

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 25 April 2012

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

MR KENNETH CHEN WEI-ON, J.P.

SECRETARY FOR EDUCATION

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

SECRETARY FOR SECURITY

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 EVA CHENG, G.B.S., J.P.

SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE GREGORY SO KAM-LEUNG, 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

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber?

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

TABLING OF PAPERS

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

Report No. 17/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Securities and Futures (Amendment) Bill 2011

Report of the Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Appointment of Members of Elderly Commission

1. **MR LEUNG KWOK-HUNG** (in Cantonese): *Good morning, President. "While meat is left rotten in the kitchens of the rich, thousands of people are freezing to death in the streets. What the Chief Executive spent for one night in a hotel can feed an elderly person for three years"*

PRESIDENT (in Cantonese): Mr LEUNG, according to the Rules of Procedure, you must ask your question in the terms in which it was handed in.

MR LEUNG KWOK-HUNG (in Cantonese): *Oh, I see. In that case, I will explain this poem later.*

PRESIDENT (in Cantonese): Mr LEUNG, please read out your main question immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *All right. "What the Chief Executive spent for one night in a hotel can feed an elderly person for three years"*

PRESIDENT (in Cantonese): Mr LEUNG, if you violate the Rules of Procedure again, I cannot let you ask your question.

MR LEUNG KWOK-HUNG (in Cantonese): *I only recited it in a low voice.*

PRESIDENT (in Cantonese): Please read out your main question in the terms in which it was handed in.

MR LEUNG KWOK-HUNG (in Cantonese): *I understand. Thank you, President, for your guidance.*

President, quite a number of members of the social welfare sector and elderly people have relayed to me that the appointment of most of the members of the Elderly Commission (EC) is very controversial and contrary to the general rule that a non-official member of an advisory body should not serve on the same body for more than six years. Despite criticisms from a number of Legislative Council Members of the current term, the Government continues to re-appoint such members or even appointed some of them as the EC Chairman or

Vice-chairman. Some front-line social workers have pointed out that the Government's practice of cronyism has led to years of failure in its elderly policy, causing quite a number of elderly people to suffer innocently. In this connection, will the Government inform this Council:

- (a) of the number of elderly people who died in the past five years while waiting for elderly services (including places in subsidized residential care homes for the elderly (RCHEs), private RCHEs participating in the bought place scheme (including contract RCHEs), subsidized Nursing Home, Integrated Home Care Services and Enhanced Home and Community Care Services), and set out the breakdown and the total numbers by year;*
- (b) as the EC Chairman has been appointed as non-official EC member for 13 years and the Vice-chairman for nine years, whether the Government assesses the performance of the EC members on the basis of the number of elderly people who died while waiting for elderly services to decide if such members should stay on or be appointed as the EC Chairman or Vice-chairman; and*
- (c) of the Government's measures to enhance the credibility of the EC and address the public concern that the EC may have become a bargaining chip for political deals and transfers of benefits for political parties, the business sector and people from the pro-Government camp; whether the Government will consider appointing members of the Panel on Welfare Services of this Council and representatives from the Hong Kong Council of Social Service and various elderly groups as ex-officio EC members, so that they may assist in formulating policies from a professional point of view and reflect public opinion; if it will, of the time of appointment; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the EC was established in 1997. It is mainly tasked to advise the Government on the policy for the elderly and related programmes and services. Appointment of members to the EC is made in accordance with the Government's general

guidelines (guidelines) for the appointment of members to advisory and statutory bodies.

My reply to the question raised by Mr LEUNG Kwok-hung is as follows:

- (a) For the period between 2007 and 2011, the numbers of elders who passed away while waiting for subsidized nursing home (NH) places, care-and-attention (C&A) places and home care services each year, as well as the aggregate numbers in these five years, are provided at Annex of the written reply.

The Government acknowledges that elders have to wait for some time to be admitted to subsidized places at present, in particular for NH places which provide a higher level of care. In this connection, we have adopted a series of measures to increase the provision of subsidized places. From now on (that is, 2012-2013) to 2014-2015, over 1 600 additional subsidized residential care places for the elderly are expected to commence operation, of which over half (about 900 places) are NH places. Besides, the Social Welfare Department (SWD) has earmarked sites in 10 development projects for the construction of new contract homes.

The waiting time for subsidized places is affected by a number of factors, such as the number of applicants, their specific preference for homes (including location and religious background), the turnover rate of residents in individual homes, and so on. The statistics of the SWD as at the end of February 2012 indicated that 95% of the applicants for NH places and 99.7% of the applicants for C&A places had specific preference for home location. In fact, the waiting time could be substantially reduced if an applicant has no specific preference.

As regards home care services, it now takes about two months on average for frail elders to wait for regular subsidized services. The Government will provide 500 additional places for Enhanced Home and Community Care Services this year. The additional places outnumber the elders currently waiting for such services (that is,

about 300). We believe that this will further ease the waiting situation.

(b) and (c)

According to the guidelines, a non-official member of an advisory body normally should not serve more than six years in any one capacity. Where a member is appointed to a different post (for example, chairman or vice-chairman) of the same body, however, such an appointment should be regarded as a new appointment and the six-year rule will apply afresh. The appointments of all current EC members (including the Chairman and Vice-chairman) are in compliance with the above requirement.

In selecting members for advisory bodies, the basic principle adopted by the Government is to appoint individuals on their own merit, so as to secure the services of the most suitable persons to meet the requirements of the bodies concerned. Also, the composition should broadly reflect the interests and views of stakeholders in the community. Factors for consideration include the ability, expertise, experience, integrity and commitment to public service (for example, with reference to their track record in public service and other community services) of the persons concerned as well as the functions and nature of business of the advisory bodies. The EC now comprises members from the healthcare, social welfare, elderly group, elderly homes, professional and academic sectors, and so on. They all have experience in other community services.

Besides, as in the case of many other Government advisory bodies, the EC members are appointed on an *ad personam* basis. Generally speaking, appointing members of advisory bodies on an *ad personam* basis is more in line with the principle of selecting people on their merit, and can allow them to contribute their talent, expertise and experience without constraints. It also introduces diversity to the membership and reduces the possibility of conflict of interests.

Annex

Yearly breakdown of the numbers of elders who passed away while waiting for subsidized residential care places and home care services (2007-2011)

<i>Types of place/services</i>	<i>Numbers of elders who passed away</i>						
	<i>Year</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>Total</i>
Subsidized NH places		1 619	1 847	1 822	1 823	1 958	9 069
Subsidized C&A places ⁽¹⁾		2 449	2 556	2 716	2 971	3 189	13 881
Subsidized home care services ⁽²⁾		14	31	25	21	18	109

Notes:

- (1) Including places provided under the Enhanced Bought Place Scheme.
- (2) Including Integrated Home Care Services (Frail Cases) and Enhanced Home and Community Care Services.

