to perform well, they must act in accordance with their conscience. If, after the LEUNG Chin-man incident, all civil servants choose to do nothing and make no important decision for fear of being held accountable and having to step down, it may not be in the interest of Hong Kong.

Hence, I put forth a proposal, hoping that the Government will address the issue and let the public see how it will make improvement in a fair, open and serious manner. Will there be discrepancies between the aspirations of the public and the performance of the Government? Will it give rise to "LEUNG Chin-man phobia" in future, where all civil servants may be so worried that they choose to do nothing to avoid making mistake? How will the Government strike a balance in this respect? I believe Members will definitely monitor the development of the incident. I hope the Government will make a decision to restore mutual trust in society and facilitate the continued development of society.

President, I so submit.

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

**DR MARGARET NG** (in Cantonese): President, this is the third time I had taken part in the work of a select committee established under the former Legislative Council or the Legislative Council. The first time was before the reunification, and the investigation was on the departure of Mr LEUNG Ming-yin. The second time was after the reunification, and the investigation was on the chaos aroused at the commencement of the operation of the new airport. This is now the third time. President, each of those incidents had provoked drastic reactions and very strong emotions. However, when members of the Select Committee sat down to deal with the problems together, we always found ourselves getting calmer and more rational, for we only had to analyse the evidence and the issues we were dealing with. When we draft the report, we are not only being accountable to ourselves, we are also exercising the constitutional power conferred to the Legislative Council under Legislative Council (Powers

and Privileges) Ordinance, which has given us special responsibility. Hence, we must be extremely cautious. Our impartiality should not be affected by our personal emotions, our general perceptions on certain people and our political stances.

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

Today, we have eventually submitted the Report, and we may listen to the responses of Members on the Report. I deliberately speak at a later time, so that I can hear the views of more Members and their comments on the Report. In general, Members seem to support the Report. However, I notice one point: What expectation will society have when the Legislative Council exercises its power to conduct investigation? Society will have high expectation. They expect us to investigate the incident with strict impartiality and find out what had gone wrong. And if something had gone wrong, whether the persons involved have made mistakes; what credits or blame should these persons take? What lessons have been learnt from the cases? What comments does the Legislative Council have on these persons? We have to consider all these factors.

Today, many Members have put forth their views, which include the views of various social sectors. I think the many different stances expressed during the entire debate are focused on the discussions of what expectations does the SAR Government have on civil servants at this stage? What expectations and demands does society have on civil servants? Are these expectations very high or relatively low? What basic standard of performance do we expect civil servants should maintain? The way a person responds to different questions can exactly reflect whether the level of expectation of that person is on the high side or on the low side. In fact, I do not think that lowering the expectations on civil servants is being truly understanding towards them. On the contrary, certain outstanding civil servants have set high expectation for themselves, who are also highly critical about their own performance. We hope that society will recognize and commend this attitude.

Hence, in my speech today, I will try to comment on the issue from an analytical angle. The Select Committee has three main questions to consider: First, is it improper for LEUNG Chin-man to work in New World China Land Limited (NWCL) after leaving the service? Second, if it is improper, why the

Civil Service Bureau, being the approving authority, had failed to notice this? Third, what is wrong with the structure or the system? Should the system or the persons involved be blamed? What suggestions can we propose to restore the credibility of the Government? After all, it is not our intention to deal a fatal blow to the Government; rather we are concerned about how to restore the Government's credibility after this incident.

Deputy President, of the three questions, the most fundamental issue is whether it is improper for LEUNG Chin-man to accept this job. Some people think that there is nothing wrong about this, but people with this view are in the minority. LEUNG Chin-man and Mr Henry CHENG of NWCL both consider the employment involves no impropriety. If there has not been any impropriety, naturally, there would be no negligence on the part of the Civil Service Bureau in approving his application for employment. Since there is nothing wrong with the employment, the uproar of the public is thus unjustified. According to the explanation of some people, this is political persecution. The world is originally quiet and peaceful and there are no problems at all.

However, as I mentioned earlier, people with this view are in the minority, and the majority thinks that the arrangement is improper. If so, we have to ask, what kind of behaviour of civil servants will be regarded as improper. Some people say that it is improper for he had deliberately allowed NWCL to benefit by selling Hunghom Peninsula to it at a very low price, so that in return, he could get a high position with handsome pay later on. However, should this be regarded as improper only at that stage? If the benchmark is set at this point, we have to examine whether there is evidence to prove this intention of his. Is there any evidence to prove that he had deliberately sold Hunghom Peninsula at a very low price? Had any negotiation taken place? Had any actions been taken after the negotiation to achieve this purpose? We have to consider if such evidence exist. If no such evidence can be produced, we cannot blame the Civil Service Bureau for granting the approval. For in the absence of such evidence, there is no question of negligence, and this is the end of the incident. However, what if there is evidence? If there is evidence, it would not only be a matter relating to the approving mechanism of post-service work of civil servants, but a criminal case.

The Select Committee is not of this view. We do not set the benchmark at such a low level, for we do not think that approval of post-service work must be granted unless the civil servant concerned is involved in corruption. Our views

have been set out in paragraph 9.8 of the Report, which have been read out by many colleagues earlier. We consider that if his participation in the Hung Hom Peninsula incident and his subsequent employment under NWCL had given reasonable cause of public suspicion that LEUNG Chin-man had done so for deferred reward, that NWCL had returned favour to him and that LEUNG Chin-man had been paving the way for his future, it involved impropriety. In other words, we consider it improper if an action gives reasonable cause for public suspicion. Hence, when we obtained evidence in our investigation, we had to consider, how LEUNG Chin-man had been involved in the incident? What was the extent of his involvement? What was the extent of his involvement in his capacity? What was his stance? Was the price set favourable to NWCL? How was the process of negotiation? What was the pay of the position offered? Was that position created for him in particular? How was the process? What had been done by both parties afterwards? What we have to prove is not whether he had been involved in corruption, but whether his behaviour had given reasonable cause of public suspicion of deferred reward. If the suspicion was established, as pointed out clearly by the Select Committee in the report, and if there was sufficient evidence justifying the suspicion but the Civil Service Bureau still granted approval for him to accept the employment, it would be improper and the Civil Service Bureau was wrong. Naturally, without such evidence, there would be no question of negligence. It is for this reason that we consider the incident improper, and since the Civil Service Bureau had actually granted him the approval, the Bureau had indeed been negligent.

However, we have discovered that certain civil servants held clearer views. In the course of investigation, we noticed that the views of MAK Chai-kwong and WONG Kwai-kuen were clear and simple. They considered that when a senior government official had to establish working relationship with real estate developers in the execution of official duties, it would inevitably create a negative perception among the public if the official joined the relevant sector after leaving the service. As to whether actual conflict of interest or potential conflict of interest would be involved, the two officials had not given a clear differentiation, but they considered that the employment would create a negative public perception and "suspicion should be avoided". When MAK Chai-kwong was asked in this Chamber whether he personally considered the officer should avoid suspicion, he said the officer "should" do so. What they were concerned about were the nature of duties undertaken by the officer, the parties the officer had dealt with, and the interest the prospective employer would involve. Some

people said that since the employment was with NWCL but not the New World Development Company Limited, these are two different issues, with the former one being the subsidiary company and the latter the mother company. They were asked of their views about this argument. They considered that due to the close relationship of the interest involved, it should not be regarded as two issues. Hence, we hope that civil servants would adopt this criterion in considering the entire incident. Had they done so, they would have known clearly that the employment of LEUNG Chin-man was improper. The Civil Service Bureau had definitely made a mistake for not stopping the employment promptly.

The second issue is about the problems identified in the approving mechanism. We have come up with an overall judgment. We conclude that in the approving procedure of this application, LEUNG Chin-man had deliberately concealed certain facts, including the Hunghom Peninsula incident, at the time of application. However, in our view, even though certain facts had been concealed, had the Civil Service Bureau, being the approving authority, carried out the scrutiny seriously, it would have discovered those facts and the present situation would not have arisen.

Deputy President, we have particularly considered how the mechanism should operate in future. We have two views in this respect. LEUNG Chin-man said that his responsibility was to comply with the procedures fully and he had filled in all the information required in the application form, but whether the authorities could identify any impropriety from the completed application form, it was not his responsibility. However, some people believed that it was an honour system, and as a civil servant who had served the Government for so many years, one should be obliged to be honest. When a civil servant takes up a new employment after leaving the service, he or she must assess whether the employment will constitute a conflict of interest, whether it will create negative public perception and whether it will cause embarrassment to the Government. If the officer cannot make his own decision, he should at least fulfil his responsibility of telling the truth. When the application involves significant pecuniary interest and an employment with a remuneration amounting to an annual amount of \$3.12 million, the officer should fulfil his responsibility properly by disclosing all relevant issues honestly.

In the course of the hearings, LEUNG Chin-man did not think he had to shoulder any responsibility, for he had filled in the application form according to

the procedures and it was left to the Civil Service Bureau for approval. He also said that since officials of the Civil Service Bureau were highly professional and experienced, the judgment should be left to them. It is right that the decision has to be made by the approving authority, but you have the responsibility to present the relevant facts. For this reason, we had had long discussion about this honour system. As a result, we raise the point of whether we have placed too much dependence on the honour system. We have eventually put forth some recommendations, pointing out that the system has to be improved. We have made recommendations on the improvement required. However, the improvement of the system alone is inadequate, for the crux of the issue is on the attitude adopted, that is, whether individual officers consider one must be honest being a civil servant. We discover that despite his claim of full compliance with the relevant procedures, he might have failed to comply with certain procedures. At the end of the application form, there is an item "declaration", and I would like to read out the second point of the declaration. It says, "I confirm that the information provided in this application is full and accurate. I understand that if I wilfully give any false information or withhold any material information in this application form, the approving authority may suspend or withdraw the approval granted for my application and where necessary, invoke appropriate sanction including legal action". Hence, it is ineffective just to improve the system. In my view, the simplest approach is to prohibit officers from taking up work in fields they have dealt with during their office at the Government after they leave the civil service.

Deputy President, finally, I would like to state my voting preferences on the various amendments proposed today. Deputy President, I will abstain from voting on all the amendments for being a member of the Select Committee. Though I am a member of the Civic Party, I did not join the Select Committee on behalf of the Civic Party, and I took up this task in my own capacity. In the course, many members have worked hard to reach a consensus, so that the report will be passed unanimously and its forcefulness can be enhanced. For this reason, I consider it inappropriate for me to vote on the various amendments. Thank you, Deputy President.

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, our society is composed of different individuals, groups and strata, where each individual, group and stratum will have different interest. For instance, if a site available at

present is used for building private residential flats, estate developers, estate agents, banks and people planning to purchase their flats will benefit. The grassroots who cannot afford home-purchase, as well as people hoping to have more public facilities in the community will not benefit. Conversely, if the site is used for building public housing estates, the result may be completely different. First, people waiting for allocation of public housing will benefit directly. Since public housing can also provide the space required for public services, people in need of community facilities and service will also benefit. Hence, decisions regarding the deployment of public resources and its distribution will have great impact on society.

The Government is the trustee of public resources. Through the formulation and implementation of policies, the Government may distribute public resources systematically. As I mentioned earlier, the approach adopted by the Government in distributing resources will have far-reaching effect on the operation of society and the livelihood of the public. Since the Government has assumed such an important role, we must be concerned about how the Government will distribute the resources. We believe that a government, which has the support of its people, will strive for the overall interest of society in formulating and implementing policies. To achieve this purpose, the two conditions below must be fulfilled. First, the course of decision-making should be transparent, so that the general public and their representatives may participate in and monitor the work of the Government. Second, the officials in charge must act with impartiality, and their decisions should not be affected by their personal preferences or personal gains or losses.

In respect of employment, the freedom to choose an occupation is a fundamental human right. We believe everyone should have the right to find the work suitable for them and the right to accept the job they are willing to take up. Article 39 of the Basic Law stipulates that the International Covenant on Economic, Social and Cultural Rights (ICESCR) is an international covenant applicable in Hong Kong. Under the ICESCR, State Parties recognize the right of everyone to work, which includes the right to freely choose or accept work, and that State Parties will take suitable steps to safeguard this right. It is also stipulated in Article 33 of the Basic Law that Hong Kong residents shall have freedom of choice of occupation.

We believe this right is the core value of Hong Kong and other free societies. This is also the cornerstone of society as a whole. Unless significant



public interest is involved, the right of everyone to choose employment freely should not be infringed upon in any form. Although there are not many examples of restricting the right of individual to choose occupation freely out of the concern of significant public interest, there are still such cases. For instance, security guards must possess a certificate and the proof of no criminal conviction for a specified number of years. Let me cite one more example. People of foreign nationalities are ineligible for taking up positions of the Chief Executive and principal officials under the accountability system. These are more obvious examples.

Our civil service team, including staff of public organizations, has been well-known for its high efficiency and honesty. At times when Hong Kong society had to go through great hardships, the team had performed its duties to maintain social stability and safeguard the public, so that Hong Kong can tide over difficulties time and again. Though there may be black sheep in the team, the Civil Service on a whole enjoys sterling reputation in the international community. Civil servants and staff of public organizations should have the right to work after they have left the service or after their retirement, just like other members of the public. People in their fifties or sixties are still energetic, and their exposures and experiences over their many years of work are precious assets to individuals and society. If there are suitable jobs, they should be allowed to continue giving full play of their strengths. Hence, unless significant public interest is involved, we should not restrict outgoing or retired public officers from taking up employment again.

As for outgoing public officers of non-directorate rank, we think we should not impose any restriction on them. Their regular duties do not involve the formulation of policies, and though they may have access to certain confidential information in the course of work and they may have to exercise certain discretion, the scope of influence of these powers is relatively small and superficial. Hence, I consider it unreasonable to restrict their right to work upon their leaving the service or retirement.

As for public officers at the directorate rank, they have ample opportunities to participate in policy formulation and they have greater discretionary power in policy implementation while serving in the Government. They also have access to confidential information and have built up an extensive network within the Government. If they join certain enterprises after they have left the

Government, and the businesses of those enterprises have labyrinthine relationship with their previous work in the Government, they may put these enterprises at a more favourable position when competing for public resources, which will result in unfairness in society. From another perspective, even if the nature of their post-service work is not related to their former duties in the Government, it will still inevitably raise public suspicion that the reason for offering such "favourable jobs" to them is to reward them for their special "care" during their service in the Government. The public will also query the impartiality and rationality of the governance of the Government. If this concept of "giving and taking" or "offering alternative reward" takes root and becomes a trend, it may form a tacit agreement between directorate officials and enterprises that: I offer you convenience today, so that we will be in friendly terms when we meet in future.

Deputy President, in the past 30 years or so, Hong Kong has developed into a corruption-free society with law-abiding citizens. However, unjust situations are still common in society. Very often, the policies of the Government have invariably conveyed the impression of inclining towards large consortia and the wealthy. The grassroots and the average public, who have to toil day in and day out, can only earn meagre income or small profit. But big businessmen are offered various material benefits to the extent that they have become so fat that they can hardly put on their socks.

Let us look at the development of the entire community in the past. It is incredible that the Government could reach a secret agreement privately with developers to restrict commercial activities in public housing estates, so as to protect the interest of private developers. As a result, the entire community is doomed to become a town of sadness due to the lack of local employment opportunities. Let us look at another side of the city. A large site had become the property of an estate developer without an official tender. The Government allocated the site to the developer merely based on the concept of developing high technology and a proposal with just several pages. The site had eventually been developed into a luxurious resident area. Worse still, the Government had to spend a large amount of public money to provide supporting facilities to pave the way for developers to acquire wealth. This is in actuality "paving the way".

All these are public resources, not personal property of the Government or senior officials. These unfair and unjust incidents occurred over the years have

really made the public angry, who have no channel to vent their grievances. In the eyes of the public, certain senior officials and big businessmen are now openly and blatantly exchanging glances of silent understanding, how will the public not fly into a rage? The person concerned may consider his behaviour proper and righteous, and he may simply ignore the views of others. However, government administration affects more than 7 million people. The governance of the Government should be fair in actuality and seen to be fair.

When LEUNG Chin-man was serving in the Government, he had been deeply involved in the handling of the Hunghom Peninsula development. At that time, the Government decided to withdraw fully from the property market, and there were a lot of follow-up work to handle. Hunghom Peninsula, being the "last Home Ownership Scheme estate" under the Private Sector Participation Scheme, would naturally become an integral part in the follow-up work. In the whole incident, LEUNG Chin-man had played the role of a co-ordinator, and his involvement had actual influenced the outcome of the negotiation between the Government and New World Development (NWD), it also had a great bearing on the benefits that NWD might obtained under the project.

In fact, it is the duty of senior officials to make decisions that may affect public interest. If the decision is made with the overall interest of society in mind and with impartiality, the officer-in-charge will have fulfilled his responsibilities, irrespective of the outcome of the decision. Actually, following the follow-up actions taken by the Government on Hunghom Peninsula, the economy of Hong Kong started to recover and the property market has revived, which was unexpected during the negotiation process. As a saying goes, "With hindsight, no one would be a beggar". We should not blame the officers-in-charge with the benefit of hindsight.

After handling the dealings between the Government and NWD, Mr LEUNG left the Government. After some time, he chose to join the subsidiary company of NWD — New World China Land Limited (NWCL). The incident had inevitably shocked the public. They considered the incident ridiculous. Why would this happen? Were the two incidents really unrelated? Besides, when Mr LEUNG applied to the authorities for approval of work, he had not provided the relevant information on the true facts. For this reason, the public thus had a more negative perception on the entire incident, and the reputation of the Government had been tarnished. The responsibility of Mr LEUNG in the

entire incident was crystal clear. However, the negligence of approving officers at various levels had made the public furious. It gave the public the impression that the entire approving system was comparable to a Chinese Opera, where the application is only regarded as an interlude after a round of singing; the application is just a formality, and approval will definitely be granted. Honestly, how can such an attitude be adopted nowadays?

In view of these problems, the Select Committee has put forth a series of recommendations in the report to tighten up the criteria for post-service work of outgoing and retired civil servants and impose specific regulation. Those recommendations focus on regulating the freedom of directorate officers in taking up employment during the control period, with a view to enhancing the credibility of the Government. Despite the aforesaid control, out-going directorate civil servants still have ample room in taking up post-service work. Those recommendations will not affect non-directorate civil servants and other public officers, who are in the majority. The Hong Kong Federation of Trade Unions (FTU) considers the recommendations proposed in the report constructive and highly desirable, and the Government should accept those recommendations.

As regards the various amendments, the FTU have had detailed discussions about them. Mr CHEUNG Man-kwong proposes that the Chief Executive should follow up the report's criticisms against the relevant government officials and the Secretary for the Civil Service by taking disciplinary actions and review the disciplinary mechanism under the accountability system for principal officials. We consider that the relevant departments and officials had been negligent and careless in the incident, and they should indeed shoulder the blame. The Secretary for the Civil Service, being a principal official under the accountability system, should undertake the overall responsibility. Secretary Dennis YUE has made an apology for her mistakes, and I believe the Chief Executive will take disciplinary actions accordingly. Moreover, since negligence is found in various departments at different levels, it is evident that the negligence and carelessness should be attributed to the system but not individual officials. Therefore, we should focus on reforming the system rather than starting a "witch-hunt" to apportion the blame to individuals. Otherwise, the morale of civil servants will be seriously dampened. We thus have reservation about the amendment of Mr CHEUNG Man-kwong.

Mr Albert CHAN proposes the dismissal of the Secretary of the Civil Service. In our view, though Secretary Denise YUE has made mistakes, it does

not warrant a resignation. Over the years, Secretary Denise YUE has earned good reputation in her official capacity, and she has made substantial contribution during her office as the Secretary of the Civil Service. Ms YUE should remedy her mistake by making achievement, that is, to work hard on reforming the approving mechanism.

As for the proposal from Mr Ronny TONG to review the control measures governing the post-service work of the officials under the accountability system on the basis of the recommendations in the report of the Select Committee, the FTU considers this a reasonable proposal, which has also been mentioned in paragraph 9.54 of the report of the Select Committee. The control under the existing mechanism is only applicable to directorate officers. Though principal officials under the accountability system are conferred with greater power, they are almost subject to no control on post-office work. This is obviously unfair, and the Government should take this opportunity to formulate control measures accordingly.

Ms Audrey EU's proposes that the Chief Executive should take punitive action against Mr LEUNG Chin-man and investigate the relevant mechanism. In our view, though the report of the Select Committee has pointed out the mistakes made by Mr LEUNG Chin-man, it has not recommended any punitive action. Hence, we think the incident should first be investigated under the established mechanism to clarify whether Mr LEUNG Chin-man has made any mistake. If he has, what is it; and what punitive action should the Government impose and what punitive action should be appropriate. Those issues must be handled according to the prescribed rules. If this Council requests the Chief Executive to take punitive action not according to the established mechanism, it will be unreasonable. Hence, we have reservation about this amendment.

I so submit.

**MR PAUL CHAN** (in Cantonese): Deputy President, first of all, I have to thank the Chairman of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Select Committee) for the detailed report presented, as well as the hard work of Ms LI Fung-ying and other colleagues.

Deputy President, I would like to take this opportunity to declare my membership in the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Review Committee). Since the case of Mr LEUNG Chin-man had aroused public concern, on 30 September 2008, the Chief Executive appointed the Review Committee to review the existing policy and arrangements governing post-service outside work for directorate civil servants. In July 2009, the Review Committee submitted the report to the Chief Executive. Subsequent to the submission of the report, in the past 18 months, I had twice asked the authorities about the follow-up of the recommendations put forth in the report. I was given the reply that the authorities had sought legal advice on the recommendations of the Review Committee, and it was examining the relevant legal advice, as well as the views and opinions of stakeholders. In one of the reply received, the authorities only said that it was considering the report of the Review Committee in detail. It is evident that the authorities have procrastinated in giving a substantial response. I guess the authorities want to wait for this report of the Select Committee, so that they can consider the two together and come up with a decision.

Deputy President, the recommendations on the improvement to the mechanism and the restrictions on work made by the Select Committee in the report are broadly in line with those put forth by the Review Committee earlier. The only difference is that the control period for civil servants at D4 to D7 will be extended from two years to four years, which is one year longer than the recommendations of the Review Committee. As for other recommendations, they are basically similar. Since the Government has sought legal advice and examined the issue for one and a half year, I would like to take this opportunity to urge the authorities to give a formal response and implement the improvement recommendations on the control regime governing the post-service work of directorate civil servants as soon as possible. It should not delay any longer.

As a common saying goes, "government offices will remain unchanged like iron while officials working inside change like flowing water." According to the figures of the Government, as at September this year, there are 1 500 officers at the directorate grade under the civil service establishment in various Policy Bureaux and departments, and 100 directorate civil servants retired in average in each of the past three years. There is no guarantee that incidents raising suspicion of benefit and reward may happen again among these retired civil servants. This is reflected by incidents in the past. In 2004, there was the

Elaine CHUNG incident, and in 2008, just four years later, there was the LEUNG Chin-man incident. We as Members and citizens do not want to see the recurrence of similar incidents. For the recurrence of similar incidents will do no good to society, the Government and civil servants. I hope the authorities concerned will respond expeditiously.

I would also like to take this opportunity to put forth two points about the mechanism. First, it is about the control period. I learn from some civil servants that the extension of the control period is unfair to them and they hope the period can be shortened. However, I would like to tell them that the control period is different from the sanitization period. During the sanitization period, they are not allowed to work, but during the control period, they are only required to submit applications before accepting any employment. The control period is part of the approving mechanism. If the civil servant acts in an open and righteous manner and the new employment does not involve any conflict of interest, the application is only a procedure. It is true that they have to take one more step, but this will not deprive them of the opportunities to work. Certain civil servants go so far as to say that the arrangement will make it difficult for them to earn a living, this comment is hardly acceptable.

Deputy President, regarding this mechanism, I would like to bring out the second point on the formulation of a sunshine policy. At present, the Civil Service Bureau will record the approved applications of post-service work of retired directorate civil servants in a register, but this is only applicable to applications of civil servants at D4 or above. Indeed, the Select Committee and the Review Committee have both recommended that the coverage of the register be extended to civil servants at D1 to D3. I earnestly hope that the authorities will do its best to implement this recommendation, for we believe public monitoring is the most effective means. If the information is made public so that everyone can have access, the monitoring effect so creates will be much greater. The Review Committee has put forth one more recommendation that in addition to recording the case in the register, the views of the Advisory Committee should also be made public. This will not only enhance transparency, for if the views of the Advisory Committee differ from the decision of the authorities, the relevant justification will be listed in the register, so that the public will have a clear picture. It is a very good arrangement.

Deputy President, I will then talk about the control of politically appointed officials in taking up post-office work. As some colleagues said earlier, which I

have mentioned twice or thrice in this Council, the existing control on the post-office work of politically appointed officials is too lax, for they are only subject to a one-year control period. When compared with senior civil servants, politically appointed officials also have access to confidential information, policies, and so on, and the sensitivity involved is no less than that of directorate civil servants. I believe society and this Council both demand that a thorough review should be conducted on the control of the post-office work of politically appointed officials. At the Review Committee, several members and I have put forth the view that the control on politically appointed official should be commensurate with that of directorate civil servants.

Deputy President, apart from politically appointed officials, some colleagues have mentioned the application and approval of post-service employment of senior staff members of certain major regulatory organizations. Members have cited the example of the Hong Kong Monetary Authority (HKMA), and I think it is a matter of course to raise this demand. Given that Hong Kong is an international financial centre and the importance of the finance market to Hong Kong, the HKMA is not only an organization responsible for implementing policies, but it can also be regarded as the first-line monitoring bank, which has access to a lot of information with strict confidentiality and great importance. Deputy President, another organization worthy of consideration is the Securities and Futures Commission (SFC). In view of the present development of Hong Kong, the capital market is of great importance, and even more so in future, and as the SFC has to handle a lot of sensitive information and the amount of money involved is colossal, monitoring is thus necessary. I have only put forth two examples just now. I hope the Government will uphold this principle by imposing control on the post-service work applications of senior staff members of regulatory organizations or public organizations involving significant public interest.

Deputy President, I would like to spend the remaining time to talk about my considerations and views on the several amendments. Two of the amendments propose that the Independent Commission Against Corruption (ICAC) should intervene to investigate the case. Deputy President, everyone can make a complaint to the ICAC. According to my understanding, when a complaint is made, even if it is an anonymous complaint, the ICAC will consider it. Under certain circumstances, even though no complaint is made, the ICAC may initiate an investigation of a case it learns from the press when it considers it



necessary to do so. Hence, to a certain extent, the threshold for the ICAC to open a case file is not very high.

Deputy President, what is my concern? In the eyes of Hong Kong people, the ICAC is an integral part of the soft strength of Hong Kong, of which Hong Kong people are proud of. What Hong Kong people are proud of is the high credibility of this regulatory organization. We believe the organization will act with impartiality, and it will not act under the instruction of any individual or any organization. In considering whether it will file a case, how investigation will be carried out after filing the case and whether prosecution will be initiated after investigation, the ICAC follows its professional code of practice and criteria. Over the years, the ICAC has won the trust of the public through various specific cases it has handled. If this Council passes a motion to request the ICAC to investigate the case, it will be inappropriate, which may even be regarded as exerting pressure on the ICAC. I think if the Members concerned consider that the ICAC should follow up the case, they should make a complaint in their personal capacity rather than requesting the ICAC to investigate the case by passing a motion in the Legislative Council. I fear that this will set a precedent, and the ICAC may be reduced to a political tool in future. Hence, Deputy President, I have reservation about the amendments proposed by Ms Audrey EU and Mr Albert CHAN.

As for the official criticized by name by the Select Committee in the report — surely that is Secretary Denise YUE, Members have talked a lot about this earlier. After reading the report of the Select Committee, I come to the judgment that the performance of Secretary Denise YUE in this incident was really disappointing. She has failed to fulfil the role of the final gatekeeper under the existing Control Regime, but this mistake does not call for her to take the blame and resign. A number of colleagues mentioned earlier that, given the performance of Secretary Denise YUE in the past, the present incident should not be carried to the extent of requesting her to resign. I agree with this view.

Regrettably, we lack a disciplinary mechanism for politically appointed officials. Hence, I think the SAR Government should consider this point seriously. This issue has been raised more than once, and a number of colleagues have mentioned this issue in this Council. There are many options, ranging from giving or not giving an apology, and even between resignation and stepping down. There is a wide range of options, what can be done? What

measures can be implemented to ensure adequate accountability? Surely, we cannot simply impose the practice of the civil service on them, but that can serve as a reference.

Deputy President, the Select Committee has also criticized other civil servants by name, stating that there were dereliction of duty and failures to exercise due diligence on their part. Deputy President, honestly, I do not think that the system itself has problems. In my view, the executive authorities have already put in place a mechanism requiring the holding of disciplinary hearings on civil servants committing dereliction of duty, and even imposing punishment. I hereby urge the Chief Executive to, base on the recommendations of the Select Committee and the existing mechanism of the civil service, address the mistakes made by the relevant civil servants seriously and properly. For only this will boost the confidence of the public in the Civil Service, so that they trust the SAR Government will deliver governance with fairness and impartiality.

Deputy President, finally, I have to point out that among the various departments involving in processing the application of Mr LEUNG Chin-man, two colleagues from the Works Branch, having the most remote relationship with the case on the surface, had pointed out that the application would raise a public perception issue. We have talked much about disciplinary actions. As for these two officials, I think they have fulfilled their duties, conducted sufficient studies, collected sufficient information and analysed the case, and then expressed their views honestly. Their responsible performance warrants commendation in the report of the Select Committee. More so, they should be given proper consideration and commendation in their individual performance appraisal. As for Mr CHEUNG Man-kwong's amendment, I will support it. Thank you, Deputy President.

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

**MR PAUL TSE** (in Cantonese): Deputy President, I believe colleagues have touched on almost all the topics on this issue. I have been listening attentively to them and, as usual, I have tried to listen to them all before I speak. I only wish to add some personal views so as to furnish the public with more analyses and viewpoints.

Deputy President, I will first state my observations about this incident and then I will try to make some recommendations. Finally, I will speak on the amendments.

Deputy President, a number of Members have just pointed out that Hong Kong is a small place and the circle here is small. I thus hold that we must have a clear understanding of Hong Kong's unique situation when we examine this issue and its related policy. We have to understand that Hong Kong is very different from places like the United States and the United Kingdom in this regard. Mr CHIM Pui-chung said just now that in the past, senior officials returned to their homeland to "peel potatoes" after retirement. Not all of them did so, but the situation then is very different from the situation now.

Having said that, in the past, senior officials were not totally devoid of a bright prospect upon retirement. As far as I understand, one of the original purposes of setting up the Hong Kong Tourism Board (HKTB) in the early days was to facilitate senior British officials to find themselves a highly-paid post with substantial fringe benefits after retirement. This is the historical origin of the HKTB. Thus, not all of these officials were without exit plans after retirement. However, given that Hong Kong has now returned to its Motherland and the community here is small, these problems have become more prominent.

Deputy President, the judicial sector of Hong Kong indeed sets a very good example. We all know that retired judges of higher courts cannot enter into private practice. This is a good practice and tradition which can dispel public suspicion of any transfer of interest or "integrity" issue. However, it is more difficult to introduce this practice in the Civil Service because the fields in the Civil Service are not as clear-cut as those in the judicial sector; it is also relatively more difficult for civil servants to identify which field they belong to, particularly senior officials who have often served different fields. It is thus understandable that it is more difficult to put the above measure into practice in the Civil Service.

Deputy President, having considered the current situation, we will understand why so many similar problems have happened. One of the reasons is that people now live longer and have better health, and many senior officials look much younger than their age. Regarding this problem, should consideration be given to review the issue of flexible retirement age? I will say more about this point later.

Deputy President, another point I wish to raise is the so-called "honour system". Members have different views about this issue. Some Members think that there are inherent problems with the system while some Members hold that the system is fine and the problem lies in the implementation. After reviewing the whole incident and reading the entire report, I tend to support the latter because the declaration system and the vetting and approval system concerned are rather complicated. I doubt the comments of the Members that the civil servants concerned have not conducted any independent vetting and approving work, or they have not done any information research but simply changed the details of the file. I believe that, to a certain extent, this may really be the case if the workload of the civil servants concerned are too heavy. Talking about the vetting and approval issue, we do not know the exact number of applications, probably there are over 300 applications involving officials of different ranks. Of course, more caution should be exercised in handling applications by senior civil servants.

The system itself seems to be fine on the whole. But in implementation, will work pressure or the culture of "not hindering others from getting rich" become a cause of the problem? Moreover, some people claim that civil servants are interested to know the prospect of their predecessors and they hope that people outside the Civil Service will remember them. Such ideas and sayings do exist. But most important of all is that we cannot totally rely on the "honour system".

The situation is similar as that of the tourism sector. All along we stress that we should not trust that the Travel Industry Council of Hong Kong (TIC) is capable of monitoring its own people. This culture originated in the 17th or 18th century. At that time, the "honour system" and the idea that professionals were men of integrity who would uphold the honour of their professions were advocated in many countries, particularly western countries. However, as time progressed, people began to realize that this system was not feasible. Even the British legal profession was of the view that it was impossible to regulate people of the legal profession by their own people. I believe the case is the same for senior officials.

In fact, a system called ACPE, that is, the Advisory Committee on Post-service Employment of Civil Servants is now put in place. I think this system exists only in name. We are all aware of what has happened. In fact, we all know that Mr Justice PANG Kin-kee, Chairman of the ACPE, has handled a case in such a way that ..... If Secretary Denise YUE should resign, so should

Mr Justice PANG Kin-kee for he has issued different judgments for the same case within a day.

Hence, if the system itself cannot render sufficient room for independent participation, as well as vetting and approval of applications, more stringent control should be put in place in the application, declaration or vetting and approval stage. I do not wish to spend too much time on this point because the Select Committee has already done a lot of work. The Select Committee has carefully considered various improvement measures, which I very much agree with, including the recommendations stated in paragraph 9.18 to 9.61.

In particular, I wish to raise a few points for Members' consideration. First, as far as declaration is concerned, Dr Margaret NG just mentioned that the applicant needs to make a declaration. However, if you look deeper, you will find that this declaration is, in fact, not a *bona fide* declaration because the words "I confirm" are used. The word "confirm" has no legal effect, whereas affidavit or statutory declaration have the legal effect of an oath, and a person making an affidavit or statutory declaration can be liable for making false oath. Hence, the only solution is to tighten the control on making declaration and a more stringent declaration procedure should be implemented. Members can spare some thought on this point.

Deputy President, another point is, looking back at the whole incident, where has gone wrong? Or what is wrong with the vetting and approval procedure? These are the most important questions we need to consider. In addition, another point we should note is how sound the system is. In other words, should the accountability system for principal officials be preserved? What is this accountability system about? This system is in fact simply about whether a principal official can make reasonable explanation. If he can, he is off the hook; otherwise, he will be held responsible.

From the legal point of view, Mr LEUNG Chin-man is not completely wrong. He considers himself a victim. Why? This is because strictly from the legal point of view, it seems that there is no evidence to prove that he has committed any criminal offence or he has received any deferred benefit. It is often a matter of perception. As far as this incident is concerned, I totally respect the majority view and I agree that the incident has indeed created a serious perception problem. However, if further action is to be taken, we have to be more cautious and cannot just rely on perception. In this regard, Dr

Margaret NG, an important member of the Select Committee who has discreetly helped other members to understand the problems, cannot identify any evidence that allow us to immediately pursue any criminal liability against Mr LEUNG.

Hence, even if we seek help from the ICAC (that is, Independent Commission Against Corruption) to conduct further investigation, I am afraid it will only be a formality having no real meaning. Unless someone comes out to make a confession or if any of the parties concerned provides information which he or she was unwilling to or dared not provide before, I do not see any special reason which merits spending too much time on further investigation. I believe the Select Committee's investigation and members' cross-examination have been effective in uncovering the truth, even though the way and procedure of cross-examination are different from those adopted in court.

There is one point which I believe colleagues may not have noticed. Regarding this matter, is it possible that economic benefits were acquired not by means of corruption but by making dishonest declaration or remark? This is an offence stipulated in the Theft Ordinance. A person guilty of this offence is liable for imprisonment for 10 years. Of course, it is also an offence if a post or appointment is secured by means of dishonest declaration, but this has to be substantiated by appropriate evidence. This is the only potential criminal liability I can think of, but it is not so easy to be substantiated by evidence.

Deputy President, apart from tightening the regulation on making declaration, I have a few more suggestions for Members' consideration. First, there is presently a registry for filing approved applications and the registry is open for public to examine the approved applications and the additional restrictions imposed. At present, information is filed only after the application has been processed. Can we be informed of the situation before or during the processing of the application? For instance, we can require an applicant to make a declaration, just like the declaration made by people intending to get married. "We are going to get married, are there any objections?" Or, in the case of people making a deal, "We are now closing a deal, creditors should recover their debt within a month, otherwise we will not be liable after a month". Of course, the issue of privacy is involved, but only the information relating to the potential appointment of the applicant will be disclosed, not the details or specific conditions of the appointment, a pre-appointment declaration can allow the public to voice their objection under the sunshine policy and prevent officials from

having collective memory loss. This may be able to minimize the risk of having officials intentionally withhold information in the declaration.

Deputy President, regarding the ACPE, I hold that we should not reorganize the ACPE, as recommended by the Select Committee. Consideration should be given to establishing more specific and stringent regulation on the appointment of members and their legal foundation. Instead of appointing members who perform their duties in a routine manner, people with a genuine interest in taking up this kind of public duty should be appointed, so that they can examine the applications with their legal knowledge, with a view to enhancing the credibility and transparency of the vetting and approval procedure. As the example of the TIC which I just cited, we cannot trust that applications can be vetted and approved by the same group of people. In this regard, I hold that the role of the ACPE can be enhanced.

Deputy President, regarding the amendments, I beg to differ with some of them. For instance, one of the suggestions urges the Chief Executive to take immediate punitive action against Mr LEUNG Chin-man. However, even though the public regard Mr LEUNG's conduct inappropriate, and some people may have adverse comment on him, he does not deserve to be treated so. Except under very special conditions with very specific requirements, the pension of a civil servant cannot be casually reduced or revoked under our system.