MR LEUNG KWOK-HUNG (in Cantonese): *President, "While meat is left rotten in the kitchens of the rich, thousands of people are freezing to death in the streets. What the Chief Executive spent for one night in a hotel can feed an elderly person for three years." Hotel accommodation for one night cost him more than \$50,000. This amount is exactly equivalent to the total amount of "fruit grant" that an elderly person can receive in three years. This is how our Government is like.*

Secretary, I have no choice but to spent my own time on this. Just now, he said in reply that the figures were set out in the Annex. However, people watching the television have no way of knowing those figures. Officials should not be like that. He said that the figures were set out in the Annex. However, no one knows what he was talking about. Now, let me read out those figures. In respect of subsidized NH places, the numbers of elderly people who passed away while waiting for such places were: 1 619 in 2007, 1 847 in 2008, 1 822 in 2009, 1 823 in 2010, and 1 958 in 2011; in respect of subsidized C&A places, the numbers of elderly people who passed away while waiting for the places were:

2 449 in 2007, 2 556 in 2008, 2 716 in 2009, 2 971 in 2010 and 3 189 in 2011, and the total was 13 881. President, these are the relevant figures which show that more and more elderly people passed away while waiting for places.

President, my supplementary question is: Given such a track record, that is, more and more elderly people passing away while waiting for places however, the Secretary told me that according to the rules, if a member is appointed the Chairman, he can fill the post for six years, subsequently, if he is appointed as the vice-chairman, he can fill the post for six years and if he is transferred from the post of vice-chairman back to that of the chairman, he can fill the post for another six years. They may as well go back to the Mainland. It is not like this even on the Mainland and one can only serve for 10 years

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

MR LEUNG KWOK-HUNG (in Cantonese): *President, may I ask the Secretary, in rotating the bearer of chairmanship in this way, that is, after serving as the Vice-chairman, one can serve as the Chairman, then one can become the Vice-chairman again, thus resulting in the figures which he dared not read out just now, that is, altogether, more than 20 000 elderly people went to meet Karl MARX before they could be allocated the places that they had been waiting for, does he think that this is right? In sum, does he think that this is right? If the Chairman and the Vice-chairman are replaced, a new situation will emerge. Would improvements be made to the situation? Can Members of this Council or some other hardworking front-line workers be appointed? Please answer, Secretary.*

PRESIDENT (in Cantonese): Mr LEUNG, if you have put your supplementary question, so please sit down.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEUNG for his supplementary question. In the legislature, many

Members have expressed concern about this issue. On various occasions, the Government has also stated its position clearly, that is, we are concerned about this issue. We have adopted a multi-pronged approach. Firstly, we must increase the number of residential care places. It can be seen from the main reply that from now on to the next two years, the number of residential care places will increase by 1 600, among which 900 will be NH places, as the demand for them is greater.

Secondly, while elderly people are waiting, we will strengthen community care services by increasing the quota for the Enhanced Home and Community Care Services by 500 places to relieve the pressure arising from the approximately 300 people who are waiting. Moreover, Members are also aware that we have formulated a new strategy in respect of the policy of "ageing in the community" to step up the measures in specific areas to provide support to elderly people who are waiting and to their carers. However, we have also pointed out a problem in the main reply, that is, under the existing mechanism, elderly people or applicants are allowed to choose their residential homes. That means they have the right to choose. Precisely for this reason, as pointed out in the main reply, the great majority, that is, more than 90%, of these elderly people have expressed their preferences. We have to respect their wishes and give them the right to choose. However, exactly because of their wishes, coupled with considerations about the actual situation, including the turnover of places in individual residential care homes, the preferences of elderly people, and so on, the waiting time may be rather long, but if they have no specific preference or wish, usually, they can be allocated places very quickly.

For example, the waiting time for elderly people requiring a C&A level of care or with specific preferences is about 30 months but if these elderly people have no specific preferences, even in the case of quality bought places, a place can be allocated in just nine months. I understand that Members are concerned about this issue, so we have adopted a multi-pronged approach to deal with it, including increasing the number of residential care places continuously and we have already identified 10 suitable locations for setting up this kind of service in the future. Regarding the waiting time, we are also implementing a pilot scheme to provide enhanced home care services to severely frail elderly people who are waiting for C&A places. There are a quota of 500 places in the Kowloon area alone. If the scheme proves to be successful, we will not rule out the possibility of stepping up the measures in home care services to provide elderly people with

support while they are waiting. In this way, the pressure on both elderly people and their family members will be somewhat relieved during the wait for residential care places.

Therefore, Mr LEUNG, we fully appreciate Members' concerns and we are also concerned about this issue.

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

MR LEUNG KWOK-HUNG (in Cantonese): *You also know that he has not answered it. I asked him if Members of this Council or representatives of front-line workers could be appointed, but he talked about something else in reply.*

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

MR LEUNG KWOK-HUNG (in Cantonese): *I asked him about the figures and he used an Annex to cover them up. I asked him about the principle of appointment and he answered with some trivial figures. President, you used to be a school principal. Would you say that he has answered my question? If this is a Liberal Studies examination, he would only get zero mark.*

PRESIDENT (in Cantonese): Mr LEUNG, I have reminded Members many times

MR LEUNG KWOK-HUNG (in Cantonese): *In truth, he did not answer it.*

PRESIDENT (in Cantonese): If Members want the Secretary to give accurate answers, they should put their supplementary questions clearly and concisely. Since you expressed a lot of views before putting your supplementary question, I cannot prohibit the Secretary from responding to your views. If you think that

the Secretary has not answered your supplementary question, please repeat it in a simple way.

MR LEUNG KWOK-HUNG (in Cantonese): *This is very simple. Does the Secretary think that the existing appointment system of the EC should be changed, so as to allow representatives of the sector and Members of this Council to join the EC and represent the elderly people? This is the question that I want to ask.*

PRESIDENT (in Cantonese): It is very clear now. Secretary, please reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thank you, Mr LEUNG. His supplementary question is very clear and my reply is: The existing EC is representative. The appointment of its Chairman and Vice-chairman is entirely appropriate and made according to the procedure. We have also considered their track record and contribution. In fact, the Chairman and Vice-chairman are both earnestly committed to elderly services, so we have to thank them for their contribution.