I do not know what kinds of punitive action Ms Audrey EU wishes to take as she has not stated clearly in her amendment. Regarding the relevant organization which she calls on to conduct investigation and take follow-up actions, I believe she means the ICAC, just that she may not have made herself clear. However, as I have just mentioned, the ICAC may not be the appropriate organization to take action. I even echo Mr Paul CHAN in that it may be inappropriate to force the ICAC to handle this incident.

Regarding the proposal which urges the Secretary to resign, I agree that we need an accountability system and that the incident should not be settled by a mere apology. Unfortunately, a more moderate approach is presently not available. I hope that some arrangement can be made by the Secretary and the Chief Executive to appropriately reflect the views of the public that the punitive actions taken are unsatisfactory and insufficient. I hope they can find an appropriate way to handle this matter.

As for a review, I basically agree with the idea because many recommendations made by the Select Committee need to be followed up. As a matter of fact, many officials who were named have done many things wrong. The accountability system may not be perfect, but I hope that the positive side of the system can be preserved.

Thank you, Deputy President.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, my speech today is possibly the shortest one since I joined the Legislative Council, because I only wish to focus on discussing whether the Report of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Report) should be endorsed. I have read some 400-page Report. I hold that the Report is the concerted effort of 12 members who come from different political parties and groupings and they have taken two years to take evidence. The LEUNG Chin-man incident aroused wide public concern in 2008 and I supported the appointment of a select committee by exercising the power under the Legislative Council (Powers and Privileges) Ordinance to inquire into the matter. In fact, quite a number of pages of the Report are devoted on laying out the careful and discreet criticisms against the Government; and there are almost 20 pages on the recommendations. I have read the recommendations. I believe that in drafting the Report, the Select Committee has already taken into account the factors they had to consider in taking evidence. Thus, we, the Professionals Forum, accept the original content of the Report, its recommendations as well as its criticisms against the Government. We hold that the amendments may not be able to reflect the work done by the Select Committee in these two years. In this regard, we hope that the Government can seriously consider the views put forward by the Select Committee and improve the present mechanism.

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): Ms LI Fung-ying, you may now speak on the four amendments.

**MS LI FUNG-YING** (in Cantonese): Deputy President, a total of four Members intend to move amendments to this motion today. Mr CHEUNG Man-kwong's amendment calls on the Chief Executive to follow up the criticisms set out in the Select Committee's Report to take disciplinary actions against the relevant officials in charge of vetting and approving Mr LEUNG Chin-man's application. Ms Audrey EU and Mr Albert CHAN's amendments urge the authorities to take punitive action against Mr LEUNG and calls on this Council to express condemnation at Mr LEUNG's dishonest acts respectively.

The Select Committee finds that, upon inquiry, Mr LEUNG's evidence given on the role he played in the Hunghom Peninsula case is inconsistent and considers that he has attempted to play down his role and participation in the case. Mr LEUNG has even hid the fact that the job offered by New World China Land Limited (NWCL) had come directly from the top management of New World, that is, Dr Henry CHENG. All these facts are contained in paragraphs 8.73 and 8.84 of the Report. The Select Committee also finds that the way the officials have processed the applications is careless and perfunctory.

Chapter 5 of the Report sets out in detail the Select Committee's observations on the officials involved in vetting and approving Mr LEUNG's application. The Select Committee conducts inquiry to find out the truth so that the public can know the whole incident. The terms of reference of the Select Committee include looking into the possible reasons for NWCL to hire Mr LEUNG after his retirement from the Government, and whether such reasons had anything to do with his pre-retirement service in the Government and with any potential or actual conflict of interest. The ultimate purpose of the inquiry is for the Select Committee to come up with recommendations on the policies and arrangements governing post-service work of senior civil servants generally, through the specific case of Mr LEUNG.

It is not within the terms of reference of the Select Committee to take punitive actions on inappropriate acts or propose the punitive actions concerned. Thus, the Report has not made any recommendation in this regard.

Nevertheless, the Select Committee hopes that the Government will take appropriate follow-up actions in the light of the inquiry result.

Mr Albert CHAN demands in his amendment that the Secretary for the Civil Service assume political responsibility, take the blame and resign. Similar calls have been heard in the community after the release of the Select Committee's Report. The Select Committee has set out in detail in paragraphs 5.111, 5.112 and 9.17 of the Report its observations on the Secretary for the Civil Service's performance in vetting and approving Mr LEUNG's application for employment with NWCL and the responsibilities she should assume. It is the responsibility of the relevant officials and the Chief Executive to consider how politically appointed officials should live up to the spirit of the accountability system. The Select Committee has not conducted any discussion on this topic.

Mr CHEUNG Man-kwong also demands in his amendment that a review on the disciplinary mechanism under the accountability system for principal officials be carried out. As this is not within the terms of reference of the Select Committee, we have also not conducted any discussion or made any recommendation on the accountability of officials and the disciplinary mechanism of the accountability system.

Mr Ronny TONG's amendment urges the Chief Executive to review the control measures governing the post-service work of the officials under the accountability system. Although this subject is not within the terms of reference of the Select Committee, we have mentioned in paragraph 9.54 of the Report that the public is concerned about this issue, and we urge the Government to expeditiously conduct a review of the matter. Mr Ronny TONG's amendment is in line with the view of the Select Committee.

Last but not least, Mr Albert CHAN's amendment requests the Independent Commission Against Corruption to conduct an investigation into Mr LEUNG's employment with NWCL, and Ms Audrey EU has also made a similar proposal in her amendment. I wish to point out that the Select Committee's inquiry sought to find out the truth through public hearings, as well as from the evidence given and documents produced by witnesses. The inquiry is not a criminal investigation. Although the Select Committee has not requested law-enforcement institutions to take follow-up actions, with the release of the

Report, any relevant institution can decide whether they will take appropriate follow-up actions under their purview, in the light of the inquiry result reached by the Select Committee.

Deputy President, I have expressed my views on the four amendments. In order to remain neutral in my capacity as Chairman of the Select Committee, I will not cast any vote.

Deputy President, I so submit.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, regarding the Report of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (Select Committee Report), I have listened very attentively to the views expressed by Members.

First of all, I have to thank the Chairman of the Select Committee, Ms LI Fung-ying and fellow members for the time and efforts that they have spent on the inquiry of the incident over the past two years. During the inquiry, the Administration has worked in conjunction with the Select Committee in a comprehensive and serious manner. Detailed information has been provided in respect of the Control Regime governing the post-service work of directorate civil servants and the Government's handling of Mr LEUNG Chin-man's post-service work application. Furthermore, upon request by the Select Committee, detailed information has also been furnished in respect of the major housing or land policies which Mr LEUNG had taken part in their formulation or execution and decisions which he had made pursuant to such policies while serving as Director of Buildings, Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing, which include matters relating to the developments of the Hunghom Peninsula and the Grand Promenade. A number of senior government officials had attended the public hearings of the Select Committee.

The policy objective governing the post-service work of directorate civil servants is to ensure that, during the final leave period before departure from the Government or within a specified control period counting from the official departure, they will not take up any work outside the Government which may constitute a real or potential conflict of interest with their previous government service or cause negative public perception embarrassing the Government and

undermining the image of the Civil Service. At the same time, we must also ensure that the directorate civil servants' right to pursue employment or other work after ceasing government service will not be unduly restricted. A balance should be struck between the protection of the public interest and individual's right.

We must admit that, in this incident, the vetting authority had failed to give due consideration to the "public perception" issue. During the vetting and approval process, "public perception" and possible public suspicion of "deferred reward" should be carefully considered. In considering these two perception factors, we should be aware that the perception issue would more or less involve subjective feelings or speculation; hence all decisions made should be based on objective facts and substantial grounds. Being the decision-making authority, the Secretary for the Civil Service should, based on the information furnished by applicants, and in consideration of the information and views collected for the case within the Government, make the final decision. The final decision must be fair and reasonable, in compliance with the policy objective and appropriate strictness and leniency.

The Select Committee Report has expressed views on the performance of responsibilities of officials who were involved in handling the relevant application. In the process of approving Mr LEUNG Chin-man's application, the officials concerned were not thorough enough and had genuinely failed to consider the involvement of Mr LEUNG in the Hunghom Peninsula case while serving as the Permanent Secretary. I must however stress that in the Government, there is absolutely no inclination or culture of approving all applications by directorate civil servants for post-service work. Neither is there any imposition of pressure on Policy Bureaux or departments having divergent views, nor attempts to prejudice their views through various means. We are convinced that in approving Mr LEUNG's application, all staff had upheld their integrity without forming any preconceived view or taking an established stance; they had acted impartially and had strictly adhered to two major principles of safeguarding the public interests and safeguarding the individual's right.

Under the circumstances that Mr LEUNG's involvement in the Hunghom Peninsula case while serving as the Permanent Secretary had not been considered, the Secretary for the Civil Service considered that four additional restrictions should be imposed on Mr LEUNG in addition to the standard work restrictions,

which include the prohibition to involve himself in any business of his prospective employer that was connected with Hong Kong, the prohibition to represent his prospective employer in any discussion with the SAR Government, and so on. She thought that by so doing, she could address and handle Mr LEUNG's application and the possible public perception concern arising from his previous service as the Director of Buildings. The basis of such a consideration is to strike a proper balance between the two major principles of safeguarding the public interest and safeguarding the individual's right. Although the additional restrictions had failed to address the negative public perception arising from Mr LEUNG's involvement in the Hunghom Peninsula case, Members should not be over-generalized and jumped into the conclusion that the Government has the inclination or culture of approving all post-service work applications of directorate civil servants.

The Select Committee Report pointed out that when the officials concerned considered Mr LEUNG's application, they had not associated the appointment with his involvement in the Hunghom Peninsula case, which is incredible. I must point out that officials who had handled Mr LEUNG's application had sworn under oath to honestly give evidence in the public hearings. When they considered the relevant application, they had really not thought of Mr LEUNG's involvement in the Hunghom Peninsula case while serving as the Permanent Secretary. As a matter of fact, in early August 2008, 10-odd days after the media reported the employment of Mr LEUNG with the New World China Land Limited (NWCL), Secretary for the Civil Service had submitted a report to the Chief Executive to clearly account for her failure to associate Mr LEUNG's employment with the Hunghom Peninsula case when approving his application. Now that the report was published and the story is very simple. It was the understanding of the officials concerned that Mr LEUNG would only perform his major duties in the Mainland, and would not be involved in any way in the business of the parent company or any subsidiaries of NWCL. So, the officials concerned had only focused on the Mainland business of NWCL. We absolutely do not accept the Select Committee's allegation that it is incredible that the officials concerned had not considered the Hunghom Peninsula.

(THE PRESIDENT resumed the Chair)

The Secretary for the Civil Service is the decision authority for the post-service applications of directorate civil servants. In this incident, being the accountable official, Secretary Denise YUE had assumed responsibility for the incident by making open apologies. The Legislative Council had also explicitly criticized her. I noticed that the feedback from the media was basically positive in view of the fact that Secretary Denise YUE had faced up to her responsibility and taken the blame. Yesterday, the Chief Executive reprimanded Secretary Denise YUE that she could have avoided arousing public concern and suspicion if she had vetted and approved the application in a more careful and prudent manner by taking into account more factors. The Chief Executive held that Secretary Denise YUE's consideration was not thorough enough when approving the relevant application, and therefore instructed her to be more careful, thorough and prudent when approving similar applications in future. He further requested Secretary Denise YUE to carefully consider the proposals made by the independent Committee on Review of Post-service Outside Work for Directorate Civil Servants (Review Committee) appointed by him on 30 September 2008 and the Legislative Council's Select Committee to improve the Control Regime.

In the amendment proposed by Mr CHEUNG Man-kwong, he suggested that the Chief Executive should take disciplinary actions against the Secretary for the Civil Service and the relevant civil servants, and demanded a review of the disciplinary mechanism of politically appointed officials. Mr CHAN Wai-yip, on the other hand, demanded in his amendment that the Secretary for the Civil Service should assume political responsibility, take the blame and resign. We urged Members to oppose these two amendments.

As a matter of fact, when a politically appointed official makes a mistake in his work, the Chief Executive may reprimand him or even ask him to resign. In this case, it is suitable and appropriate for the Chief Executive to reprimand Secretary Denise YUE for her incomprehensive consideration when approving Mr LEUNG's application.

For civil servants who were involved in handling Mr LEUNG's application, their consideration was also not thorough enough. However, as I have pointed out earlier, they have upheld their integrity and acted impartially in handling the relevant application. The explicit criticism of the civil servants concerned by the Select Committee, Legislative Council, media and members of the public is already a grave punishment to them. The authorities have learnt a lesson in the

aftermath of the incident occurred in August 2008. All post-service work applications from directorate civil servants would be considered in a more careful and prudent manner and from a more comprehensive and in-depth angle. One point worthy to note is that the existing vetting and approval procedure for post-service work applications made by directorate civil servants has probably omitted some important information relevant to the applications. The authorities would therefore carefully consider the few improvement measures suggested by the Select Committee in this regard.

The Select Committee Report has also commented on the operation of the Advisory Committee on Post-service Employment of Civil Servants (ACPE), and the views would be seriously considered. However, we must acknowledge that the ACPE is not obliged to collect information, nor is it a body to conduct public opinion polls. It is the responsibility of the executive bodies (that is the Civil Service Bureau and other relevant Policy Bureaux and departments) to collect information about each application and conduct assessments. The ACPE is responsible for giving independent advice on the basis of the information provided by the executive bodies.

All along, the ACPE have considered applications on the basis of the information provided by the Civil Service Bureau and then offered independent views to the Secretary for the Civil Service. During the period from July 2003 to April 2009 before the Select Committee conducted its public hearings, the ACPE had considered a total of 395 applications. Except for full-time or part-time work applications with universities or other academic institutions, the ACPE had imposed even stricter work restrictions than that of the Civil Service Bureau in respect of 13 applications among the remaining 295. This reflects that the ACPE is fully aware of and has attached great importance to its role, and has discharged its duties in a serious and prudent manner.

Insofar as Mr LEUNG Chin-man's work application is concerned, as there was no mention of the Hunghom Peninsula case in the papers submitted by the Civil Service Bureau, the ACPE had therefore failed to take into account this case and the public perception issue. Against this background, the ACPE should not be held responsible for the incident. Also, whether or not the ACPE has conducted meetings is not directly related to the case.

Next, I will talk about the Control Regime. We agree that there is room for improvement, which include requiring the applicants to furnish more

comprehensive information, such as whether the applicant's previous duties in the Government involve the related companies of its prospective employer, and other information which the applicant considers relevant. By so doing, the assessing authorities would be able to grasp more information during the vetting process, thus enabling them to consider if the relevant application complies with the principles and assessment criteria of the Control Regime in a more comprehensive way.

The independent Review Committee appointed by the Chief Executive had carefully examined the existing Control Regime and the control practices of seven overseas jurisdictions. A consultation document was released in February 2009 after launching a two-month consultation exercise, during which members of the public, relevant panel of the Legislative Council and stakeholders had been consulted. In July 2009, the Review Committee submitted a report to the Chief Executive and made 23 recommendations, covering four different aspects: firstly, underlying principles; secondly, policy objective; thirdly, design and operation of the Control Regime, and fourthly, public monitoring.

In respect of these 23 recommendations, the Civil Service Bureau had consulted serving directorate civil servants, relevant Staff Councils, the management of different departments and grades, the ACPE and the Public Service Commission. Also, the Civil Service Bureau has sought legal advice on the relevant recommendations.

Again, in the Report released by the Legislative Council Select Committee last week, 23 recommendations were made on the existing policies and arrangements governing the post-service work of directorate civil servants, which cover the following aspects:

- (a) Restrictions on the taking up of post-service work;
- (b) Inclusion of public suspicion of deferred reward or benefit in return as a factor for consideration in the assessment criteria;
- (c) The responsibilities of applicants;
- (d) Standardization of the processing and vetting practices;



- (e) Undesirability of relying solely on the honour system;
- (f) Improvement to the application form;
- (g) Extension of coverage and accessibility of the public register; and
- (h) Improvement to the operation of the Advisory Committee on Post-service Employment of Civil Servants.

We will seriously examine and consider the concrete proposals made by the abovementioned two committees and a decision will be made to expeditiously improve the existing Control Regime, with a view to protecting public interests without unduly restricting their right to pursue employment or other work after ceasing government service.

On the other hand, an amendment was proposed by Ms Audrey EU to urge the Government to take punitive action against Mr LEUNG Chin-man. The Civil Service Regulation has provided for the arrangements governing the taking up of outside work by directorate civil servants after they ceased service. Should an applicant contravene the relevant provisions, the authorities may consider taking appropriate punitive actions depending on the nature and severity of the contravention. For the case of Mr LEUNG, there must be substantive evidences before punitive action can be taken against him.

There are suggestions that Mr LEUNG can be punished by deducting his pension. I must point out that according to section 29 of the Pension Benefits Ordinance (Cap. 99), the pension granted to an officer may be cancelled, suspended or reduced only under the following three circumstances:

- (a) He is convicted of any offence in connection with the public service under the Government, being an offence which is certified by the Chief Executive to have been gravely injurious to Hong Kong or to be liable to lead to serious loss of confidence in the public service.
- (b) He is convicted of any offence under Part II of the Prevention of Bribery Ordinance (Cap. 201), being an offence related to the person's previous public service under the Government.

- (c) He is convicted of treason under section 2 of the Crimes Ordinance (Cap. 200).

The amendments of Ms Audrey EU and Mr Albert CHAN also request the relevant agencies or Independent Commission Against Corruption (ICAC) to follow up on or conduct a fresh investigation into Mr LEUNG Chin-man's employment with New World Development Company Limited (NWDCL).

According to the laws of Hong Kong, a person can report any crime to a law-enforcement agency, which will then independently consider the taking of actions against the alleged crimes. Section 30 of the Prevention of Bribery Ordinance provides that, except for the couple of prescribed conditions, such as the subject person has been arrested, the ICAC should not disclose to the public the details of the relevant investigation and the identity of the subject person. The relevant law-enforcement agencies, including the ICAC, have sufficient power to decide on its own whether investigation should be conducted. We consider it inappropriate to intervene in the exercise of the independent law-enforcement power of these agencies. I therefore urge Members to vote against the amendments proposed by Ms Audrey EU and Mr Albert CHAN.

President, the amendment proposed by Mr Ronny TONG urged the authorities to review the control measures governing the post-office work of politically appointed officials on the basis of the control measures regarding the post-service work of civil servants as recommended in the Select Committee Report. I must highlight that the entry requirements of politically appointed officials and civil servants are different. Civil servants are of permanent nature but politically appointed officials' terms of office would not exceed that of the Chief Executive, which is five years. Subject to the principle of the prevention of conflict of interest, if the proposed measures unduly restrict the freedom and right of politically appointed officials to pursue employment upon expiry of the term of office, professionals or people from the business sector who are interested in joining the Government's top echelon might be deterred from doing so, thereby limiting the field of candidates of politically appointed officials.

According to the abovementioned principle, the Code for Officials under the Political Appointment System provided that within one year after stepping down from office, politically appointed officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession

or starting any business or profession on his own account or with others. The advice of the committee shall be made public for the public and the media to monitor the post-service work arrangements of politically appointed officials. We consider this arrangement appropriate and thus urge Members to oppose Mr Ronny TONG's amendment.