MR CHAN KIN-POR (in Cantonese): *The Secretary explained just now that the reason for the long waiting time was mainly attributed to elderly people having specific preferences for location. Has the Government looked specifically into why they want to specify the location? Is it because of issues relating to transport, as they want to make it easier for their family members to visit them, or is it because of the quality of the nursing homes? Has the Government ever conducted any study on this? For example, if it is found that the issue of quality is involved, the Government should examine how best the quality can be improved and if it is about the inconvenience posed by some districts, it may be necessary to provide residential care places in districts preferred by the great majority of people. May I know if the Government has conducted any study to solve the problem?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): The supplementary question asked by Mr CHAN is very good. Generally speaking, elderly people want to stay in residential care homes that are close to the surroundings that they are familiar with. This is understandable because it would be easier for their families to visit them but also for this reason, in some districts, it is not possible to meet their demand in the short term. For example, it is very difficult to do so in districts with many elderly residents, such as Wong Tai Sin, East Kowloon and Sham Shui Po because the number of new homes that can be put into service is limited. In respect of the 10 projects mentioned by me just now, in the coming years, our key task is to strive to increase the number of residential care places in an area covering Tai Kok Tsui and Sham Shui Po, for example, through the Shek Kip Mei Estate Phase 2 redevelopment and the project to redevelop the former Chueng Sha Wan Police Quarters. We have drawn up plans for future facilities, in the hope of meeting the demand in various districts. However, no matter how, we cannot achieve self-sufficiency in all districts, so cross-district allocations must be made.

On cross-district allocations, there are also some figures that are noteworthy. Last year, after elderly people had been allocated places in residential care homes and they were about to move into such homes, of the 1 472 elderly people allocated C&A places, over 20% of them refused to accept them, even though they were allocated places in the same district. In addition, in respect of nursing home places, which offer a lower level of care, of the more than 8 000 elderly people allocated such places, more than 30% of them eventually refused to accept such places. We have got in touch with them to gain some understanding of their reasons for refusing the nursing home places allocated, even though they are located in the districts where they are living. The reason given by some of them is that some of the elderly people concerned did not really need to move into these homes at that time, so they prefer to stay at home first and reserve the chance to choose again. This is a realistic issue. We must respect the wishes of elderly people, but we must also deal with the problems.

Therefore, Members have to understand that we have to balance both sides but we are also pragmatic: First, increase residential care services as far as possible; second, strengthen the complementary home care services; and third, when frail elderly people are waiting for residential care places, home care services must be truly effective, so as to make life easier for carers and strengthen the support for them.

MR WONG YUK-MAN (in Cantonese): *President, I find that the Secretary has only breathed out a lot of hot air. He provided a series of figures, through which we can see that in the past few years, over 20 000 people passed away but the number of residential care places only increased by 1 600 in three years. Then, it is said that their passing away has nothing to do with the authorities. All people would die, in that case, how can the Secretary explain why the numbers of deaths have increased by the year? How can this be unrelated to the authorities? What is most absurd about the Secretary's reply is that when giving Mr CHAN Kin-por a reply just now, he was being very vague and I found that his reply was self-contradictory. He said that the number of subsidized NH places had increased by 1 600 in three years, then he said that since elderly people had preferences for location — 99.7% of the applicants for C&A places have preferences for location, so this precisely attests to the failure of the Administration's policy. Buddy, if he said that 20% or 17%*

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

MR WONG YUK-MAN (in Cantonese): *President, you listen to me first. This is very important because he has to respond. If the proportion of elderly people waiting for C&A places or NH places and expressing preferences for location is 20% or 30%, the authorities can still make adjustments to the policy and the implication would not be that great. However, we are now talking about 99.7%, that is, towards this policy on caring for the elderly, all elderly people basically, it is no longer practicable*

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

MR WONG YUK-MAN (in Cantonese): *My supplementary question is: Since 99.7% of the applicants have expressed preferences for location, how is he going to solve this problem? Do you mean that since no residential care places are*

available at the locations preferred by them, they can just wait for their death? Secretary, you have really gone too far!

PRESIDENT (in Cantonese): Mr WONG, you have put your supplementary question, so please sit down.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, maybe Mr WONG has some misunderstanding. First, let me make a further clarification. Our policy on elderly services is to use "ageing in the community" as the mainstay and residential care services as the support. We know that some frail elderly people must stay in residential care homes, so we have to strengthen the complementary home care services first. In the next few years, our policy direction is to vigorously promote the complementary home care services first. In this way, the pressure of elderly people waiting to move into residential care homes will naturally decrease

MR WONG YUK-MAN (in Cantonese): *I do not want to listen anymore. This issue has been discussed almost a hundred times. Secretary, you only have to answer why, given that 99.7% of elderly people waiting for C&A places have expressed preferences for location, the authorities are unable to solve the problem? Why did they pass away while waiting?*

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

MR WONG YUK-MAN (in Cantonese): *Go ahead!*

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

(A Member said that over 20 000 elderly people passed away while waiting for places, and Mr WONG Yuk-man also continued to speak)

PRESIDENT (in Cantonese): Mr WONG, please do not interrupt when the Secretary is giving a reply.

(Mr WONG Yuk-man continued to speak)

PRESIDENT (in Cantonese): Mr WONG, you have already put your supplementary question. Please do not speak anymore.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have made it very clear just now that we allow elderly people

MR WONG YUK-MAN (in Cantonese): *He is not being very clear*

PRESIDENT (in Cantonese): Mr WONG, if you do not stop speaking

MR WONG YUK-MAN (in Cantonese): *President, he has really gone too far*

PRESIDENT (in Cantonese): Mr WONG, this is not the time for you to speak. If you violate the Rules of Procedure any further, I have no choice but to order you to leave the Chamber. Secretary, please reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, 99.7% of elderly have expressed preferences for the location of C&A homes probably because they want to stay in a residential care home near their homes but we all know that this is just like schools. If parents want their children to study in a certain school very much but if there is greater demand for than the supply of places in this school, would the queue for places not naturally be very long? Therefore, this is a realistic problem. I understand that in choosing a residential care home in the same district, the first reason is that they are familiar

MR LEUNG KWOK-HUNG (in Cantonese): *President, his analogy is inappropriate. Education and*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, this is not the time for you to speak. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *This is really ridiculous. Really ridiculous.*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, what I said just now was that since we respect the wishes of elderly people, we will try to satisfy their wishes as far as possible but in the course of doing so, the waiting time will naturally increase. Therefore, if elderly people do not have any particular preference — some elderly people want to specify the district and some even want to move into a particular nursing home or nursing homes with religious backgrounds — the waiting time would surely be much shorter. This is our message. However, we will surely strive harder to increase the number of residential care places. I said just now that in some areas with very keen demand, for example, in the area comprising Mong Kok, Tai Kok Tsui and Sham Shui Po, we will strive to provide more resources in the future and increase the number of places, in the hope of enabling elderly people to move into residential care homes in their districts by all means. However, at the end of the day, Members all know that there are 18 districts in Hong Kong and if all the elderly people request to move into nursing homes in their own districts, this would be very difficult. This is a realistic problem, but we do not sit on the problem. We will take this issue very seriously and at the same time, we will also step up our efforts in putting in place the complementary home care services properly.