President, the Civil Service is the backbone of the Government and it supports the Government to deliver its visions and missions. Civil servants must perform their functions in a professional, honest and unbiased manner, and must not misuse their official position. In discharging their responsibilities, they must not be improperly influenced by private interests, pecuniary or otherwise. We will proactively take preventive and educational measures to enhance the integrity of civil servants, and foster public trust in civil servants. As I said earlier, we will expeditiously consider the opinion of the independent Review Committee and the Select Committee in a detailed and careful manner, with a view to further improving the Control Regime.

President, we have learned a good lesson in this incident. As society changes, some long-established and well accustomed procedures and practices of the Government have probably fallen short of the expectations of society of the day under the new circumstances, and are even subject to serious challenges and pressures. To adapt to such changes, we must always stay alert in our day-to-day work, look at problems more from the people's perspective and promptly identify deficiencies in the existing system, such that timely rectifications and improvements can be made. After making mistakes, we should be humble in accepting public criticisms, examine ourselves and improve our work by learning from lessons. Only by so doing can we be genuinely people-oriented and keep abreast of the times. I hope that Members will also look at this incident and follow up on the matter in an equally proactive manner.

With these remarks, President, I implore Members to oppose all amendments.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, you may now move the amendment to the motion.

(Mr Abraham SHEK raised his hand in indication)

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, do you have a question?

**MR ABRAHAM SHEK:** President, I would like to make a declaration. I am one of the Independent Non-executive Directors of the NWS Holdings Limited.

**PROF PATRICK LAU** (in Cantonese): I was a member of the Housing Authority while Mr LEUNG Chin-man served as Director of Buildings.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, you may now move the amendment to the motion.

(Mr IP Kwok-him raised his hand)

**PRESIDENT** (in Cantonese): Please wait, Mr CHEUNG. Mr IP, do you also wish to declare interest?

**MR IP KWOK-HIM** (in Cantonese): Yes. I also wish to declare interest. I was also a member of the Housing Authority while Mr LEUNG Chin-man served as Permanent Secretary.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, please move the amendment.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I move that Ms LI Fung-ying's motion be amended.

**Mr CHEUNG Man-kwong moved the following amendment: (Translation)**

"To add ", as the LEUNG Chin-man incident has aroused public concern," after "that"; and to add ", and demands that the Chief Executive follow up the Report's criticisms against the relevant government officials and the

Secretary for the Civil Service by taking disciplinary actions, assume responsibility for the grave errors committed by the various government departments in the LEUNG Chin-man incident, and review the disciplinary mechanism under the accountability system for principal officials, so as to allay public resentment" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Man-kwong to Ms LI Fung-ying's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong 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:

Mr CHEUNG Man-kwong, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Paul CHAN, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him and Dr Samson TAM voted against the amendment.

Dr Margaret NG, Dr LEUNG Ka-lau, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Ms LI Fung-ying did not cast any vote.

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, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr Albert CHAN 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, 26 were present, six were in favour of the amendment, 15 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 16 were in favour of the amendment, seven 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.

**MR FRED LI** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Report of the Select Committee" 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 Mr Fred LI 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 "Report of the Select Committee" 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): Ms Audrey EU, you may move your amendment.

**MS AUDREY EU** (in Cantonese): President, I move that Ms LI Fung-ying's motion be amended.

**Ms Audrey EU moved the following amendment: (Translation)**

"To add ", as the LEUNG Chin-man incident has aroused strong public concern," after "That"; and to add ", and urges the Chief Executive to take punitive action against Mr LEUNG Chin-man, and the relevant organizations to investigate the incident and take follow-up actions" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Audrey EU to Ms LI Fung-ying'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 Audrey EU rose to claim a division.



**PRESIDENT** (in Cantonese): Ms Audrey EU 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:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Kwok-him, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Dr Margaret NG, Mr Tommy CHEUNG, Dr LEUNG Ka-lau, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Ms LI Fung-ying did not cast any vote.

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, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG 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, 26 were present, three were in favour of the amendment, 17 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the amendment, six 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 Albert CHAN, you may move your amendment.

**MR ALBERT CHAN** (in Cantonese): President, I move that Mr LI Fung-ying's motion be amended.

**Mr Albert CHAN moved the following amendment: (Translation)**

"To add ", and expresses strong condemnation at LEUNG Chin-man's dishonest acts, such as his attempt to play down his role and participation in the Hunghom Peninsula case in the course of giving evidence to the Select Committee; this Council deeply regrets that when making the application to the Civil Service Bureau for employment with New World China Land Limited, LEUNG Chin-man gave the evasive answer of 'a family friend' to hide the fact that the job offer had come directly from the top management of New World Development Company Limited ('NWDCL'); this Council also requests the Independent Commission Against Corruption to conduct a fresh investigation into LEUNG

Chin-man's employment with NWDCL; moreover, given that in the incident of LEUNG Chin-man's employment with NWDCL, the Secretary for the Civil Service made a grave error of judgment, there was an obvious gap between her assessment and the views of the public, and she also failed to grasp public sentiments and understand public expectations and concerns, failed to discharge her role as the final gatekeeper of the Control Regime, failed to give precedence to the protection of the public interest and failed to uphold the approval criteria of the Control Regime, resulting in the Government's credibility being damaged; and that in handling the incident of LEUNG Chin-man's employment with NWDCL, the Secretary for the Civil Service and various senior officials had problems such as collective memory loss, which is unacceptable, this Council demands that the Secretary for the Civil Service assume political responsibility, take the blame and resign" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHAN to Ms LI Fung-ying's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN 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 David LI, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Dr Margaret NG and Dr LEUNG Ka-lau abstained.

Ms LI Fung-ying did not cast any vote.

Geographical Constituencies:

Mr Albert CHAN voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG and Miss Tanya CHAN voted against the amendment.

Mr LEUNG Yiu-chung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 23 were against the amendment and two abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, one was in favour of the amendment, 22 against it and one 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 negated.

**PRESIDENT** (in Cantonese): Mr Ronny TONG, you may move your amendment.

**MR RONNY TONG** (in Cantonese): President, I move that Ms LI Fung-ying's motion be amended.

**Mr Ronny TONG moved the following amendment: (Translation)**

"To add ", and urges the Chief Executive to review the control measures governing the post-service work of the officials under the accountability system on the basis of the Report's recommendations on the control measures regarding the post-service work of civil servants" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Ms LI Fung-ying's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO 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:

Mr CHEUNG Man-kwong, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Paul CHAN, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him and Dr Samson TAM voted against the amendment.

Dr Margaret NG abstained.

Ms LI Fung-ying did not cast any vote.

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, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr

KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE, Mr CHAN Hak-kan and 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, 26 were present, nine were in favour of the amendment, 15 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 19 were in favour of the amendment and six against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Ms LI Fung-ying, you may now reply.

**MS LI FUNG-YING** (in Cantonese): President, first of all, I wish to thank the 20-odd Members who have spoken in support of the Report of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man (the Report) and its recommendations therein.

The 20-odd Members have, to put it vulgarly, exerted all efforts to raise three proposals. These proposals are also mentioned in the Report. First, efforts should be made to examine how to improve the existing mechanism and plug the loophole; second, specific efforts should be targeted at reforming the Advisory Committee on Post-service Employment of Civil Servants (ACPE), enhancing its independence and improving the transparency of its operation; and third, it is about the disciplinary mechanism, particularly how to set up a punitive mechanism for accountable officials who fail to live up to the spirit of the accountability system.

President, I am very disappointed about the reply just made by the Chief Secretary for Administration. In sum, his touches on the matter lightly and in respond to our recommendations, he also dismisses them lightly.

I believe I am not the only one who felt disappointed, so did other members of the Select Committee. The Chief Secretary told us just now that the officials concerned were under oath to give evidence at the hearings. He thus did not agree with the observation of the Select Committee that "it is incredible that the officials concerned had not associated Mr LEUNG's application with the Hunghom Peninsula case during the vetting and approval process." Apart from pointing out the officials concerned were under oath to give evidence, all that the Chief Secretary has said was that the officials concerned had only focused on the mainland business of that subsidiary company. Chief Secretary, I wish to tell you that the interests of the parent company and the subsidiary company are inseparable. Regarding this point, I hold that the fact is indisputable.

President, what I wish to say is, the policy arrangement of the control regime governing the post-service work of directorate civil servants is directly related to the interest of the people in the entire society. It also affects people's confidence in the effective governance of the Civil Service and the SAR Government. The Government is duty-bound to defend public interest in this regard and properly perform a gate-keeping role in vetting and approving applications.

President, the Control Regime has been evolving since the 1940s. A number of approved applications in the past had aroused strong public concerns, which well illustrate to the Government that loopholes have existed in the Control Regime which falls short of meeting public expectation. The LEUNG Chin-man incident has, once again revealed the existence of loopholes in the Control Regime and has alerted the Government that improvement should be made in this regard.

The result and recommendations of the Select Committee's Report seek to improve the Control Regime, with a view to enhance the civil service culture with values such as honesty and integrity. I thus hope that officials responsible for vetting and approving applications will adopt a serious attitude, so as to ensure effective operation of the control regime, in a bid to truly safeguarding public interest.



I hope that after this meeting, the Chief Secretary, in conjunction with related officials and the Chief Executive, can seriously consider and make an active feedback on the details and recommendations of the Select Committee's Report.

Thank you, President.

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

**PRESIDENT** (in Cantonese): It is now 8.10 pm. There is only one motion debate left on the Agenda. I believe we can finish our business before midnight. Thus, we shall continue with our meeting until all businesses on the Agenda are finished.

**PRESIDENT** (in Cantonese): Second motion: Seizing the opportunity presented by the Cross-Straits Economic Co-operation Framework Agreement and actively participating in the development of the Economic Zone on the West Coast of the Taiwan Strait. I have accepted the recommendations of the House Committee:

that is, the mover of the motion may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendment; the mover of the amendment may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

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

I now call upon Mr CHAN Kam-lam to speak and move the motion.

**SEIZING THE OPPORTUNITY PRESENTED BY THE CROSS-STRAITS ECONOMIC CO-OPERATION FRAMEWORK AGREEMENT AND ACTIVELY PARTICIPATING IN THE DEVELOPMENT OF THE ECONOMIC ZONE ON THE WEST COAST OF THE TAIWAN STRAIT**

**MR CHAN KAM-LAM** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, over the past 10 years, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) have conducted opinion surveys on people's livelihood and public sentiments, the subjects of prime concern to the community. We have accorded top priority to developing Hong Kong's economy, promoting employment and improving people's livelihood. I believe this approach is definitely not a coincidence, but the inclination of public sentiments.

Against this background, the DAB has conducted various researches on Hong Kong's economic development in an attempt to identify a new economic path for Hong Kong. Over the past few years, we have published a number of reports on the economic and trade co-operation between Hong Kong and Guangdong, research reports on the development of financial markets, as well as thematic reports concerning our economy. This year, we have invited Mainland and local academics and experts to conduct an in-depth study on the relationship between the development opportunities of the West Coast of the Taiwan Strait and the new economic growth in Hong Kong.

When we met with the Financial Secretary yesterday, we submitted the relevant report to him. At the invitation of the Fujian Provincial Government, we will visit Fujian Province next week to hold a face-to-face discussion with the relevant departments of the provincial government on how to strengthen Hong Kong-Fujian co-operation.

President, the Twelfth Five-Year Plan is indeed a subject worthy of our attention. In respect of the proposals approved at the Fifth Plenary Session of the 17th Central Committee of the Communist Party of China, the Central Authorities stated the need to "fulfil the function of early and pilot implementation of the Economic Zone on the West Coast of the Taiwan Strait in promoting cross-strait exchanges and co-operation". In consideration of the above statement, the DAB opines the prime concerns are: whether Hong Kong people can recognize the development prospects of the West Coast of the Taiwan Strait (West Coast); whether Hong Kong investors can seize the opportunities brought about by the development on the West Coast, and more importantly, whether the Special Administrative Region (SAR) Government has the foresight to lead Hong Kong to participate actively in the development of the West Coast.

President, the term "Economic Zone on the West Coast of the Taiwan Strait" (the West Coast Economic Zone) really sounds a bit unfamiliar to us, and it appears to be a distant place. Just now when the motion debate had yet to start, few colleagues asked me, "CHAN Kam-lam, where is West Coast?" For this reason, I am all the more convinced that the current debate is necessary. One of the purposes of this debate is to make us aware that apart from the Pearl River Delta (PRD), the West Coast is located in the proximity of Hong Kong, and it is another important market for our future economic and trade development. If we look at the map, we can see that the West Coast is closed connected to Hong Kong. The areas covered under the West Coast include Chaoshan and Meixian regions in the eastern part of Guangdong, the focal region in Fujian Province, as well as some regions in Jiangxi and Zhejiang Provinces. The West Coast, being the hometown of some two million Hong Kong people, is not geographically distant from Hong Kong. The two places are not unknown to each other; on the contrary, they are geographically linked and the people therein are closely bonded.

Among the Mainland, Taiwan and Hong Kong, Hong Kong is the only international city that occupies a leading position in the development of the

modern service industries. The economy of these three places has its own characteristics with different focuses. Capitalizing on their low production cost, the manufacturing industries of the Mainland have turned China into the global factory. Taiwan is outstanding in its technological research and development industries and, if Hong Kong's modernized service industries, management and capital are well utilized, the joint collaboration of the three places will give rise to enormous potential for economic development. If Hong Kong performs its function well, it will be a new economic market with huge potential.

It can be seen from the Twelfth Five-Year Plan that, in the general strategy to achieve "joint economic prosperity and peaceful unification", our country has placed the West Coast Economic Zone as an early and pilot implementation zone under the Cross-Straits Economic Co-operation Framework Agreement. This means that in the coming five years, the Central Government will implement favourable policies in the West Coast Economic Zone and this Zone will become a new focus for China's economic development, following the PRD and Yangtze River Delta (YRD) economic zones. The West Coast Economic Zone will become a dynamic economic driver.

In fact, we have already witnessed considerable economic growth of the West Coast Economic Zone. Between 2004 and 2007, the average annual economic growth rate of Fujian Province reached 16.7% and even 17% in 2008, showing that the economic development of the Province has entered into a stage of rapid growth. This rate of increase far exceeds that of the YRD and the PRD regions. The Gross Domestic Product (GDP) of Fujian Province in 2008 is over RMB100 million yuan. In the face of the economic recession brought about by the global financial crisis in 2009, Fujian Province still recorded a growth rate of 12%, which again exceeded that of the YRD and the PRD regions. These facts have shown that the West Coast Economic Zone has entered into a period of emergence. According to the projections made by some experts, if the annual growth rate of the West Coast Economic Zone is at 13% per annum, the Economic Zone will catch up with or even exceed Taiwan by 2015. For Hong Kong, catching the West Coast Economic Zone express will surely bring us unlimited benefits.

Looking from another perspective, the West Coast Economic Zone is also a good partner of Hong Kong. The development of the PRD and YRD regions

has entered into a stage of drawing references from our systems and tapping on our software and advantages. The co-operation between Hong Kong and the West Coast Economic Zone focuses on mismatched development and mutual innovation. As far as traditional businesses are concerned, in particular the traditional service industries, both the PRD and YRD regions have become our competitors. Now that the economy of the West Coast Economic Zone is taking off rapidly, its relationship with Hong Kong is mainly one of co-operation instead of competition.

After getting a full picture of the Twelfth Five-Year Plan and the overall strategic development of the State, as well as identifying the role and position of Hong Kong, our next step is to start planning the concrete actions we should take. The DAB has completed its research report regarding Hong Kong's participation in developing the West Coast and has made a number of recommendations. Some important points have also been emphasized in my motion. Several Members of the DAB will later highlight those recommendations in their speeches.

What I want to discuss now is the regional development policy of Hong Kong. If we look at economic development from a macroscopic angle, countries or even cities all over the world can no longer fight on their own in the face of competition as a result of globalization. Instead, they should develop a regional economy to upgrade their competitive edge in the region through sharing of resources and complementarity of edges. Since 2008, the overall strategy of regional development of the Central Authorities has taken shape and more than 10 national strategic key zones have been approved one after another. In light of the implementation of the nation's overall strategy of regional development as well as its re-prioritization of the regional planning, Hong Kong also needs to develop an appropriate regional development policy.

The DAB opines that Hong Kong should continue to strengthen its co-operation with the PRD, but this kind of co-operation should not be confined to the PRD alone. We should closely examine the opportunities brought about by the West Coast and comprehensively adjust our development strategies and planning, so as to bring substantial benefits to our economy and people's livelihood. On the one hand, we may regard co-operation between Hong Kong and the PRD region as the core area of regional co-operation with the Mainland, and on the other hand, we may also include the West Coast Economic Zone as

another core area for expanding economic co-operation, with the emphasis of the strategy on expanding and developing "Hong Kong services" in the region.

Furthermore, the DAB proposes that the Government and the Fujian Provincial Government should set up a joint-conference mechanism for Hong Kong-Fujian co-operation, and establish a government office in the West Coast Economic Zone, so as to upgrade the level of co-operation. In the early stage of co-operation between the two places, reference can be made to the practical experience of Hong Kong-Guangdong co-operation. The first step is to implement the joint-conference mechanism on a trial basis, with regular working meetings held each year between the two governments to discuss the focus and content of co-operation for the year. Subsequently, the mechanism can be upgraded steadily, subject to the need of the two places in the area of co-operation.

The Government may say that the setting up of the joint-conference mechanism for Hong Kong-Fujian co-operation requires the support of the Central Authorities. In fact, the central ministries and commissions of the Central Authorities, such as the Ministry of Commerce, have already taken the initiative to suggest relevant proposals some time earlier, why should the HKSAR Government still be hesitant?

In addition, the Government should also establish the Hong Kong Economic and Trade Office (ETO) of the HKSAR in the West Coast Economic Zone. At present, the service scope of the ETO in Guangdong covers five provinces/regions including Fujian, Jiangxi, Guangdong, Guangxi and Hainan. In view of such a large service scope, what practical work can be done by the ETO? Given the increasing ties between Hong Kong and the West Coast of the Taiwan Strait, the DAB considers it necessary to establish a government office in the West Coast Economic Zone. Apart from business promotion, the government office can help Hong Kong residents in the West Coast solve their difficulties concerning economy and trade.

President, the DAB has proposed to the Government a series of recommendations on how Hong Kong can actively participate in the co-operation with the West Coast Economic Zone. Although these recommendations may not be implemented shortly, in order to promote mutual co-operation, the DAB proposes that the SAR Government should first sign a framework agreement on bilateral co-operation with the Fujian Provincial Government, so as to indicate

our intention to co-operate. The recommendations can then be implemented orderly and effectively.

With these remarks, President, I move the motion.