MR CHEUNG KWOK-CHE (in Cantonese): *The Secretary said in the main reply that the main duty of the EC was to offer advice on the policy on the elderly, relevant programmes and services to the Government, but when I made a general*

survey of the whole EC, I found that it is under the control of the Government. It does whatever the Government bids it do. The EC has not proposed any policy and on all services the Secretary talked about using home care as the mainstay and community care as the support just now but basically, all services are inadequate but the EC has done nothing in response to this. In fact, the crux of the problem lies in the appointment of members to it. Just now, Mr LEUNG Kwok-hung also said that the Chairman has served on it for 13 years and the Vice-Chairman, nine years. Although the reply of the Government was

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

MR CHEUNG KWOK-CHE (in Cantonese): *May I ask the Government if it will change its appointment policy? The Government can let the relevant organizations make nominations and then the Government can make appointments, and its members can even be elected by the public, so as to enhance its representativeness and enable its members to monitor the Government and offer advice to it.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr CHEUNG for his supplementary question. The EC is operating smoothly. In fact, we select its members very carefully rather than casually. In the course of forming the team, we have to consider candidates with various professional backgrounds, their contribution to society and their understanding of the sector, so the composition of the EC is representative to some extent. The Chairman and Vice-chairman are both people who are committed to their work and they also understand the problems relating to elderly services. The terms of reference of the EC is not just confined to elderly services. In fact, many other issues, such as housing and employment issues, are also included, so the scope is quite wide-ranging.

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

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary has not replied as to whether or not the appointment system would be changed.*

PRESIDENT (in Cantonese): Secretary, the Member's question is whether or not the appointment system will be changed.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have said just now that it is a proven and representative arrangement and we also follow the established guidelines of the Government by appointing people on an *ad personam* basis rather than as representatives of organizations. This approach is more versatile and flexible.

PRESIDENT (in Cantonese): We have spent 23 minutes on this question. Second question.

Posting of Posters in Public Housing Estates

2. **MR JAMES TO** (in Cantonese): *President, it has earlier been reported in the press that some District Council (DC) members intended to put up certain posters (such as posters about "Safeguarding of a corruption-free Hong Kong requires a clean government", "A march to protest against 'Ying and violence'" and "Protest against MTR fare increase") in public housing estates managed by the Housing Department (HD) to draw residents' attention to social issues, but the HD refused to give permission. I have also received complaints alleging that the HD refused to give permission for the complainant to put up in public housing estates posters on a motion moved in the Legislative Council to exercise the powers conferred by the Legislative Council (Powers and Privileges) Ordinance for the purpose of inquiring into the acceptance of entertainment by the Chief Executive, as well as those posters which criticize the Transport Department's policies as confusing and object the cancellation of bus routes, and pointing out that such practice deviates from the past practice of the HD which had all along permitted the posting of various kinds of posters. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the HD did not permit the aforesaid posters to be posted in public housing estates, and why the current practice deviates from that in the past; whether the HD has revised its internal guidelines on vetting and approving applications for putting up posters, or tightened the specific interpretation of such guidelines; if not, of the reason for the differences between the current and past practices which are both following the same internal guidelines, whether any policy change is involved, whether the authorities have exercised political self-censorship, whether the change in practice involves political consideration, and of the criteria for vetting the contents of posters;*
- (b) *whether the authorities have assessed the impact of the current practice, including the impact on the work of Members of this Council and the DC members in criticizing and monitoring the Government and accounting for the work of the councils to members of the public, as well as the impact on the right of public rental housing (PRH) tenants to receive social information; and*
- (c) *whether the internal guidelines of the Government will be reviewed to safeguard the right of the general public to receive social information from Members of this Council and the DC members?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, before answering the question raised by Mr James TO, I would like to emphasize that the HD is firmly committed to providing a safe, clean and tranquil environment for all PRH estate residents. The welfare and well-being of residents are always the top priority. The HD has set up notice boards in public areas in PRH estates to allow a convenient channel through which Legislative Council Members, District Council members, Non-Governmental Organizations (NGOs) and residents associations may display publicity materials so that residents can receive information on the services, events and other issues of general public interest.

The broad principles for the display of publicity materials were established in 1999. According to the existing arrangements for the display of publicity materials (including advertising posters), publicity materials should be

informative, service or welfare-providing in principle, and non-profit-making in nature. They should not carry any messages that are unlawful, obscene, defamatory or insinuating. These requirements are clearly stated in the notice to applicants that are handed to anyone wishing to display publicity materials.

Such arrangements have been operating smoothly since their adoption in 1999. Regarding applications for the display of publicity materials, the HD has all along been maintaining a basis of neutrality, transparency, and fairness in processing these applications. As long as the publicity materials comply with the established arrangements, they will be approved.

However, with limited space on the notice boards in public housing estates, it is necessary for the HD to have a system to ensure fair allocation of the space available on the notice boards and all eligible parties will enjoy equal opportunity to disseminate their information.

In 2011, the HD received a complaint from an individual Legislative Council Member that he had been maliciously criticized in a publicity material. With a view to upholding the basic principle that publicity materials should not be used to criticize any individual regardless of their position, the HD clarified its guidelines on the arrangements in July 2011, making it clear that publicity materials shall not carry negative or derogative remarks against individual persons or parties. This is in line with the HD's aim of setting up such notice boards, which is to provide a simple information platform. They are not intended to be used to criticize individual persons or parties; or let individual persons or parties criticize each other.

My reply to the three-part question raised by Mr James TO is as follows.

- (a) The HD has not changed its long-standing arrangements for the display of publicity materials including advertising posters. Generally speaking, the HD will allow the publication of publicity materials which are informative or provide information of public interest. Messages that are unlawful, obscene, defamatory or insinuating will not be approved. Under the existing arrangements for the display of publicity materials, most applications including those drawing people's attention to social issues as mentioned by Members, will be approved for display as long as they comply with the guidelines concerned.

There has occasionally been inconsistency in the processing of applications for the display of publicity materials by individual public housing estates. Indeed, some recent applications were not handled in a consistent manner. These have been investigated by the HD and the inconsistency has arisen because some estate management staff, notably those managing outsourced public housing estates, have taken up their duties for a short period of time and have yet to familiarize themselves with the guidelines on handling the display of publicity materials. I would like to emphasize that the HD has not made any changes to the principles on handling the display of publicity materials.

- (b) The existing arrangements for the display of publicity materials (including advertising posters), which have been implemented since 1999, are working smoothly. The HD has all along upheld the principles of openness, consistency, transparency, fairness and equity in processing all the applications for the display of publicity materials and will continue to do so.

As mentioned above, applications for the display of publicity materials are normally approved on the condition that they do not carry messages that are unlawful, obscene, defamatory or insinuating. Members of the Legislative Council and respective DCs, as well as local residents associations and NGOs can continue to use publicity materials posted on the notice boards in PRH estates to criticize and monitor the implementation of government policies or the operations of public utility companies or other institutions and to inform the public of the work of Members or organizations concerned. The HD's existing arrangements for the display of publicity materials will not affect in any way Members' ability to monitor the Government or other agencies, to inform the public of their work and to provide general information of public interest. Nor will the arrangements undermine the rights of the public housing tenants to receive social messages. It is also important to bear in mind that Members can disseminate information through a variety of other channels such as displaying posters at their ward offices, distributing leaflets or sending them by post and of course using online communication methods.

- (c) In view of the recent cases of inconsistency adopted by a few individual estates in processing applications for the display of publicity materials, the HD has introduced an additional initiative to try to avoid such inconsistencies in future by requiring the respective Estate Offices to refer applications for the display of publicity materials with controversial content to Housing Managers of the HD headquarters for scrutiny. In addition, should applicants be dissatisfied with the vetting outcome, they will be able to request that their case be reviewed by a Chief Housing Manager at the HD headquarters. For routine applications, they will continue to be processed by Estate Offices.

The HD will continue to monitor the system for approving publicity materials to ensure that this system to provide information to PRH estate residents continues to be an effective communication tool for eligible parties.

MR JAMES TO (in Cantonese): *President, there is no misunderstanding among us. The Government has really exercised political censorship. I believe the Member in question should be Dr Priscilla LEUNG, who said in 2011 that the constituents concerned should be punished. As a result, a poster was put up by someone to criticize her remarks. We Members were divided on her remarks, too.*

It is indeed true that a motion was proposed in the Legislative Council on 12 March 2012 on invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into the suspected acceptance of advantages by the Chief Executive. According to the principle mentioned by the Secretary in the main reply that individual persons should not be targeted, the staff of the HD requested that the wording on the poster be changed from "inquiring into the Chief Executive" to either "inquiring into senior officials" or "inquiring into government officials" without specifying the Chief Executive. This was attributed to the incident involving Dr Priscilla LEUNG.

The Government is exercising political censorship should it continue to adopt the principle mentioned in the main reply, that individual persons should not be targeted. Nevertheless, we must bear in mind that this incident occurred

inside the Chamber of the Legislative Council, and I am obliged to report to my constituents whether I am for or against this motion on inquiring into the Chief Executive. This is my constitutional obligation and accountability. May I ask if the Government still insists that under no circumstances can individual persons be targeted? As this is the fact, I cannot water it down by changing the expression "the Chief Executive" into "senior officials". Are we going to involve other senior officials who are present here? Yet we have no intention to inquire into other persons.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):

President, I have to do justice to Dr Priscilla LEUNG. To my understanding, the Member in question was not her. I believe Members should understand that notice boards are provided in housing estates to provide a fair and convenient channel to the parties concerned — including Legislative Council Members, DC members, NGOs and residents associations, as I mentioned just now — to display their publicity materials, though this is certainly not the only channel. The contents of the publicity materials on display should be mainly informative and service-oriented, and certainly social issues of public concern. Generally speaking, the relevant guidelines are very clear. Insofar as the principle is concerned, as I mentioned just now, according to the relevant arrangements implemented since 1999, the display of publicity materials should normally be approved on the condition that they do not carry messages that are unlawful, obscene, defamatory or insinuating.

Nevertheless, Members should understand that, given the large number of public housing estates in Hong Kong, the HD is required to handle 10 000 such applications monthly, and our front-line colleagues have their own difficulties, too. For this reason, certain criteria are required to assist them in processing the applications, and hence the formulation of these guidelines. At the end of the day, however, it is our hope that a fair and open channel can be provided for the display of publicity materials.

On the other hand, I hope Members can appreciate that, in a housing estate environment, should we allow a platform to be used for an individual to pinpoint another individual or a party to pinpoint another party, difficulties will be encountered from the angle of housing estate management. This is because, generally speaking, we hope to have an orderly and fair environment. As for the existing principle and guidelines, they have all along been operating smoothly.

We should also have confidence in colleagues of the HD that they will definitely uphold the long-standing principle of transparency and fairness in handling work in this respect.

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

MR JAMES TO (in Cantonese): *My supplementary question is: Must the expression "inquiring into the Chief Executive" simply be changed into "inquiring into senior officials"? Should the guidelines of the authorities insist that an individual must not be targeted, is "the Chief Executive" an individual? I did not state it clearly that it was Donald TSANG.*

PRESIDENT (in Cantonese): Please sit down. Secretary, please.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, insofar as individual posters are concerned, I cannot comment here because I have not participated in the entire vetting and approval process. Nevertheless, the guidelines and principle of processing of the HD are very clear. As regards the question of why the applications have to be processed in this manner, as I explained just now, there is absolutely no political censorship.

MR JAMES TO (in Cantonese): *Can we not pinpoint individuals?*

PRESIDENT (in Cantonese): Mr TO, the Secretary has already given you a reply according to the Government's policy.

MR CHEUNG MAN-KWONG (in Cantonese): *President, "a person who is above board does nothing underhand". A sentence of the reply reads like this, "In 2011, the HD received a complaint from an individual Legislative Council Member that he had been maliciously criticized in a publicity material." That was the beginning of the HD exercising political censorship of posters since July*

2011. Will the Government state publicly and in unequivocal terms which Member had lodged the complaint, thereby giving rise to this turmoil of political censorship?

I have at hand a poster put up by DC member LEUNG Kwok-wah, who has been a standing committee member of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China for 23 years. This poster calling on the people to attend the 4 June rally has been posted all over his office for 22 years without any trouble. Why was he prohibited this year from putting up a poster on the 4 June incident and, after protest, his putting up the poster was again tolerated? Despite his doing so for the past 22 years, he was not allowed to do so this year. Was the poster subjected to political censorship?

PRESIDENT (in Cantonese): Mr CHEUNG, what is your supplementary question?

MR CHEUNG MAN-KWONG (in Cantonese): *Was it a result of the HD tightening up the policy?*

PRESIDENT (in Cantonese): Mr CHEUNG, please repeat the supplementary question you wish to raise. You can raise one supplementary question only.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the supplementary question I wish to raise is*

PRESIDENT (in Cantonese): Which question would you like the Secretary to answer?

MR CHEUNG MAN-KWONG (in Cantonese): *My question is: Which Legislative Council Member has led to political censorship, thus making it impossible to put up the poster on the 4 June incident that used to be put up over the past 22 years?*

PRESIDENT (in Cantonese): Do you mean to ask the Secretary which Legislative Council Member has led to political censorship?

MR CHEUNG MAN-KWONG (in Cantonese): *No. Excuse me, President, I have, as usual, put my question very clearly. Do you want me to repeat my supplementary question?*

PRESIDENT (in Cantonese): Please repeat it once again.