**Mr CHAN Kam-lam moved the following motion: (Translation)**

"That the Cross-Straits Economic Co-operation Framework Agreement has come into force, and the Twelfth Five-Year Plan of the Central Authorities have clearly stated the need to fully fulfil the function of early and pilot implementation of the Economic Zone on the West Coast of the Taiwan Strait ('the West Coast Economic Zone') in promoting cross-strait exchanges and co-operation, cross-strait economic relations will enter a new stage of development with a rapid rise of the West Coast Economic Zone, which will create profound and far-reaching impact on Hong Kong's economy; in this connection, this Council urges the Government to seize the opportunity through active participation and catch the 'West Coast Economic Zone express', so as to expand the scale of Hong Kong's services industries; the relevant measures should include:

- (a) to expeditiously formulate Hong Kong's regional development policy, and include the West Coast Economic Zone as a sub-core area of Hong Kong-Mainland economic co-operation, with a view to fostering closer co-operation between Hong Kong and the West Coast Economic Zone;
- (b) to set up a joint-conference mechanism for Hong Kong-Fujian co-operation, and establish a government office in the West Coast Economic Zone, so as to upgrade the level of co-operation between Hong Kong and the West Coast Economic Zone;
- (c) to strive for the inclusion of Fujian Province as an 'early and pilot implementation zone' under the Mainland and Hong Kong Closer Economic Partnership Arrangement, so as to intensify Hong Kong's co-operation with the West Coast Economic Zone;
- (d) to make strenuous efforts in building a 'Taiwan Strait tourism circle' comprising Fujian, Hong Kong, Macao and Taiwan;

- (e) to proactively take part in the development of Pingtan Island, and establish a Hong Kong services park on the island; and
- (f) to enhance the economic co-operation between Hong Kong and Taiwan, and include the development of the West Coast Economic Zone as part of Hong Kong-Taiwan economic co-operation."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Mr WONG Kwok-hing to speak and move the amendment to the motion.

**MR WONG KWOK-HING** (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

The motion on "Seizing the opportunity presented by the Cross-Straits Economic Co-operation Framework Agreement (Agreement) and actively participating in the development of the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone)" moved by Mr CHAN Kam-lam today can be considered a response to the Agreement which came into effect on 12 September this year. In fact, under the prevailing trend of increasing cross-straits exchanges, as well as economic and trade development, Hong Kong can no longer act as a bridge or a transit stop for cross-strait exchanges as it did in the past decade. I therefore support the original motion that Hong Kong should seize the new opportunities, tie in with the new developments of the Mainland and Taiwan, draw on the strong points of others to make up its weaknesses, and integrate actively with the West Coast Economic Zone.

President, the West Coast Economic Zone is in fact a region with Fujian Province as the centre. Facing Taiwan, this zone is in close proximity to Hong



Kong and Macao, with the Yangtze River Delta (YRD) region to its north and the Pearl River Delta (PRD) region to its south. It covers some 20 regions/municipalities including Fujian Province, Jiangxi Province and Guangdong Province. From 2009 onwards, the Central Government has gradually identified the West Coast Economic Zone as the state's key development project. On this basis, the economic and trade development of the West Coast Economic Zone, as well as that of the Mainland and Taiwan will have substantial growth. Hong Kong should thus seize the opportunities and capitalize on its competitive edges, such as sound infrastructure facilities, a pool of talents and capital, and so on, in order to achieve synergy effects in the flow of people, goods, capital and technology among Hong Kong, Fujian and Taiwan.

In fact, according to the report on the overall economic competitiveness among China's provinces published this year, Taiwan ranked first in terms of the overall competitiveness among various provinces in China in 2008, and Hong Kong only came second; in respect of the provinces/municipalities on the Mainland, Guangdong Province ranked fourth while Fujian Province ranked ninth. As such, if the Mainland, Taiwan and Hong Kong can co-operate in their developments, the resultant economic benefits will be very substantial. On the contrary, if Hong Kong is left out from the Economic Zone, competition will be resulted. This is detrimental to the developments of both Hong Kong and the State.

Next, I would like to give a brief account of my proposed amendment to the motion. President, in the face of the development of the West Coast Economic Zone, Hong Kong should certainly render support by making investment and carrying out development there, as well as helping Mainland enterprises in financing. However, at the same time, should we also seize this opportunity by attracting enterprises from both the Mainland and Taiwan to invest and develop their businesses in Hong Kong, so as to enable exchanges of talents and technical know-how, thereby expediting the transformation of our industrial structure and benefiting our workers through enhancement of local employment opportunities? I have therefore proposed, in my amendment, to step up Hong Kong's investment promotion activities in the West Coast Economic Zone and offer concessionary initiatives to induce the enterprises there, such as those engaged in testing and certification, environmental industries and innovation and technology, to establish their bases in Hong Kong for investment,

with a view to promoting the development of Hong Kong's six industries with competitive edge. Taking the innovation and technology industry as an example, it was pointed out in the Government's reply to a question raised by Mr IP Wai-ming earlier that the contribution of the private sector component of this industry to our Gross Domestic Product in 2008 was only around 0.6% and the number of persons engaged was only around 22 000, about a mere 0.6% of the workforce. If we are to support the relevant industry, it is necessary to attract more high technology enterprises to establish their bases here in Hong Kong.

President, according to the Global Competitiveness Report 2010-2011 published by the World Economic Forum, although Hong Kong ranked 11th and Taiwan ranked 13th, when it comes to the statistics about innovative technology, Taiwan surpasses Hong Kong in terms of the quality of research and development (R&D), Government's procurement of technological products, talents in R&D and technology as well as patents of inventions, and Hong Kong really lags way behind. Actually, in recent years, the Mainland has promising development in innovative technology. As revealed in the Global Competitiveness Report, the ranking of the Mainland has surpassed Hong Kong in the area of innovative technology, such as indicators of the level of R&D investment by enterprises. In view of this, the Special Administrative Region (SAR) Government should take this opportunity to attract talents engaged in the field of new and advanced technology from both the Mainland and Taiwan to Hong Kong, with a view to helping Hong Kong in fostering the development of innovative technology. On the other hand, it is also imperative for the SAR Government to review and improve our Patents Ordinance as soon as possible.

President, the principal structure of the existing Patents Ordinance was passed prior to our reunification in 1997. Before that, Hong Kong did not have its own patent system. Patents in Hong Kong are classified into "standard patent" and "short-term patent". However, our law on patents does not clearly define the kind of products that are eligible to apply for a particular category of patents, nor does it specify the circumstances under which a particular kind of patent should be applied. In the event that there are controversies over the issue, the case will be dealt with by the court. Dr PAN and I have recently helped an inventor initiate a legal action against the Octopus Cards Limited which has made use of its authority and influence to snatch the results of his invention. This incident tells us that the classification of patents, application procedures and the

review mechanism for patents in Hong Kong deviate a great deal from those of the cities and regions in the West Coast Economic Zone. At least three shortcomings can be seen in this regard. Firstly, the ambiguity in classification, which departs from the global development in patents and offers inadequate protection to local inventions. Secondly, low autonomy in approving patent applications, such applications may be approved or reviewed by unprofessional people. Thirdly, given the insufficient legal support to local inventors, large consortia with huge capital may hurt the interest of inventors with small capital and limited assets.

For this reason, I very much hope that the Government can consider and make improvements from three perspectives. First, it should review the Patents Ordinance which has been in use for 13 years already; second, there should be a clearer classification of patents, and at the same time, due consideration should be given to local circumstances and the specific characteristics of our local industries, thereby assisting the development of innovative ideas and the relevant industry; third, it should provide legal support with regard to intellectual property rights, minimize cases of big consortia hurting others by means of capital and offer more protection and support to local inventors. I hope the Secretary for Commerce and Economic Development can consider my proposals.

President, apart from innovation and technology, environmental protection industry is also one of the six industries with competitive edge which can absorb a greater number workers and provide more job opportunities. In fact, environmental protection industry is also an important issue under the Agreement. For example, the theme of the 6th Cross-Strait Economic, Trade and Cultural Symposium held in July this year was "Enhancing the co-operation with emerging industries". The Symposium centered on issues such as facilitating the co-operation with the new energy industries, enhancing the co-operation with energy-saving and environmental protection industries, and so on. JIA Qinglin, member of the Standing Committee of the Political Bureau of the Communist Party of China Central Committee and the Chairman of the Chinese People's Political Consultative Conference further pointed out in the symposium that new energy and environmental protection industries can make a breakthrough in respect of cross-strait co-operation. Actually, the Mainland and Taiwan have attained outstanding achievement in the recycling business, for example, power generation with the use of solar energy and even rubbish, recycling facilities and technology, and so on. As Hong Kong is a newcomer in

this field, we draw on their experience to facilitate our long-term and sustainable development.

Lastly, President, I would like to turn to the tourism industry as the original motion mentions the building of a "Taiwan Strait tourism circle" comprising Fujian, Hong Kong, Macao and Taiwan. On the development of the tourism industry, I believe that not only should the Government attract more visitors from the Mainland and Taiwan by providing more appealing scenic spots, it should also try to tackle the malpractices of the industry, especially "zero or negative fare" tours and even problems about fleecing visitors and abandoning the tour. I also hope that the Government can introduce more measures to attract Taiwan visitors coming to Hong Kong, for instance, relaxation of visa requirement or even calling off the visa arrangement for Taiwan visitors, so that more visitors will be able to come to Hong Kong. Thank you, President.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To add ", as" after "That"; to delete "and" after "island;"; and to add "; and (g) to step up Hong Kong's investment promotion activities in the West Coast Economic Zone and offer concessionary initiatives to induce the enterprises there, such as those engaged in testing and certification, environmental industries and innovation and technology, to establish their bases in Hong Kong, with a view to promoting the development of Hong Kong's six industries with competitive edge and increasing employment opportunities for local workers" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr CHAN Kam-lam's motion, be passed.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I sincerely thank Mr CHAN Kam-lam for moving the motion on "Seizing the opportunity presented by the Cross-Straits Economic Co-operation Framework Agreement and actively participating in the development of the Economic Zone on the West Coast of the Taiwan Strait", and Mr WONG Kwok-hing for his amendment to the motion. The Administration

has been devoted to promoting business and tourism development in the region with a view to propelling economic development. The motion debate today has given us an opportunity to examine together the direction of future regional co-operation, and explore how we can participate in the development of the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone). Later, the Secretary for Constitutional and Mainland Affairs will speak on our regional development strategies, and the mechanisms for our co-operation with the relevant regions as well as overall co-operation. I am going to focus on business co-operation.

The SAR Government has been proactively developing business relations between Hong Kong and different Mainland regions. The West Coast Economic Zone has been included in the strategic planning for national development. With the signing and coming into effect of the Economic Co-operation Framework Agreement (ECFA) between the Mainland and Taiwan, there will be faster growth in business activities in the West Coast Economic Zone in the future. The West Coast Economic Zone, with advantages in geographical location in the region and benefited from policy incentives, can bring enormous development opportunities for the business sectors in Hong Kong,

The main part of the West Coast Economic Zone is in Fujian Province, and it also covers some places in Zhejiang, Guangdong and Jiangxi provinces. Close economic ties have been established between Hong Kong and the West Coast Economic Zone. In 2009, the import and export trade between the West Coast Economic Zone and Hong Kong amounted to over US\$5.3 billion. As regards investment by enterprises, as at 2009, the West Coast Economic Zone has approved a total of 34 000 Hong Kong-invested enterprises and has utilized more than US\$50 billion of direct investments by Hong Kong businessmen. These figures showed that quite a few Hong Kong enterprises have taken advantage of the first opportunities to make investments and develop their business in the West Coast Economic Zone.

Hong Kong has established a sound foundation for co-operation with Fujian Province insofar as tourism is concerned. The Individual Visit Scheme has been introduced in Fuzhou, Xiamen and Quanzhou in Fujian Province since 1 July 2004, and Fujian Province is one of the earliest regions to introduce the Scheme. Between January and September this year, Fujian visitors made around 293 000 trips to Hong Kong, a 12.1% increase over the same period last year, and

almost half of the visitors made their trips to Hong Kong under the Individual Visit Scheme. Hong Kong visitors made 650 000 trips to Fujian, a 2.6% increase over the same period last year, accounting for around 30% of all visitors to Fujian.

The Hong Kong Tourism Board (HKTB) has always participated in the Cross-Straits Tourism Expo held in Fujian, and it has co-operated with the tourism sector in Fujian Province in making publicity efforts from time to time. Moreover, the HKTB has set up counters and web counters in Fuzhou and Xiamen for the promotion of Honest and Quality Hong Kong Tour. The HKTB has also co-operated with coastal provinces including Fujian Province in launching a Cruise South China website and establishing a platform for information sharing to facilitate the development of South China itineraries by cruise lines.

I look forward to hearing the views of Members on how Hong Kong should participate in the development of the West Coast Economic Zone, and later I will speak again to round up the discussions.

Thank you, President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the Secretary for Commerce and Economic Development has just given a response in respect of the Cross-Straits Economic Co-operation Framework Agreement (ECFA) and the economic and trade exchanges between Hong Kong and the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone). I will now briefly respond in connection with the overall strategies for our participation in the development of the West Coast Economic Zone.

The SAR has maintained close co-operation and contact with Fujian Province, the principal part of the West Coast Economic Zone. In June 2004, Hong Kong signed the "Pan-Pearl River Delta (PRD) Regional Co-operation Framework Agreement" with nine provinces in the Pan-PRD Region including Fujian Province and Macao. Some time ago, the SAR promoted co-operation with Fujian Province and obtained some fruitful results.

Enjoying the advantages of a coastal province, Fujian Province is situated at the interchange hub between the PRD and Yangzi River Delta. With comprehensive infrastructures, mature manufacturing industries, abundant and diversified industries, as well as superior tourism resources, it is a province in the Pan-PRD Region with more prosperous economic development. The per-capita GDP of Fujian Province in 2009 reached RMB 33,000 yuan, second to Guangdong Province with around RMB 40,000 yuan, among the nine provinces in the Pan-PRD Region. Under the mode of diversified co-operation, Fujian Province and the SAR Government made use of the development advantages of the two places to carry forward co-operation in various areas and enhance the synergy effect.

The figures below indicate how Fujian and Hong Kong have been co-operating closely. First, Hong Kong has been the principal source of foreign investment for Fujian Province. As at late 2009, Fujian Province has approved the establishment of a total of over 23 000 Hong Kong-invested enterprises, which accounted for 34% of the total number of enterprises in the whole province. It utilized US\$33 billion of direct investments by Hong Kong businessmen, which accounted for 48% of the total investments of the whole province. Second, Hong Kong is also one of the principal export markets of Fujian. In 2009, exports from Fujian Province to Hong Kong amounted to more than US\$3.5 billion, which accounted for 6.6% of the total exports of the whole province.

In recent years, Fujian Province has determined to promote the upgrading and transformation of the manufacturing industries. For example, it encourages the development of private brands and the development of the modernized service sectors, including logistics and information services. These development directions tallied with the development of the six industries with competitive edge in Hong Kong. Apart from consolidating the traditional pillar industries, the complementarity of edge can be achieved for mismatched development. With our own conditions and advantages, we can make efforts to promote mutually beneficial co-operation with Fujian Province. For instance, we can make use of our advantages of having a services sector with a solid foundation, a mature financial market and high value-added industries to help enterprises in Fujian to upgrade the industrial structure, develop high value-added industries, and open up more overseas markets. Fujian and Hong Kong can also strengthen the promotion of the interface of Fujian manufacturing industries and the professional services sector in Hong Kong, so as to facilitate greater market development.

In 2009, the State Council promulgated a document entitled "Certain Views on Supporting Fujian Province to Expedite the Construction of the Economic Zone on the West Coast of the Taiwan Strait". In that document, the strategic positioning of the West Coast Economic Zone in the development of cross-straits economic relations was confirmed, and Fujian Province was requested to deepen its co-operation with Hong Kong, and to promote the development of the West Coast Economic Zone by utilizing the financing channels and marketing networks of Hong Kong, and by joining hands in inviting investments.

The SAR has seized the opportunity to develop wider and broader co-operation. In December 2009, the Financial Services and the Treasury Bureau, the Hong Kong Exchanges and Clearing Limited and representatives of the finance sector jointly organized the "Seminar on Corporate Finance Strategies in Fujian" in Fujian Province. The objective of the seminar is to encourage Fujian enterprises to make the best use of our financing platform. The "Style Hong Kong Show in Fuzhou" jointly organized by Fujian and Hong Kong in April this year, and the "China (Hong Kong) International Services Symposium — 2010 Fujian", jointly organized by the Ministry of Commerce and the Hong Kong Trade Development Council, have positive significance for the promotion of business exchanges between Fujian and Hong Kong.

In view of more mature economic infrastructure in Fujian Province and its close relations with Hong Kong, quite a few pilot initiatives under CEPA have been implemented in Fujian, covering areas such as healthcare, tourism, convention and exhibition, as well as transportation. As Guangdong Province and Fujian Province have similar levels of development and industrial structures, the experience in the implementation of pilot measures in Guangdong has high reference value. We may consider enriching and deepening the co-operation between Fujian and Hong Kong through these pilot measures.

There is a large group of Hong Kong people with ancestral homes in Fujian; they are very enthusiastic about social affairs and they have always been the principal force for promoting non-governmental exchanges between Fujian and Hong Kong. Besides economic and trade exchanges, there is ample room for the enhancement of social and cultural exchanges between Fujian and Hong Kong.

At present, Hong Kong is promoting multi-faceted co-operation with Fujian Province through a number of channels including the Pan-PRD Regional



Co-operation Framework Agreement. These channels have been operating effectively and have obtained certain results. Fujian and Hong Kong will continue to maintain close contacts and co-operate in various areas in flexible and appropriate manners.

We have maintained contacts with the Fujian Provincial Government and various cities at prefectural level through the Hong Kong Economic & Trade Office in Guangdong. We have also facilitated communication among Hong Kong businessmen, communication between Hong Kong businessmen and the economic and trade departments concerned, as well as provided services related to Mainland enterprises making investments in Hong Kong. Through organizing delegations, exchanges, investment seminars and variety shows, we can enhance the understanding between the two places, promote trading and investment, as well as co-operation in other areas.

Furthermore, we will continue our efforts in strengthening contact and co-operation between Fujian Province and the West Coast Economic Zone, reviewing the actual status of work from time to time, and considering, in due course, the setting up of a liaison group on the West Coast Economic Zone.

The development of the West Coast Economic Zone by the State provides a very good opportunity for Hong Kong to further deepen our relationship with Taiwan, and to play a special role of enhancing cross-straits relations. In order to tie in with the healthy development of cross-straits relations, the SAR Government has been proactively promoting the relationship and co-operation between Hong Kong and Taiwan. We have established in April this year the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council (ECCPC). Its counterpart in Taiwan is the Taiwan-Hong Kong Economic and Cultural Co-operation Council (THEC). This platform can be used for exchanges and discussions about public policy issues of concern to Hong Kong and Taiwan, and the promotion of diversified and multi-level exchanges and co-operation between the two places.

In his capacity as the Honorary Chairperson of ECCPC, the Financial Secretary led a delegation of ECCPC members to Taiwan in end August this year. In addition to attending the first joint meeting of ECCPC and THEC, the delegation had also met with outstanding leaders of the political, business and cultural sectors in Taiwan. During the visit, we reached consensus with Taiwan side on various priority areas for future co-operation between the two places.

Firstly, we will further enhance exchanges between Hong Kong and Taiwan on all fronts. The Taiwan side also supports Hong Kong to set up a multi-functional office in Taiwan. Secondly, we will jointly promote tourism co-operation between the two places. The Taiwan side actively supports the setting up of an office in Taipei by the Hong Kong Tourism Board. Thirdly, we will enhance bilateral co-operation in financial services and regulation, and urge the respective responsible organizations to strengthen communication channel and liaison mechanism on co-operation in regulating the banking industry. Fourthly, we will foster trade and economic ties between the two places, and explore opportunities for economic and trade co-operation and on double taxation avoidance issues. Fifthly, we will update air services arrangements between Hong Kong and Taiwan, and hope that the new agreement will be implemented shortly.