MR CHEUNG MAN-KWONG (in Cantonese): *My question is: Which Legislative Council Member has caused the HD to exercise political censorship, so that the poster on the 4 June incident that used to be put up over the past 22 years was not allowed to be posted this year until after we had protested against it?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have stated very clearly that the HD will continue to uphold the principles of neutrality, transparency and fairness and follow other major principles and, as I explained just now, applications for the display of publicity materials are normally approved on the condition that they do not carry messages that are unlawful, obscene, defamatory or insinuating. As I have explained in the main reply, inconsistency might have arisen. As for the incident involving an individual poster, I am afraid I cannot comment on it. Problems might have arisen because some new colleagues, especially some staff members in outsourced public housing estates, were not familiar with the relevant principles. Concerning such circumstances, the relevant procedures have already been enhanced. Should there be any problems, a Chief Housing Manager at the HD headquarters can now deal with such matters. If there are any complaints, Members may seek his assistance.

I would like to point out that the arrangements have been operating smoothly since 1999. Considering we have to process an average of 10 000 such applications monthly, the number of complaints received over the past three years is not significant. I hope Members can understand that colleagues responsible for housing estate management are all front-line personnel, who

require the help of clear guidelines at work. I wish to emphasize to Members that, generally speaking, we will definitely uphold the principles of neutrality, transparency and fairness with no political censorship.

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

MR CHEUNG MAN-KWONG (in Cantonese): *The Secretary has not answered my question about which Legislative Council Member has lodged the complaint, so that the poster on the 4 June incident cannot be posted this year. Please tell us the Member's name.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I think I have to refer to the provisions of the Personal Data (Privacy) Ordinance before deciding how to handle this matter. Regarding whether we can make public the identity of individual complainants, I have to look up the relevant guidelines prescribed in the law first.

Nevertheless, I disagree with lumping the two for discussion by the Member. As for the complaint in question, we will definitely deal with it. I have explained clearly that we have not tightened up our practice, and we have been acting in accordance with the principles. We also believe colleagues in the HD have maintained their neutrality and handled these matters with high transparency.

MR CHEUNG MAN-KWONG (in Cantonese): *Excuse me, President, this is because the poster in question was actually neither obscene nor indecent. The 4 June incident was neither obscene nor indecent, too. Neither was there any personal attack. So, may I ask which Legislative Council Member has lodged the complaint, thereby preventing this poster on the 4 June incident from being posted even though it was neither obscene nor indecent and carried no personal attack?*

PRESIDENT (in Cantonese): I have to remind Members again that no debate is allowed during the Question Time. Mr CHEUNG, the Secretary has already given her reply. If you are dissatisfied with her reply, please raise your question through other channels.

MR ANDREW CHENG (in Cantonese): *President, I would like to follow up the question raised by Mr CHEUNG man-kwong. Insofar as this poster is concerned, if the Member's complaint is related to some front-line staff, as put by the Secretary just now, then it is possible that some front-line staff have been subject to the complaint lodged by an influential Legislative Council Member and are under pressure. This is what political pressure means. Such pressure may have caused the HD to deviate from its proven guidelines, so to speak, thereby leading to political censorship. This is a very serious issue. Hence, what can the Secretary do to prevent this? The Secretary can certainly look up the provisions of the Personal Data (Privacy) Ordinance, but what can she do to prevent colleagues in the HD from being subject to such political censorship again and the tightening up of the guidelines indefinitely when there is a complaint lodged by a Member, thus leading to shrinking freedom of speech?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I would like to get this straight. The complaint is helpful to clarifying how front-line staff should deal with publicity materials carrying messages that are unlawful, obscene, defamatory or insinuating. Since the complaint in question is not about the poster held by the Honourable Member just now, the two should not be lumped together for discussion.

Our approach has only become clearer after dealing with the complaint. Instead of tightening up our approach, we will continue to uphold the major principles mentioned by me just now. The Member's concern is: What should be our approach in operation in future? We must continue to have faith in our front-line colleagues. Why? Because we have as many as 3 300 notice boards for the display of 35 000 advertising posters. As the entire vetting and approval process is completed in housing estates and there are so many things to be handled, front-line colleagues should enquire with the headquarters when problems are encountered. As we are required to process 10 000 such applications monthly, all the guidelines for our reference are clear. I will

definitely request the Director of Housing to make it clear to front-line colleagues that we must uphold the principles of neutrality, transparency and fairness. Some posters are subject to complaints or considered by the HD to be inappropriate not necessarily because of their contents. There might be other reasons, such as they are already posted before applications are made. If there are any problems, we will certainly launch an investigation and make rectification.

MR FREDERICK FUNG (in Cantonese): *President, I agree in principle with the remarks made by the Secretary just now. In the second paragraph of part (a) of the main reply, the Secretary mentioned that "the inconsistency has arisen because some estate management staff have taken up their duties for a short period of time and have yet to familiarize themselves with the guidelines on handling the display of publicity materials".*

This has taken place in my constituency, namely the Pak Tin Constituency. However, this has occurred frequently, not just once — we are often told not to put up this and that, and a single incident has turned into we have complained to a Senior Housing Manager about why we were not allowed to put up publicity materials in Pak Tin Estate when we were allowed to do so in other housing estates. Eventually, we were still not allowed to do so in Pak Tin Estate. It was found out later that the rival of the Hong Kong Association for Democracy and People's Livelihood (ADPL) is the DC member of Pak Tin Estate. He just needs to say "no publicity materials here" and we will then be disallowed from posting anything. Yet, he can get away with his frequent criticisms of Frederick FUNG and the ADPL in an implicit manner. How can the Secretary explain this?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we have clear principles and we will let front-line colleagues know them, too. What the existing procedure can help them is when they encounter any problem, they can refer it to the Housing Manager of the HD headquarters for assistance. As regards the views put forward by the Member today, the incidents of inconsistency as well as the question of how best to handle it in a better and smoother manner, I will definitely request the responsible Housing Manager of the HD headquarters to explain clearly again to colleagues in Pak Tin

Estate the relevant guidelines and principles to give them a better idea of how to handle matters relating to the display of publicity materials on notice boards in a fair and equitable manner.

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

MR FREDERICK FUNG (in Cantonese): *What I actually imply is what can be done to prevent individual cases from continuing. Secretary, even the guidelines cannot handle*

PRESIDENT (in Cantonese): Please repeat the part you think the Secretary has not answered.

MR FREDERICK FUNG (in Cantonese): *The part the Secretary has not answered is that the individual cases mentioned by the Secretary are still individual cases, though complaints have been lodged in Pak Tin Estate, as I mentioned just now*

PRESIDENT (in Cantonese): What is your follow-up question?

MR FREDERICK FUNG (in Cantonese): *..... why will such individual cases continue to happen?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we agree that such matters should be handled in a consistent manner. Hence, we will provide proper training to colleagues responsible for housing estate management and explain the relevant guidelines to them clearly. We will surely deal with matters in this respect.

PRESIDENT (in Cantonese): Six Members are still waiting for their turns to ask questions, but this Council has already spent 22 minutes on this question. Third question.

Fare Adjustment Mechanism of MTR Corporation Limited

3. **MR CHAN HAK-KAN** (in Cantonese): *President, the MTR Corporation Limited (MTRCL) recorded a surplus of \$14.7 billion last year, but it announced in March this year that it will increase MTR fares by as high as 5.4% in June this year in accordance with the Fare Adjustment Mechanism (FAM) which provides for both upward and downward adjustments, and it will at the same time provide some fare concessions. This is the third consecutive year that MTR fares are being increased and the rate of increase this year is the highest since the implementation of the FAM in 2009, resulting in an increase in passengers' travel expenses. Yet, MTR incidents occur frequently; according to the figures provided to this Council by the Transport and Housing Bureau, 839 railway related incidents which have to be reported to the Electrical and Mechanical Services Department (EMSD) in accordance with the Mass Transit Railway Regulations occurred last year, representing an increase of 9% over the figure of 2010. In this connection, will the Government inform this Council:*

- (a) *whether it knows the fare concessions that the MTRCL offered to passengers in the past three years, and the respective numbers of passengers who benefited from such concessions as well as the expenditures incurred, and set out the figures in table form;*
- (b) *of the current review procedures of the FAM; whether it will review the FAM earlier and consider including in the FAM the authority of the Government to vet and approve fare adjustments to prevent the MTRCL from effectuating fare increases automatically according to the FAM; if it will, of the details; if not, the reasons for that; and*
- (c) *whether it will in the future consider linking the rate of increase in MTR fares to the number of the aforesaid railway related incidents as a penalty system, and to monitor the performance of the MTR; if it will, of the details; if not, the reasons for that, and how the Government will ensure that such incidents of the MTR will not occur persistently, and timely and quality services will be provided?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, since the rail merger in December 2007, fare adjustment of the MTRCL has been subject to an objective and transparent FAM. The FAM, formulated after extensive discussion in the community and by the Legislative Council, has replaced the pre-merger fare autonomy of the MTRCL.

Under the current FAM, the fare adjustment rate for the prevailing year is determined in accordance with a direct-drive formula linked to the year-on-year percentage changes in both the Composite Consumer Price Index (CCPI) and the Nominal Wage Index (Transportation Section) (Wage Index) in December of the previous year, as well as a productivity factor.

The MTRCL reduced its fares immediately after the merger. Such reductions included (1) a minimum of 10% decrease in Octopus fares for long-haul trips; (2) a minimum of 5% decrease in Octopus fares for mid-haul trips; and (3) a commitment to freeze its fares in the first two years following the merger until 30 June 2009. The FAM was not introduced until 2009 after the merger and the first fare increase was implemented in 2010.

The Census and Statistics Department published the CCPI and Wage Index for December 2011 on 20 January and 26 March 2012 respectively. With reference to these indices, the computation results of the FAM indicate an adjustment rate of +5.4% in the overall MTR fares for 2012.

According to the FAM procedures laid down in the Operating Agreement (OA) signed between the Government and the MTRCL in August 2007, the MTRCL is required to provide the Government with two certificates issued by an independent third party to certify that its fare adjustment is in compliance with the FAM. It is also required to formally notify the Panel on Transport of the Legislative Council and the Transport Advisory Committee three weeks prior to the implementation of the new fares. As the OA is a legally binding document, the Government will act in accordance with the mechanism and ensure that the MTRCL complies with the relevant accounting and notification requirements.

Railway is the backbone of the public transport system in Hong Kong and forms the core of our transport strategy. The MTR network currently covers the residential areas occupied by 70% of our population. With an average daily

patronage of over 4 million passenger trips, the MTR has become the most popular mode of public transport in Hong Kong.

Given the relatively high inflation rate at present and thus a heavy financial burden on the local community, the Government shares the view of the public that the MTRCL should, apart from considering its commercial operations, give due regard to its corporate social responsibility. While providing safe and efficient railway services, the MTRCL should also strive to help the public reduce fare expenses. Therefore, the Government has urged the MTRCL to take into account the overall macro economic environment and implement more and various effective fare concessions so as to address the needs of passengers and alleviate their burden of travelling expenses.

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

- (a) Over the past three years, major fare promotions and concessions provided by the MTRCL include fare concession for children; Student Travel Scheme; fare concession and \$2 fare promotion for the elderly; fare concession for Persons with Disabilities; Monthly Pass and Day Pass; free interchange offer and Light Rail Personalized Octopus Frequent User Bonus Scheme; "Ride \$100 Get \$5 MTR Shop Coupon" promotion scheme; and "Ride \$100 Get 1 Free" promotion scheme; and so on. The MTRCL's major fare promotions and concessions, as well as the number of passengers benefited and the amount involved, are at Annex.
- (b) Regarding the review of the FAM for the MTR fares, the OA stipulates that the Government or the MTRCL may request a review on the FAM in the fifth year after the merger or every fifth year thereafter. We shall initiate the review in the second half of 2012 and discuss with the MTRCL, with a view to completing the exercise by late 2012 or early 2013.

At the time of the rail merger, the establishment of the FAM and the elements contained in its formula were thoroughly discussed and considered by the community and the Legislative Council. The CCPI adopted by the current mechanism reflects to a certain extent the macro-economic environment of Hong Kong whereas the Wage

Index reflects the staff cost of the MTRCL. As such, it may be said that the economy and wage precede the activation of any fare adjustment.

It will be five years in December 2012 following the rail merger. To better prepare for the FAM review to be carried out in the second half of the year, we have engaged a consultant to conduct a study. The consultant will examine the relevant issues objectively and comprehensively. The study will include whether and how new elements in addition to the data linked with the economic performance, wage index and productivity factor should be introduced in the FAM so as to reflect the operating costs, profit level, efficiency of operation and service performance of the MTRCL as well as the affordability of general public, and so on, thereby improving the mechanism. Recommendations made therein will serve as our reference in the upcoming review.

As to whether approving procedures should be introduced to the mechanism, we are open-minded at this stage. Of course, we expect the future mechanism would be a transparent and simple one based on objective indicators. The consultancy study is still underway. We shall take into consideration the findings of the consultancy study upon its completion, as well as consult and listen to the views of various sectors.

- (c) The MTRCL has a grave responsibility of providing safe railway services to the community. The Government has all along required the MTRCL to offer safe, reliable and efficient railway services at all times. The Electrical and Mechanical Services Department (EMSD) is responsible for monitoring the safety of railway systems. It will conduct post-incident investigations to ensure that the MTRCL will take appropriate follow-up and improvement measures. The EMSD will also conduct regular inspections to check whether the MTRCL has carried out railway system maintenance works as scheduled to ensure railway safety.