President, we will capitalize on the golden opportunity of improved Hong Kong-Taiwan relations to further explore opportunities for co-operation, such as jointly participating in the development of the West Coast Economic Zone.

With the advantages gained from the early and pilot implementation of the West Coast Economic Zone for Taiwan, and the implementation of ECFA, Fujian, Hong Kong and Taiwan can jointly participate in the development of the West Coast Economic Zone in various areas. There is a long history and solid foundation for the co-operation among the Mainland, Taiwan and Hong Kong, and we believe that the West Coast Economic Zone and ECFA can bring new development opportunities to the three places and facilitate their flourishing development.

We will round up the discussions with the Commerce and Economic Development Bureau after listening to the views expressed by Members on this motion. Thank you, President.

**MR JEFFREY LAM** (in Cantonese): President, the implementation of the Cross-Straits Economic Co-operation Framework Agreement (ECFA) has set a new scene for cross-strait economic development, with the Mainland and Taiwan moving towards integration as the Greater China Economic Circle. In this connection, some people worry that the intermediary role played by Hong Kong will be undermined and the economy of Hong Kong will in turn be weakened. On the contrary, I consider this a rare opportunity which will bring considerable

business opportunities to Hong Kong. As long as Hong Kong is willing to adjust its role and strategies, capitalize on and further develop its advantages, and join hands with the Mainland and Taiwan in making a bigger economic pie, mutual benefits can definitely be attained and an all-win situation for the three places can be created.

As the West Coast Economic Zone has been designated by the Central Authorities as an early and pilot implementation zone under ECFA, and its status has been upgraded to that of a national strategic development zone, on a par with the Yangtze River Delta and the Pearl River Delta (PRD), its potential for development is huge. Hong Kong should seize this opportunity to go beyond the PRD region and actively participate in the development of the West Coast Economic Zone to expand its economic sphere. Hong Kong should enhance its investment and co-operation in areas of modern logistics, services, finance and tourism. As pointed out by HUANG Xiaojing, governor of Fujian Province, services industries are presently in the greatest demand in the West Coast Economic Zone. With the zone having been industrialized to a certain extent, the support of quality services industries is the thrust for its further development. Being an international financial, shipping, trading and tourist centre, Hong Kong has outstanding talents and well-established systems. It can take full advantage of its open, fair and just system to advance from playing an intermediary role to becoming a platform to service cross-strait economy, as well as a strategic partner in cross-strait economic development.

Firstly, in the area of financial services, Hong Kong should increase its investment and step up its services in the West Coast Economic Zone by activating the financial co-operation mechanism between Hong Kong and Taiwan and strengthening the platform for cross-strait investment and financing. As Taiwanese enterprises mostly lease their fixed assets such as land and plants on the Mainland, they have difficulties in finding suitable collateral for securing loans. While Taiwanese enterprises may successfully obtain loans by making use of their credit in Taiwan as a guarantee, banks cannot extend substantial loans to large Taiwanese enterprises merely on the basis of credit. Therefore, many Taiwanese enterprises seek to issue bonds or to be listed in Hong Kong with a view to solving their financing problems. Hong Kong should take active measures to encourage Taiwanese enterprises in Fujian to list in Hong Kong for fund-raising purpose.

President, with the signing of the Settlement Agreement on the Clearing of Renminbi Business, Hong Kong will soon become an offshore Renminbi (RMB) centre. By launching RMB products in Hong Kong, Hong Kong serves as a bridge of the currency to the outside world. Even if we use 1% of the trade balance to develop RMB products, the amount of money involved will be up to 200 billion dollars and the prospect is very promising. Although the Mainland has approved RMB trade settlement for Taiwan upon the implementation of ECFA, capital accounts of the Mainland have not yet open and there are still thresholds. I believe it will still take a longer time for the free flow of RMB between the Mainland and Taiwan. Furthermore, given the anticipated appreciation of RMB and the inadequate supply of RMB to meet the demand, Hong Kong can still maintain its status as a leading offshore RMB clearing platform. In addition, as there are still foreign exchange controls in Taiwan and on the Mainland, the process of inward and outward capital flow is complicated. At present, many Taiwanese enterprises have chosen to take part in index-related trading activities in both places in an extended manner such as purchasing, through the Hong Kong market, index shares to invest in trust funds. In this connection, Hong Kong should actively capitalize on the strengths of its financial sector and strive for recognition as a cross-strait and overseas RMB clearing centre. In the meantime, Hong Kong should introduce financial and derivative products suitable for the Mainland, Taiwan and Hong Kong so as to expand our financial market.

On tourism, Pingtan Island, situated in the vicinity of Fuzhou City and not far from Taiwan, has been designated as an integrated experimental zone and has hence become a high priority area for development in the West Coast Economic Zone. It is hoped that the island will be developed into a "free island" open to Taiwan and an internationally renowned tourist destination. Hong Kong should proactively take part in the planning and development of Pingtan Island. It should consider establishing a Hong Kong services park on the island to encourage Hong Kong businessmen to invest there. However, Hong Kong businessmen should not only engage in real estate businesses. They should also develop logistics and tourism services on the island. Now that Fujian Province has been equipped with good transportation networks, the tourism sector in Hong Kong can capitalize on its strengths and work with China and Taiwan in building a "Taiwan Strait tourism circle" comprising Fujian, Hong Kong, Macao and Taiwan. It should also launch multi-day Taiwan Strait tour packages with different itineraries and develop multi-destination tourism products.

President, if we are to make good use of this opportunity, the Government cannot participate in the development of the West Coast Economic Zone in a piecemeal manner. Instead, it should formulate a package of comprehensive strategies for developing the Zone. I agree that Hong Kong and Fujian should set up a joint-conference mechanism for co-operation and establish a government office in the West Coast Economic Zone to discuss measures to promote co-operation.

In addition, Hong Kong should enhance the economic co-operation with Taiwan by, for example, enlisting the development of the West Coast Economic Zone as part of the economic co-operation between both sides, signing co-operation agreements on single items and even negotiating co-operation agreements on establishing free trade areas or ECFAs, so as to further boost the strength of the Greater China Economic Circle.

President, I so submit.

**DR RAYMOND HO** (in Cantonese): President, with the signing of the Cross-Straits Economic Co-operation Framework Agreement (ECFA) in Chongqing on 29 June and its commencement on 12 September this year, a new chapter has been opened for a greater exchange, a stronger co-operation and a better development in cross-strait economic and trading relations. However, according to some local academics, the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) signed on the same day in 2003 is not as effective as expected during the past seven years.

As a matter of fact, the implementation of ECFA will undoubtedly undermine the intermediary role of Hong Kong as a bridge between the Mainland and Taiwan. At the same time, Hong Kong is gradually losing its comparative advantages over other Mainland cities and some people even worry that we will possibly be overtaken. Under such circumstances, if nothing is done to actively enhance our competitiveness, Hong Kong may be marginalized with the rise of the Pearl River Delta (PRD) economic zone and in the process of cross-strait economic integration.

The objective of developing the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone) is to link up the PRD and the

Yangtze River Delta economic zones. Fujian Province, being the focal point of the West Coast Economic Zone, will primarily be developed into a regional economic community encompassing its geo-economic interests. During the implementation of the Twelfth Five-Year Plan, a number of highways and railways will be constructed in Fujian Province so that various cities within the West Coast Economic Zone such as Fuzhou, Quanzhou, Wenzhou and Shantou will be linked up with Xiamen as a comprehensive traffic hub. Having participated in local or even overseas major infrastructure projects, many Hong Kong professionals are experienced and well qualified to provide technical support for such Mainland projects. Regrettably, since the coming into force of CEPA, not much assistance has been provided to professionals in this respect over the past few years.

For instance, there are 20 areas of specialization in engineering but so far, mutual recognition of professional qualification has only be arranged for one of such specializations, that is, structural engineering. Furthermore, mutual recognition of professional qualification will bring no benefit to the professionals concerned as they are not qualified to practice in the Mainland, thus making it very difficult for them to give full play to their professionalism. I have repeatedly pointed out that if Hong Kong professionals are allowed to set up a small office in the Mainland, they will be given the chance of obtaining a foothold on the Mainland gradually and under such a development model, Mainland professionals will not find it too threatening to allow Hong Kong professionals to practice in the Mainland. Apart from early and pilot implementation in Guangdong Province, more opportunities will also be provided for Hong Kong-Fujian co-operation with the implementation of ECFA.

With the establishment of closer cross-strait economic and trading relations under ECFA, the development trend of the West Coast Economic Zone is to strengthen cross-strait exchanges and co-operation so as to attract investment from Taiwan businessmen, as well as to bring the two places closer together. Apart from the infrastructural facilities in the Zone, there is also an increasing demand for shipping ports. Currently, port and logistics facilities in Hong Kong are mainly deployed to handle goods transported to and from the Mainland. With the implementation of ECFA, Hong Kong's former role as a bridge between the Mainland and Taiwan will change. The shipping port development in the West Coast Economic Zone will undoubtedly take over the role played by Hong Kong gradually. Such being the case, the Government has to formulate

forward-looking development strategies to encourage the transformation of local shipping industry and to promote its active participation in the rapid development of the neighboring economic zones.

Guangdong-Taiwan as well as Fujian-Taiwan co-operation is yet to be enhanced and lessons at various technical levels can be drawn from the implementation of CEPA. Although a number of organizations have been established by the Government and the business sector to study issues relating to Taiwan-Hong Kong economic and trading co-operation, the efforts are incomparable to the implementation of CEPA and ECFA. The Financial Secretary, during his visit to Taiwan earlier, has pointed out that there was much room for Hong Kong-Taiwan co-operation and development. I hope the Government will seize the opportunity and actively embark on its work for the next stage so that Hong Kong will stand a better chance of participating in the development of the Greater China Economic Circle.

I so submit, President. Thank you.

**DR LAM TAI-FAI** (in Cantonese): President, the Governments of the Mainland and Taiwan signed the Cross-Straits Economic Co-operation Framework Agreement (ECFA) on 29 June this year. In this year's budget, the Financial Secretary proposed to enhance exchanges and collaborations between Hong Kong and Taiwan, and counterpart organizations were set up in Hong Kong and Taiwan in March this year.

The document on "Certain Views on Supporting Fujian Province to Expedite the Construction of the Economic Zone on the West Coast of the Taiwan Strait" issued by the State Council in mid-May last year proposed a state plan to form the West Coast Economic Zone with Fujian Province as its core, and including the southern part of Zhejiang, the southern part of Jiangxi and four cross-provincial regions in the eastern part of Guangdong.

President, the West Coast Economic Zone has a total population of roughly 90 million. Its GDP amounts to about RMB 2 trillion yuan, or about RMB 2.5 trillion yuan as reported in Taiwan. The GDP of the Pearl River Delta (PRD) and Yangtze River Delta (YRD) is RMB 3.2 trillion yuan and RMB 6 trillion yuan respectively. While the West Coast has great economic potential

indeed, there is still a big gap when compared to the PRD and YRD in terms of economic strength.

The development goal of the West Coast Economic Zone is to increase its GDP to RMB 4 trillion yuan by 2020.

President, with improved cross-strait relations and the implementation of the "Three Direct Links", the scale of cross-strait trade exchanges has been increasing. For the first nine months of this year, the total cross-strait trade volume has increased by 47.3%. In view of its geographic location, the West Coast Economic Zone is an ideal option for joint market development by both sides of the strait. In addition to the existing industries, such as information, petrochemicals, automotive parts, textiles and machinery, and so on, the West Coast also has plans to actively promote service, tourism, logistics and financial industries with a view to increasing the weight of local tertiary industries. The West Coast Economic Zone, with the implementation of ECFA, has become the third high-growth economic zone in the Mainland, following the PRD and YRD.

In fact, Hong Kong's transshipment role in cross-strait economy and trade has dwindled since the 1990s as Taiwan businesses have moved from the PRD to the YRD. The proportion of goods from Taiwan and transhipped through Hong Kong in cross-strait trade has dropped sharply from 78% in 1990 to 37% in 2000. In the last few years, the figure has plunged further to less than 25%.

President, since the Kuomintang has been in power again, cross-strait relations have improved substantially and many previous roadblocks have been gradually cleared. Therefore, Hong Kong's intermediary role will no longer be as valuable as before. In fact, it is necessary for Hong Kong to review the roles and functions that it can perform following the cross-strait integration.

The West Coast is equally important to the development of Hong Kong and Taiwan, our goals are in fact consistent, hence mutual co-operation between the two places should be enhanced. Nevertheless, in the past, many businessmen or manufacturers in Hong Kong had a mindset of strong localism. To them, the so-called Mainland development always centered around the PRD and Guangdong Province, or major cities like Shanghai and Beijing at the farthest. Development in the Fujian-focused West Coast region has all along been mainly promoted by a united group of Fujianese businessmen in Hong Kong.



If Hong Kong does not want to be marginalized again during the process of cross-strait integration, it must change its narrow-minded concept of localism and realize that Hong Kong is in fact a stakeholder of cross-strait development involving the Mainland, Taiwan and Hong Kong. It should leverage on this opportunity to integrate further with Taiwan, and the West Coast happens to be the stepping stone facilitating such integration. Hong Kong has many unique advantages that both Fujian and Taiwan lack, such as international exposure, the foundation of the rule of law, biliteracy and trilingualism, brand creation, the experiences in sales and marketing, human resources training, and so on. President, the valuable experiences as accumulated from Hong Kong's service and financial industries should be able to complement Taiwan's deficiency in these aspects.

The SAR Government should proactively inform the Central Government that Hong Kong is interested in participating in the West Coast development plan. It should also formulate specific proposal on Hong Kong's participation in the development. For instance, it can take the initiative to study how Hong Kong's financial, trading, logistics and tourism industries can contribute to the development of West Coast; it can also study the six emerging industries newly developed in Taiwan in recent years, and among these industries, how the medical services, cultural and creative and environmental protection industries can collaborate with the development of six industries with competitive edge in Hong Kong; the feasibility of such collaboration, and consider these areas as a starting point for us to participate in the West Coast development.

In fact, ECFA and CEPA are very similar in nature. Both of them are framework agreements with plenty of room for the addition of new content and benefits in future. Hong Kong should find ways to combine the benefits of ECFA and CEPA, and use the West Coast as an early and pilot platform for Hong Kong and Taiwan. Hong Kong should further propose to the Central Government that the CEPA benefits be expanded to cover the West Coast region. Of course, Hong Kong may have to accept that Taiwan will enjoy the CEPA benefits for Guangdong Province under the framework of ECFA as an exchange condition. While this may increase the competition for CEPA benefits, given that more markets will be opened to all, Fujian, Hong Kong and Taiwan markets will benefit therefrom.

Currently, the SAR Government does not have any setup like the economic and trade office in Fujian or the West Coast. The affairs of the region are

overseen by the Hong Kong Economic and Trade Office in Guangdong. Nevertheless, it is difficult for that Office which is responsible for the affairs of five provinces to spare time for more duties. Therefore, to facilitate the continual development in the region, I hope that the SAR Government will consider setting up an economic and trade office in the West Coast as a specialized unit to process the trade and business information of the West Coast and help Hong Kong businesses understand the local scenario.

President, I so submit.

**MR ALBERT HO** (in Cantonese): President, over the years, Hong Kong has been playing the role of a transshipment port between the Mainland and Taiwan. This unique edge has brought many business opportunities for Hong Kong people. Hong Kong's position has become all the more important since the Central Government's implementation of the reform and opening up policy in 1978. Given that the Mainland had no direct transport and business link with Taiwan back then, Hong Kong served as an interchange for many Taiwanese businessmen who traveled between the Mainland and Taiwan for setting up factories in the Mainland. According to the Hong Kong Airport Authority's information on passenger traffic, 6.6 million to 8.3 million passengers traveled between Hong Kong and Taiwan annually before 2008, which was about 20% of the total passenger volume.

However, following the improvement in cross-strait relations and the opening up of cross-strait direct transport, the number of passengers visiting Hong Kong has decreased obviously in the last two years and the decrease is widening. The number of passengers in 2008-2009 has dropped over 2% than that of the previous year. In 2009-2010, as at the end of March this year, the number of passengers continues to drop, registering a year-on-year decrease rate of over 7%. The passenger volume has retreated from 8.3 million at the peak to 7.5 million, the share in total passenger volume has also dropped from 20% to 16%. The picture is a bit worrying for Hong Kong which aspires to become a regional transportation hub.

On the other hand, Hong Kong-Taiwan trade is also shrinking. In the past two decades, apart from the times when external economic incidents (such as the Asian financial turmoil in 1997 and the 911 incident in the United States in 2001)

had exerted influences, dragging down the trade volume between the two places, for the remaining 70% of time, Hong Kong-Taiwan trade had registered growth, and had even recorded double-digit growth for many years. However, Hong Kong-Taiwan trade has dropped for two years in a row in 2008 and 2009, and the decrease has widened from 4% to almost 7%. If this becomes a trend, it will be difficult for Hong Kong to maintain its position as a regional trading centre.

Hong Kong has to review its economic development directions and its economic relationship with the Mainland and Taiwan. The development of the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone) is a good opportunity that Hong Kong must not miss. Hong Kong should make use of its unique competitive edge and capitalize on this opportunity to participate in the development of a new region.

Hong Kong's unique edge in the Greater China Region includes a comprehensive and fair legal system, intellectual property protection, high level of freedom for speech and information flow, advanced telecommunication infrastructure, sound financial infrastructure, and so on.

Hong Kong can provide back-office support for the West Coast Economic Zone. For example, Hong Kong can make use of its legal system to provide legal services for investors of the West Coast Economic Zone, such as arbitration services. In addition, given that there is sufficient legal protection for information exchange and intellectual property in Hong Kong, investors can set up cloud computing centres in Hong Kong to support the development of high technology and services industries in the West Coast Economic Zone.

Hong Kong's financial market has a strong capability to raise fund. The operation of its banking industry is healthy as a whole and it allows a free flow of capital. Hence Hong Kong can certainly provide financing and various financial services for Mainland and foreign investors of the West Coast Economic Zone.

President, item (e) of the original motion mentioned that "to proactively take part in the development of Pingtan Island, and establish a Hong Kong services park on the island". Given that we do not know much about Pingtan Island and the development plan concerned, we think we need to do more researches before deciding whether or not to support this point. Nevertheless, the Democratic Party in general supports the idea of developing new markets for

Hong Kong's service industry in the original motion. Therefore, except that the reservation mentioned by me just now must be recorded, we are in support of Mr CHAN Kam-lam's original motion

Moreover, Mainland companies also need to look for business opportunities in foreign places. Hong Kong can capitalize on this opportunity to attract companies of Fujian Province and neighboring regions to invest in Hong Kong. This will promote Hong Kong's economic development and create employment opportunities for employees of various sectors. Currently, businessmen all over the world are striving to enter into the Mainland market, Hong Kong should not act slowly or miss any opportunity. Hence, the Democratic Party supports Mr WONG Kwok-hing's amendment that Hong Kong Government and business sector should step up investment promotion activities in the West Coast Economic Zone.

Thank you, President.

**MS STARRY LEE** (in Cantonese): President, after the passage of the political reform package, the focus of the community should go back to economic development and livelihood issues. In our opinion, one of the economic issues that should be dealt with most urgently is the challenges and opportunities brought about to Hong Kong by the signing of the Cross-Straits Economic Co-operation Framework Agreement (ECFA).

As mentioned by Mr CHAN Kam-lam just now, the positioning strategies taken for the West Coast Economic Zone by the Central Authorities ensures that after the signing of ECFA, the West Coast Economic Zone will definitely enter a new stage of fast development with a rapid rise.

From the perspective of Hong Kong, we have edges in our modern services industry when compared with other economic zones on the Mainland. In promoting collaboration with the Mainland, one of the major directions is to expand the market of "Hong Kong services" on the Mainland. We should seize the opportunity of the signing of ECFA and catch the "West Coast Economic Zone express", so as to expand the scale of Hong Kong's services industries to a greater extent.

In July this year, the DAB published a research report on Hong Kong's active participation in developing the West Coast Economic Zone. President, I have in that the report entitled "Catch the 'West Coast Economic Zone express', Expand the scale of Hong Kong's services industries". It elaborates on the major policies and development plans of the West Coast Economic Zone, analyses the challenges and opportunities brought about to Hong Kong by the West Coast Economic Zone, and on this basis, puts forward major strategies and proposals.

Next, I will focus on the proposal of actively developing Pingtan Island and establishing a Hong Kong services park on the island. As regards the location of Pingtan Island, as Members mentioned just now, many people might not know the exact location of the West Coast Economic Zone. I recalled that at the press conference held the other day, it took me some time to explain the location, with the help of a map. The Pingtan Island is a very small island situated right in the middle between the Fujian Province and Taiwan, and just a stone's throw from Taiwan. Given this geographic advantage, the Central Authorities has identified the island as an experimental zone of the West Coast Economic Zone policy. If Hong Kong wants to take part in the development of the West Coast Economic Zone, we must not be left out in this early and pilot implementation zone. This small island will become the demonstration zone of new model cross-strait co-operation and an early implementation zone of scientific development.

What is an early implementation zone? What are the innovative attempts involved? The Central Authorities has decided to allow Fujian Province and Taiwan to jointly plan, develop and manage Pingtan Island. Apart from Fujian Province and Taiwan, other capital participation will of course not be ruled out in the early implementation zone. To establish Hong Kong's services industries in the West Coast Economic Zone, it is of paramount importance for Hong Kong to take the lead in entering the Zone. As far as I understand, Singapore has actively participated in the development of this small island through some of its companies. According to the policy for developing Pingtan Island, the first-comers, especially those at the planning stage, will fully enjoy privileges in getting the best pieces of land and space, this will be vital for Hong Kong's services industries to occupy a high-end position in the development of services industries in the West Coast Economic Zone.

As such, we suggest that Hong Kong should participate in the development of the West Coast Economic Zone by first obtaining experience in the early

implementation experimental zone. This experience can not only extend our economic function, but also effect in enlarging this function and upgrading our competitive edges.

President, last but not least, I wish to respond to different views expressed in the community. Some people said that the active participation in the West Coast Economic Zone would not be beneficial to Hong Kong as a whole. To the grassroots, instead of giving them practical assistance, the collaboration with the Mainland might lead to a northward shifting of our industries and investments, thus resulting in a hollow-out effect and a loss in job opportunity.

To this argument, I have the following response. When we look at the development of Hong Kong in the last few years, or during the period just after the reunification, we know that we could not have achieved the present position without the integration with the Mainland. Especially after the signing of CEPA, most people in Hong Kong could experience the actual benefits it brought to us. Policies such as the Individual Visit Scheme resuscitated our economy and livelihood during our most difficult time. The community and the public are in general supportive of the CEPA.

Secondly, economic development does not necessarily lead to income disparities, it is rather a question of making a bigger pie and sharing it fairly. In the present situation, Hong Kong must make the pie bigger by developing economy, upgrading its competitiveness and expanding the market. We should of course do a better job in sharing the pie by dealing with social welfare issues and resolving the problem of unfair allocation of resources. The further development in the economy will be conducive to alleviating the conflicts between the rich and the poor, allowing more time and space in the community, so that we can establish a fairer environment to address other social issues that Hong Kong is now facing.

Thirdly, promoting an externally-oriented service industry is in essence not the same as shifting our manufacturing industry northward in the past. The northward shifting of our manufacturing industry hollowed out our industries, leading to a substantial loss in manufacturing jobs. However, the expansion of service industry in the Mainland market can create more job opportunities for our service workers and professionals. The implementation of CEPA these years did benefit the public as a whole. Take the professional sectors as an example, I

have been engaging in the accounting business for several years, and I can see that the expansion in the service industry can indeed provide additional job opportunities for many professionals. The practical experience in the last few years shows that CEPA can indeed fulfil the target of achieving a win-win situation for both Hong Kong and the Mainland. From 2004 to 2008, the liberalization of trade in services and the Individual Visit Scheme under CEPA created 43 000 jobs in Hong Kong; the spending brought about by Mainland visitors under the Individual Visit Scheme amounted to more than \$58 billion; CEPA also brought a revenue of about \$46 billion to Hong Kong Enterprises in Mainland-related business. At the same time, CEPA created about 50 000 jobs on the Mainland.

President, as a result of globalization, competitions between countries or even cities can no long be dealt with by playing a lone hand, but in the context of building up a regional economy. We are not just talking about the Pearl River Delta today, but in the light of the political and economic advantages of the West Coast Economic Zone, we anticipate that it will be developed in fast speed. As such, Hong Kong must stand up higher to see farther and proceed ahead. We must take advantage of our own edges to understand the needs on the Mainland, so that we can have the chance to find a way in our sustainable development.

President, I so submit.

**MR RONNY TONG** (in Cantonese): My apologies, President. President, the chairs of the Legislative Council are good, but they sometimes cause embarrassment — I have my clothes trapped by the chair just now and could not stand up, I hope the President will excuse me. *(Laughter)* President, the implementation of Three Direct Links has undoubtedly enabled direct exchanges between China and Taiwan without relying on Hong Kong to perform its role as a bridge. It has been the long time dream of Taiwanese people and with the continuously developing cross-strait collaboration framework, this dream seems to gradually come true.

Undeniably, many people in Hong Kong may worry that the direct link between the Mainland and Taiwan will make Hong Kong lose its edges and even be marginalized. Thereafter, Taiwanese businessmen can directly set up their headquarters on the Mainland, and put up production line and branches.

Theoretically speaking, they no longer need Hong Kong to serve as an intermediary. However, in terms of politics, Hong Kong is still taking the middle position between communism at one end and capitalism at the other. At the same time, the opening up of communications between the two places has indeed opened up a new market for our service industry, allowing a new choice for investors. All in all, we cannot say that the development among the three places across the Strait is moving toward a negative direction.

President, all I just mentioned are related to issues of the economy, it is also the reason why the Civic Party does not object to Mr CHAN Kam-lam's motion or Mr WONG Kwok-hing's amendment. However, we hope to take this opportunity to raise a few issues that we consider the authorities should deal with apart from paying attention to economic development. President, we believe that taking forward economic interaction, exchanges and mutual development is not the only goal of our community; this has all along been the philosophy of the Civic Party. As such, we have to pay attention to exchanges and integrations in other aspects. It is of paramount importance to the development of Hong Kong, Mainland or Taiwan.

President, there are three points I want to briefly talk about and I hope the authorities can pay more attention. The first thing is of course the importance of open politics. President, as I just said, both Hong Kong and Taiwan are practicing capitalistic system, but obviously, at least in terms of democratic development, Taiwan is ahead of Hong Kong. Most unfortunately, on the issue of immigration, Hong Kong gives people an impression that we regard Taiwan as a third world country. It even does not bother to establish any formal relationship with Taiwan. President, before the incumbent President of Taiwan was elected, he was not allowed to come to Hong Kong. At that time, even the people in Hong Kong could not understand why our SAR Government would adopt such a view. Besides, compared to our business relations with other countries, Taiwanese businessmen coming to Hong Kong are not entirely given the convenience of a visa free arrangement. I believe that at least in this area, the SAR Government and the Taiwan Authorities can make some improvement, so that no immigration control will be imposed on the Taiwanese people coming to Hong Kong for whatever reason, or Hong Kong people going to Taiwan for whatever reason. President, I very much hope that, for the Taiwanese businessmen coming to Hong Kong, the experience they can share is the importance of rule of law and for our businessmen going to Taiwan, the



importance of democracy. I hope that this kind of open politics would make the two places more harmonious and speed up our pace of democracy.

President, the second point is on the issue of jurisdiction. All along, Taiwan has been regarded by the Mainland as a province or a city of China, its independent status is not recognized. As such, from the official view of China, the jurisdiction of Taiwan does not exist and is unlawful. For this reason, we often encounter situations in which the decrees promulgated by Taiwan courts, decrees concerning marriage or bankruptcy or some legal arrangements are not respected by China. The paradox in Hong Kong is, as it is a part of China, this issue also seriously affects our legal sector. Finally, a few years ago, the Court of Final Appeal adopted a very pragmatic approach, it recognized the authority of administration of the Taiwanese Government, as such, its legislation — not on a legal basis, but a practical basis — should be affirmed, but in theory only. I hope that through the integration and communications among the three places across the strait, this legal issue can be resolved thoroughly in future and not to be intervened by politics. President, it is very important, as to certain leading officials in the Government, politics is regarded as the source of every problem. However, from the perspective of businessmen, the positioning of law and the legal effect of Taiwan courts are very important. By the same token, Taiwan should recognize and accept the judgment of Hong Kong courts or even those of the Mainland courts.

President, the third point I must bring out is on tourism development. In recent years, we indeed do not feel sure about travelling safely in Taiwan, almost every day ..... maybe not every day, but we hear or see from time to time some very tragic news on the television. Luckily, no Hong Kong tourist has been involved in these tragedies so far. In this regard, I think it is necessary for Taiwan to improve its environment. Of course, the same kind of complaints can also apply to certain places on the Mainland.

President, I support the original motion and the amendment.

**MR WONG TING-KWONG** (in Cantonese): President, after the signing of the Cross-Straits Economic Co-operation Framework Agreement (ECFA), which has been discussing for a long time, on 30 June this year, there are views that the role of Hong Kong as a bridge between both sides is gradually vanishing, and there

are also comments that ECFA will help remove the economic barriers between the Mainland and Taiwan, and forge a greater China economic development circle including four places across the Strait. In a nutshell, there are crisis and opportunities, and the most important point is how we can grasp the current situation, prepare for the future, and continue to capitalize on our advantages.

The ECFA is mainly about mutual tariff reductions. In the future, the advantages enjoyed by Taiwan under ECFA will be similar to those under the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA). In that case, how can Hong Kong continue to benefit from cross-straits economic development? When I spoke on the motion on "Seizing the chance to turn the risks from the "Three Direct Links" across the Taiwan Strait into opportunities" at a meeting of this Council in June last year, I had mentioned about our participation in the development of the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone). In my opinion, after the signing of ECFA by both sides, our role as an intermediary for economic and trade exchanges across the Taiwan Strait will really be weakened, but we must think about our new role and position in the economic relations between the three places across the Strait. Besides strengthening the relations and economic co-operation between Hong Kong and Taiwan, we must more proactively strengthen our economic relations with the Mainland and Taiwan, especially the West Coast Economic Zone with Fujian as the centre.

Why should special attention be paid to the development of the West Coast Economic Zone in Fujian? Since the emergence of a new situation in cross-straits relations in 2008, there has been more intense economic development across the Strait. In May last year, the State Council introduced a programme on supporting Fujian's expediting the construction of the West Coast Economic Zone, it had designated specialized departments and experts to draft the development plans for the West Coast Economic Zone, and included this task in the national strategy. Since both sides have recently signed ECFA, the West Coast Economic Zone is going to take up an extremely important position in national economic development, in the economic relations between the three places across the Strait and in the Association of Southeast Asian Nations (ASEAN).

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) realized that our role in the development of the West Coast Economic

Zone deserves concern, and we took the lead and organized a delegation to Fujian in November last year to learn about the latest situation there. We published a study report entitled "Catch the 'West Coast Economic Zone express', Expand the scale of Hong Kong's services industries" in July this year, analysing in detail our participation in the development of the West Coast Economic Zone and making recommendations.

President, I am going to express my views on the points in the original motion about striving for the inclusion of Fujian Province as an "early and pilot implementation zone" under CEPA, and building a "Taiwan Strait tourism circle" comprising Fujian and Taiwan. In 2008, Supplement V to CEPA confirmed for the first time that Guangdong would become an early and pilot implementation zone under the relevant policy. The early and pilot implementation initiatives in Guangdong have so far increased to 41, covering a number of areas such as finance, education, healthcare, transport services, social services and electronic commerce. However, the problem of "big doors open, but small doors not yet open" has been found in the implementation of CEPA. According to Mr JIANG Zengwei, the Vice-Minister of Commerce, it is a pressing task to arrange several key provinces, regions and municipalities to become early and pilot implementation zones under CEPA. Therefore, the DAB suggested the inclusion of Fujian Province as one of the key provinces for the implementation of CEPA, and an early and pilot implementation zone under CEPA policies. This tallies with national policies and is conducive to promoting our services sector to enter into the Fujian market, as well as expanding and deepening our co-operation with Fujian.

On the tourism front, according to the State Council, one of the economic positioning of the West Coast Economic Zone is to establish an important natural and cultural tourism centre in China and build a "Taiwan Strait tourism circle". In building a tourism co-operation platform for the West Coast Economic Zone, it is essential to strive for the extension of the Individual Visit Scheme to cover the entire Fujian Province; the provision of endorsement services for temporary residents in Fujian intending to travel individually to Hong Kong, and the implementation of the Individual Visit Scheme policy in Taiwan. In integrating the tourism resources of Hong Kong, Macao and Taiwan, it is also important to strive for co-operation with the tourism departments in Fujian, Taiwan and Macao, so as to design and open up joint tourist packages covering the four places, and proactively strive for the launching of cruise services connecting

Hong Kong, Taiwan and Xiamen. We should enhance co-operation with Fujian in strengthening the transport infrastructure with a view to facilitating intercourse.

In the past, when Members moved motions to discuss issues from the economic perspective, they were being criticized. Some Members opposed Hong Kong becoming like the Mainland. They opined that the rule of law and other systems such as "one country, two systems" in Hong Kong should be upheld. I must say that the basic principle for co-operation between Hong Kong and the Mainland is upholding the Basic Law and "one country, two systems" without damaging the original system in Hong Kong. The original motion and the amendment today are proposed from the economic perspective, and I hope Members can have discussions about the relevant contents. So long as Hong Kong can proactively strengthen co-operation with the West Coast Economic Zone and give play to our advantages, we can certainly find new development opportunities.

With these remarks, President, I support the original motion.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, you may now speak on Mr WONG Kwok-hing's amendment. The speaking time limit is five minutes.

**MR CHAN KAM-LAM** (in Cantonese): President, I think that Mr WONG Kwok-hing's amendment is well-intended. He would like to step up Hong Kong's investment promotion activities in the West Coast Economic Zone and offer concessionary initiatives to induce the enterprises there to establish their bases in Hong Kong, with a view to promoting the development of Hong Kong's six industries and increasing employment opportunities for local workers. This intention certainly has our support.

However, frankly speaking, we should make an in-depth study on this amendment and we will understand that the development of the West Coast

Economic Zone is still at the initial take-off stage, and the local enterprises have yet to be developed and strengthened. The inspection and monitoring systems and capabilities, the environmental protection industries, as well as the innovation and technology industries have yet to be established. Even if there are well-established industries, they are mostly from Taiwan. Is it possible for these enterprises to establish their bases in Hong Kong rather than in the West Coast Economic Zone? Is this just wishful thinking? As compared with Hong Kong, the West Coast Economic Zone currently offers more concessionary initiatives to Taiwan enterprises and enterprises from other regions.

Let me give some practical examples. In May 2009, the State Council promulgated "Certain Views on Supporting Fujian Province to Expedite the Construction of the Economic Zone on the West Coast of the Taiwan Strait". It has just been a year or so since the promulgation but Fujian and Taiwan have already signed a number of memoranda in various areas, and the economic and academic exchanges across the Strait have obviously been speeded up. First of all, in respect of financial co-operation, a cross-straits financial co-operation forum has been established. Some specific measures have also been implemented after the signing of a memorandum on co-operation in financial supervision. As a result, nearly 10 cross-straits banks in Fujian and foreign-invested banks based in Taiwan have established co-operative relationship with Taiwan banks. Xiamen Bank and Fubon Bank in Taiwan have also co-operated in business development. In May this year, Fujian has also introduced 10 preferential policies for Taiwan.

Furthermore, some policies have been formulated in more than 10 other areas with a view to expediting co-operation with Taiwan. For example, expediting the construction of the comprehensive experimental zone in Pingtan, supporting the development of a farmers' entrepreneurship park in Taiwan, promoting the procurement and marketing of Taiwan agricultural products, providing quality services for Taiwan farmers starting enterprises in Fujian, and broadening the scope of Taiwan investments, as well as many other measures. I think that it is unmatched by Hong Kong in these areas.

It can be said that the operating cost of the West Coast Economic Zone is even lower than that in Hong Kong, and I believe that it is not easy to invite enterprises there to operate business in Hong Kong. All in all, we certainly welcome every opportunity for attracting more investors to Hong Kong. Yet, in respect of the development of the West Coast Economic Zone, we think that it

would be most practical for us to open up the market there and allow entry into the market by our professional, services and financial sectors.

Thank you, President.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I thank Members for expressing their views on Mr CHAN Kam-lam's motion and Mr WONG Kwok-hing's amendment. I will first speak on economic and trade issues.

The SAR Government has always paid close attention to the development of the Economic Zone on the West Coast of the Taiwan Strait (the West Coast Economic Zone), and has maintained contacts with the local government and the sectors at different levels. Regarding investment promotion, the Hong Kong Economic and Trade Office (ETO) in Guangdong co-ordinates the work of Invest Hong Kong from time to time. On the one hand, it proactively promotes the favourable business environment in Hong Kong to enterprises in the region, stating that Hong Kong is the best platform for expanding the international market and going global; on the other hand, it organizes delegations to Hong Kong for enterprises which intend to invest here.

The SAR Government also actively organizes and participates in large-scale promotional activities on the West Coast Economic Zone, such as participating in the annual "China International Investment and Trade Fair" held in Xiamen, and the "China and the Strait Project Outcomes Fair" held in Fuzhou. In April this year, the Chief Secretary for Administration will lead a trade delegation to Fuzhou to meet with leaders of Fujian Province and exchange views on further strengthening economic and trade co-operation between the two places. The ETO in Guangdong also jointly organizes activities with the Fujian-Hong Kong Economic Co-operation Promotion Committee, established by the Fujian Provincial Government, from time to time.

A few Members have just proposed extending the early and pilot implementation arrangement under the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) to Fujian Province.

Since the signing of CEPA in 2003, the Mainland and Hong Kong have announced nearly 280 liberalization measures, so far most of them are applicable

in Fujian Province. There are also pilot initiatives in Fujian Province under CEPA in four service areas, namely healthcare, tourism, convention and exhibition, and transportation, providing more preferential market access to our services sectors.

Apart from providing business opportunities to various sectors in Hong Kong, the CEPA platform also allows our professional talents to offer quality service support to Fujian Province, and even the whole West Coast Economic Zone, giving full play to our strengths in areas such as finance, tourism, logistics, transportation and professional services, and assisting in upgrading the professional level of the services sectors in the West Coast Economic Zone. Through the ETO in Guangdong, the SAR Government will continue to maintain contacts with Fujian Province, and enhance our co-operation in promoting and implementing CEPA.

To further promote our co-operation with the services sectors in Mainland provinces and cities, we will, with regard to the demands of the sectors and the situation of Mainland provinces and cities, negotiate with the Mainland on implementing more early and pilot implementation initiatives, so that for those services areas which are not ready to be liberalized throughout the country due to market conditions, can first be liberalized in individual provinces and cities, so as to play an exemplary role and lay the foundation for extended implementation throughout the country in the future.

Members have mentioned the promotion of tourism in Fujian, Hong Kong, Macao and Taiwan. According to our observation, in view of the geographical locations, tourists generally prefer travelling directly to and fro between Fujian Province and Taiwan. Therefore, the tourism sector considers that, though the multi-destination strategy can be considered, tours connecting Fujian, Hong Kong, Macao and Taiwan may not be the tourism products demanded by the market. The development of the Hong Kong-Fujian and Hong Kong-Taiwan tourism markets may provide greater business opportunities.

In respect of bilateral tourism co-operation and promotion with Fujian Province, in addition to issues such as Individual Visit Scheme, honest and quality tourism and cruise tours as I have mentioned at the beginning of this motion debate, Fujian and Hong Kong have frequent co-operation at the Pan-PRD

level. We have, from time to time, participated in the tourism exhibitions held by the another party. Under Supplement IV to CEPA, Hong Kong-invested travel agents can operate group tours in Fujian Province and various provinces in the Pan-PRD Region for local residents visiting Hong Kong and Macao. This measure provides Hong Kong travel agents with the opportunities to enter into the Fujian market and participate directly in tourism development in Fujian Province.

Development of Hong Kong-Taiwan tourism is also one of our main tasks. Taiwan is an important tourism partner of Hong Kong, and it is Hong Kong's second largest visitor source, following the Mainland. Each year, there are on average over 2 million Taiwan residents coming to Hong Kong for business and tourism. In the first 10 months in 2010, there are about 1.82 million visitor arrivals from Taiwan, an increase of 9.4% over the same period last year.

We have introduced a number of measures facilitating visits by Taiwan tourists, including unlimited applications for iPermits for visits to Hong Kong; Taiwan residents holding "Tai Bao Zheng" can visit Hong Kong and stay for seven days without being required to hold an entry/exit endorsement for the Mainland at the same time. These arrangements provide much convenience to Taiwan tourists visting Hong Kong.

Supplement VI to CEPA signed in May 2009 allows Mainland tours to Taiwan to include Hong Kong as an en route stop and launches multi-destination tourism between Hong Kong and Taiwan. Tourists from Guangdong Province can travel to Hong Kong first and then to Taiwan. We encourage local sectors to actively capitalize on this preferential policy to open up more routes and business opportunities with their business partners in the Mainland and Taiwan.

The SAR Government and local sectors will maintain close contacts with Fujian and Taiwan tourism departments, in order to explore more opportunities for co-operation on a reciprocal basis.

With unique geographical advantages and cultural background, the West Coast Economic Zone has been the key area for Taiwan's investments and business activities on the Mainland. With the signing of the Cross-Straits Economic Co-operation Framework Agreement (ECFA) in June and its coming



into effect in September this year, cross-straits economic and trade relations have entered into a new stage of development, with more frequent economic and trade activities. The implementation of ECFA has not only enhanced cross-straits economic and trade relations, but also facilitated economic development of the region.

On enhancing economic co-operation with Taiwan, the SAR Government has proactively co-operated with Taiwan in various fronts, in light of the new development in cross-straits relations. Hong Kong and Taiwan have all along been important trading partners and have very close economic and trade relations. Last year, Hong Kong was the fourth largest trading partner of Taiwan and vice versa, and the total trade volume between the two places amounted to over HK\$230.4 billion. The economic and trade relations between Hong Kong and Taiwan have risen to a new level this year. Through the new platform of communication and co-operation between Hong Kong and Taiwan, the two places can carry out more in-depth exchanges and co-operation, especially in the areas of trade, investment, and tourism.

As a matter of fact, there is ample room for the development of bilateral and regional co-operation between the three places across the Strait. The Mainland, Hong Kong and Taiwan have different strengths in resources and industrial structure, and we believe that through enhanced co-operation and complementarity of edges, the economic co-operation and development of the three places and even that of the region can be further promoted, and an all-win situation can be achieved. With our intrinsic strengths (such as our efficient airport and ports, well developed financial and professional services, comprehensive support network, robust legal system, and so on), we can continue to play an important and active role in the co-operation among the Mainland, Hong Kong and Taiwan, and in promoting sustainable economic development in the region. In seeking co-operation among the three parties, the SAR Government will certainly make a correct judgment of the prevailing circumstances and adopt holistic strategies to seek an all-win situation and generate greater economic interests for Hong Kong.

I am now going to respond to the amendment moved by Mr WONG Kwok-hing, focusing on the investment promotion activities in the West Coast

Economic Zone. As the Secretary for Constitutional and Mainland Affairs has just said, our six industries with competitive edge can tally with the upgrading and transformation of industries in Fujian Province, a measure vigorously promoted by the government in recent years; the two sides can share complementary advantages and complement each other. Apart from promoting our industries with competitive edges to Fujian Province and the West Coast Economic Zone through the ETO in Guangdong and Invest Hong Kong, we will also step up exchanges with various sectors on the Mainland to promote co-operation. Take testing and certification as an example, the testing and certification bodies in Hong Kong have been providing testing and certification services for consumer products manufactured in the Mainland for export, such as toys and children products, electrical and electronic products, as well as textiles and clothing products. Furthermore, our comprehensive accreditation system enjoys good reputation locally and abroad, and is highly attractive to those sectors intending to invest in Hong Kong. We set up the Hong Kong Council for Testing and Certification in September last year to enhance promotion in this connection. We welcome the establishment of offices in Hong Kong by testing and certification bodies from the West Coast Economic Zone and their capitalizing on our advantages for business development.

Furthermore, Supplement VII to CEPA signed in May this year has included co-operation in environmental protection industries in the trade and investment facilitation area. A communication platform for enhanced co-operation between the Mainland and Hong Kong in the area of environmental protection has thus be enhanced, which is conducive to the co-development of environmental protection industries in the two places.

Mr WONG Kwok-hing has also mentioned our patent system. To encourage innovation and technology development, the Financial Secretary had increased the Patent Application Grant from \$10,000 to \$15,000 in this year's budget. As regard the existing Patents Ordinance and system, in order to ensure that the Ordinance keeps pace with the times and is in line with the government's policy on promoting innovation and technology, the Commerce and Economic Development Bureau intends to conduct a review on our patent system this year, with a view to providing more appropriate protection for inventions and attracting more related industries to set up business in Hong Kong. I welcome Members' active participation in making recommendations, so as to promote our scientific research industry.

President, the close ties between the three places across the Strait can give play to the economic advantages of the greater China region. The State has ascertained the important position of the West Coast Economic Zone in promoting economic co-operation across the Strait. We will seize the development opportunities in the West Coast Economic Zone, and make contributions to the Zone by capitalizing on our strengths. The valuable views and suggestions of Members provide us with very useful reference in promoting the establishment of closer business and trade co-operation with the West Coast Economic Zone. I express my sincere thanks to Members once again.

President, I so submit.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, my colleagues from the SAR Government sincerely thank Members present for their concern about this subject, and for the efforts they made in proposing strategies in the hope that Hong Kong could attain development in more regions on the Mainland. I will now respond to Members' views in five or six aspects.

First of all, the SAR Government has holistic strategies for handling the co-operation with Fujian and the West Coast Economic Zone. Since the commencement of co-operation with nine provinces in the Pan-PRD Region in 2004, we have gained further understanding of these provinces. Regarding our relations with these nine provinces, we have adopted different mode of co-operation and strategies. As three of these provinces, namely Guangdong, Fujian and Sichuan, have a larger population, more advanced development and richer industrial structures, we can co-operate with them in various areas and at various levels. The three provinces in the second group include Hunan, Jiangxi and Guangxi, adjacent to Guangdong's PRD. With lower manpower and land prices, Hong Kong manufacturers can consider setting up new factories in these three provinces if they consider that the operating costs in the PRD have increased. In our discussions with the governments of these provinces, we have voiced the views that if they want to attract Hong Kong enterprises to engage in industrial construction in their provinces, it is important to have comprehensive road networks, so as to facilitate the flow of finished products to other places for export or domestic sale. The third group of province includes Yunan, Guizhou

and Hainan. Since these three provinces have abundant tourism resources, the implementation of multi-destination strategies is desirable.

President, I have to explain to Members how the SAR Government has made preparation for complementing with the nine provinces in the PRD. We can thus see the "whole picture", and then we can consider how to participate in the development in Fujian and the West Coast Economic Zone.

The second main point that I would like to discuss is that, in promoting policies, the SAR Government attached importance on macroscopic and microscopic planning. The macroscopic planning relates to the co-operation in the Pan-PRD Region as I have just mentioned, as well as the Twelfth Five-Year Plan and the extension of CEPA. The Twelfth Five-Year Plan will be endorsed in the National People's Congress session in March next year. We would continue our discussion with the National Development and Reform Commission and the relevant central ministries, to request for the implementation of early and pilot implementation measures in other provinces, such as Fujian Province, apart from Guangdong Province and the PRD. If the measure can be successfully implemented, we believe that enterprises in different places across the Strait, be they Taiwan enterprises settling in Fujian or Mainland enterprises settling to Taiwan, so long as their development have matured, they can be listed in Hong Kong one day. In this way, Hong Kong can take one step further in being an international financial centre.

The third point is that we share Members' hope that Hong Kong would be able to seize these opportunities. We have also noticed that Fujian and the West Coast Economic Zone are now in the process of development and their economies will take-off one day. Let us consider the following figures: the economic growth rate of Fujian was 12% in 2009, and there was a growth of 15.5% in the first nine months in 2010. We are aware of these opportunities and we know that Hong Kong have the conditions to get the most out of these opportunities — this is the third main point. In Hong Kong, there are quite a number of Fujian community groups, as well as enterprises or business associations having connections with Fujian. The SAR Government will co-ordinate and make good use of these community forces.

Regarding infrastructure construction, a few years ago, the SAR Government and the Guangdong Provincial Government decided to set up the

Liantang Boundary Control Point. The reason is that with Liantang Boundary Control Point in the east, the costal highways can be directly connected to areas of concern such as Fujian and the West Coast Economic Zone. We will continue to push forward the relevant work so as to capitalize on these opportunities.

President, fourthly, I would like to respond to the key points raised by some Members. Mr WONG Kwok-hing has particularly mentioned that we should encourage Taiwan compatriots to travel more frequently to Hong Kong, and make it convenient for their frequent travel to Hong Kong. We have relaxed the relevant arrangements in the past year or so. In 2009, we announced and implemented the arrangement that Taiwan residents who were holders of "Mainland Travel Permits for Taiwan Residents", commonly known as "Tai Bao Zheng", might travel to Hong Kong for a week without bearing an endorsement. Now that the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council (ECCPC) and the Taiwan-Hong Kong Economic and Cultural Co-operation Council (THEC) have held a meeting, the departments concerned, including the Immigration Department, will continue to consider how to make things more convenient for frequent visits by Taiwan people to Hong Kong.

Mr Jeffrey LAM suggests that Hong Kong should set up a Hong Kong services park on Pingtan Island, to provide logistics and tourism services, and so on. I can tell Members that, at present, under CEPA's early and pilot implementation arrangement, our service providers can provide certain services in Fujian, such as setting up hospitals, holding exhibitions and providing overseas exhibition services. In future, we will continue to seize every opportunity to discuss with relevant Central departments about how the early and pilot implementation measures under CEPA can be extended to other provinces apart from Guangdong.

Dr Raymond HO has specially mentioned that, the implementation of CEPA since 2003 has fallen short of the expectations of the professional sectors. We have heard the relevant views and we are trying our best to pursue development. Furthermore, I would like to say that, from 2003 till now, Hong Kong has actually enjoyed substantive economic benefits under CEPA. Let us just consider tourism, there are more than 30 million trips by inbound visitors to Hong Kong each year, 60% of the visitors are from the Mainland, and most of them have visited Hong Kong under the Individual Visit Scheme. The Individual Visit Scheme has provided us with highly substantive and beneficial

economic opportunities since the signing of CEPA in 2003. Yet, President, we are not satisfied with the *status quo*. We will continue to put in efforts and we should not underestimate our capabilities in connection with the implementation of CEPA.

Mr Albert HO supports the motion and he has particularly mentioned that we should promote the development of our professional services on the Mainland. I have just told Members why we are concerned about Pan-PRD co-operation, and we actually have holistic strategies. Currently, the services sectors account for over 90% of our Gross Domestic Product (GDP), as we only have a population of only around 7.2 million, our market is rather limited. With our present co-operation with the Mainland, including the Central Authorities, provincial and municipal governments, we hope to expand our services sectors, including the financial and professional services sectors, to the PRD market with a population of 50 million, and then to the Pan-PRD market with a population of more than 400 million. Therefore, we agree with the main points raised by Mr Albert HO and other Members.

Mr Ronny TONG queries about our attitude towards Taiwan visitors, including official visitors. I can definitely tell Mr Ronny TONG and Members present that the SAR Government has maintained contacts with the authorities concerned in Taiwan in a very positive manner. The ministerial-level officials in Taiwan frequently come to Hong Kong for visits and attend seminars, and some Members of the Legislative Yuan have also visited Hong Kong. Also, delegations with mayors from Taichung, Taipei and Kaohsiung have visited Hong Kong. We will continue to work in co-ordination with them and we welcome their co-operation with Hong Kong. Mr Ronny TONG has touched upon reciprocal judicial assistance, the ECCPC and THEC will continue to work hard in order to lend an impetus to the work in the future.

Fifth, a few Members have said that we now have an Economic and Trade Office (ETO) in Guangdong but there is no such office in Fujian. I would like to emphasize that, despite this, colleagues of the SAR Government in ETO in Guangdong have continued to make great efforts in arranging for a wide range of investment promotion activities. For instance, we organized activities on investment in Hong Kong in June 2008; we assisted Fujian Provincial Government and prefectural-level city representatives to come to Hong Kong for exchanges and attend promotional activities in February 2009; and in July 2009, we also assisted Invest Hong Kong in organizing delegations to Hong Kong,

attended by enterprises in Fujian which are interested in making investment in Hong Kong.

President, all in all, the West Coast Economic Zone which is under discussion today has brought new opportunities to Hong Kong. In the past decades, Hong Kong was really a blessed place. As we had an open economy, we can often seize new opportunities outside Hong Kong. In recent years, the SAR Government has become increasingly active because we are aware that the SAR Government has to formulate specific policies to complement with the development of a free economy. In addition, we have to work closely with the Mainland and foreign governments to facilitate and encourage our enterprises and service providers to develop abroad. President, we have attained certain achievements with regard to our co-operation with Guangdong, Taiwan and Fujian, and I believe we will put in efforts in these three areas co-operation, so as to create new opportunities to tie in with the development of Hong Kong in the next 10 to 20 years. I am grateful to Members for their views and we will continue to work hard to promote all aspects of work in the future. President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr CHAN Kam-lam's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, you may now reply and you have three minutes 16 seconds.

**MR CHAN KAM-LAM** (in Cantonese): President, less than 10 Members have spoken on this subject, which illustrated that it is definitely not an easy task to discuss about economic issues, especially when many Honourable colleagues do not know where the West Coast Economic Zone is. We can hardly blame them for their limitations.

Insofar as economic development is concerned, we need to have forward-looking concepts. The Democratic Alliance for the Betterment and Progress of Hong Kong would like to continue to do a good job in this regard. Mr Albert HO has just said that he does not even know the location of Pingtan. It seems that he has very reluctantly supported the motion because he does not know what to do; and he is reluctant not to support the motion. For this reason, I will say a few words about Pingtan Island.

In the construction outline of the West Coast Economic Zone it promulgated by Fujian Province, 10 major early and pilot implementation policies were introduced, targeting on Taiwan. Pingtan comprehensive experimental zone in Fuzhou is a key development zone under these policies. This place can be described as the fifth biggest island in China though many people do not know its location. It is an island located between Fujian Province and Taiwan Province, and it is close to Fuzhou; its area is about two times that of Xiamen. Fujian Province has plans to develop this island into an early and pilot implementation area in the West Coast Economic Zone, as a special customs area. It is proposed that the area should be jointly constructed and managed by China and Taiwan. We can well imagine that it has special political and economic significance. The Taiwan Ministry of Economic Affairs has specially set up an office for the planning of this island. On the whole, we know that Hong Kong's investments in Fujian have so far been more than three times those made by Taiwan in Fujian. However, it seems that we have not actively participated in the planning of Pingtan Island. Hong Kong is lagging behind while Singapore and Taiwan have participated in the planning of the island. Thus, we really hope that Hong Kong would participate in the planning of the island under the leadership of the SAR Government and do a good job. I trust that this will bring



substantial benefits to our economic development and the development of the island. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr CHAN Kam-lam's motion, 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): Members, after this meeting has been adjourned today, the Council will only be resumed in 2011. I wish officials and Members progress in the New Year.

I now adjourn the Council. The Council will be resumed at 11 am sharp on Wednesday, 5 January 2011.

*Adjourned accordingly at ten minutes past Ten o'clock.*

## MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT) BILL 2010

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) In the proposed section 29AB(2), in the Chinese text, by deleting “如一段婚姻在香港以外地方遭解除或廢止之後，婚姻” and substituting “在一段婚姻於香港以外地方遭解除或廢止之後，如婚姻”。</p> <p>(b) In the proposed section 29AB, by deleting subsection (3).</p> <p>(c) In the proposed section 29AC(2), in the Chinese text, by deleting “充分理由” and substituting “實質理由”。</p> <p>(d) In the proposed section 29AG(2), by deleting “4(1)(b) or (c), 5(2)(b) or (c)” and substituting “4, 5”。</p> <p>(e) In the proposed section 29AJ, in the Chinese text, by deleting subsection (5) and substituting –</p> <p>“(5) 第(3)及(4)款分別適用於由婚姻的另一方作出(不論是在有關申請開始之前或之後作出)的財產處置，但在以下情況下除外：財產處置是為有值代價(不包括婚姻)向某人作出，而在作出時，該人真誠就財產處置行事，且不知道該另一方意圖打擊申請人要求經濟濟助的申索。”。</p> <p>(f) In the proposed section 29AK(1), in the Chinese text, by deleting “如法庭應婚姻的一方提出的要求作出第(2)款下的</p>

命令的申請而覺得有下列情況，法庭” and substituting “凡婚姻的一方提出申請，要求法庭根據第(2)款作出命令，法庭如覺得有下列情況，”。