Under the Mass Transit Railway Regulations, the MTRCL has to notify the EMSD of any incident that occurred at any part of the entire railway premises which has a direct bearing on the safe

operation of the railway. The figures mentioned by Mr CHAN are the number of railway incidents along various MTR railway lines that were caused by railway equipment failure, staff behaviour, passenger/public behaviour as well as other external factors and that were notifiable to the EMSD in accordance with the Regulations. The EMSD stated that, among the railway incidents in 2011, over 90% were caused by passenger/public behaviour and other external factors such as passengers being nipped by train doors when dashing into the compartments, trespassing and fallen trees under tropical typhoons, and so on. Less than 10% were caused by railway equipment failure and staff behaviour. Subsequent to an analysis of the incidents concerned, the EMSD found no systemic safety concerns in the MTR services.

In our opinion, the most important task after the occurrence of a railway incident is to identify the contributory cause and resume normal train services as soon as possible so that the impact to the public can be minimized.

As for how to apportion blame for the incidents or setting up a demerit system, we are also open-minded. We should however bear in mind that any suggestion should not unnecessarily incur additional pressure on front-line railway staff, so that it would not bring about any adverse impact on railway safety checks and emergency repairs in their attempt to avoid points being deducted when carrying out repair works within tight time frames.

Separately, given the lengthy operational hours and high utilization of the territory-wide railway network, with hundreds of thousands of systems and components operating non-stop, it is practically impossible to achieve a scenario of "zero incident". Notwithstanding, we have all along demanded the MTRCL to give safety the highest priority, as under no circumstances should safety be compromised. As to how the MTRCL's service performance may be assessed comprehensively and objectively, and linked to the FAM, it is a complicated issue which will be examined in the upcoming review.

Major Fare Promotions and Concessions Provided by
the MTRCL from 2009 to 2011

Major Fare Promotions and Concessions [#]	2009		2010		2011	
	Passenger trips benefited (million)	Amount involved (\$million)	Passenger trips benefited (million)	Amount involved (\$million)	Passenger trips benefited (million)	Amount involved (\$million)
Fare concession for children	46	168	46	170	48	189
Student Travel Scheme	165	538	183	610	186	645
Fare concession and \$2 fare promotion for the elderly	85	377	90	420	98	462
Fare concession for Persons with Disabilities	0.2	< 0.5	9	40	14	52
Monthly Pass and Day Pass	74	177	82	230	86	230
Free interchange offer and Light Rail Personalized Octopus Frequent User Bonus Scheme	36	130	38	145	38	147
"Ride \$100 Get \$5 MTR Shop Coupon" promotion scheme (Promotional period: 14 June 2010 — 6 August 2010)	N/A	N/A	0.4	2	N/A	N/A
"Ride \$100 Get 1 Free" promotion scheme (Promotional period: 4 July 2011 — 30 December 2011)	N/A	N/A	N/A	N/A	5	65
Total	406.2	1,390.5	448.4	1,617	475	1,790

Note:

Excluding Fare Saver discounts provided under commercial promotions

MR CHAN HAK-KAN (in Cantonese): *President, a few months ago the two power companies requested a hike in electricity tariff and that caused public outrage. Now the MTRCL wants to raise its fares in blatant disregard of people's livelihood and that also causes public resentment. But in the two cases, the Government's stand is vastly different. In the case of the two power companies requesting a hike in tariff, the Government called a halt to that and the Secretary engaged in bargaining with the companies. But in this case of the*

MTRCL trying to increase fares, the Government is hiding behind the FAM and does nothing. Why are the positions displayed by the Government in these two cases so different? Is it because the Government is the major shareholder of the MTRCL and that it gets as many as \$800 million to \$1 billion in dividends each year from the MTRCL? So it does not want to call a stop to this fare hike. Has the Secretary or has she not in the Board of Directors of the MTRCL demanded that the fare hike be shelved? Is the Government willing to return the dividends in order that the fares can be stabilized?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I think Members should understand that a mechanism should be taken *per se* and respected. If we act according to our whims, then we are not acting in accordance with law. I have said in the main reply just now that the mechanism was included in the OA back then after careful discussions and it is legally binding. I hope Members can see that this is an important factor to consider.

Also, we are also aware of public views on this matter. Therefore, I have made it clear that while the mechanism should be respected, the MTRCL must, apart from considering its commercial operations, give due regard to its corporate social responsibility and, while providing safe and efficient railway services, also strive to help the public reduce fare expenses. We have urged the MTRCL to consider the macro economic situation as a whole and offer more and various kinds of fare concessions which in the opinion of the public are effective, in response to public demand. I believe the MTRCL has heard the voice of the public about this.

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

MR CHAN HAK-KAN (in Cantonese): *President, the Secretary has not responded to the part of my question on whether or not the Government is willing to return part of the dividends received for purposes of stabilizing the fares.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have explained in the meeting of the Panel on Transport that if dividends are used like funds for specific uses, it involves not simply the question of transport policy but also the principles of public finance. In theory, the dividends received will go into the public coffers in the end and form part of government revenue and it will be used in government expenditure. And government expenditure shall be vetted and approved by the Legislative Council through deliberations on the budget every year or other funding applications.

If the approach of specific funds for specific uses is used, we must make very careful considerations. Now the practice is on the one hand urging the MTRCL to offer effective fare concessions and on the other providing various kinds of assistance to members of the public such as students, the elderly and people with disabilities. So if the approach as proposed by the Member is adopted, we must make very careful consideration because it has far-reaching impacts and implications.

Meanwhile, if a fare stabilization fund which automatically takes care of losses and deficits were set up, it would become a cause of concern for the MTRCL as well as other operators in terms of operation or administration. That is, would the wrong incentives be given so that its operation in future would be affected? This is because any proposal for a fare hike will be automatically taken care of by the government fund. So we must consider this very carefully.

MR IP WAI-MING (in Cantonese): *President, as usual, the reply given by the Secretary just now has evaded the role of the Government as the major shareholder of the MTRCL. May I ask the Secretary this question. If the MTRCL insists on raising the fares by 5.4% according to the mechanism and, as the Secretary has also said earlier, given that the Government has asked the MTRCL to offer concrete fare concessions which in the opinion of the public are effective, so if after these concrete concessions are introduced and the public thinks that they are actually not effective, then will the Government as the major shareholder of the MTRCL as we always say ask the MTRCL to offer more concessions to the public or concessionary monthly passes for use on all the railways?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I believe the MTRCL is fully aware of the public aspirations in this regard and we have relayed them to the MTRCL through various channels. Of course, they have also sent representatives to attend meetings of the Panels of this Council and listen to Members' views direct. As for various kinds of effective fare concessions, we have received different views on these and we will try our best to urge the MTRCL to offer such concessions which the public think are effective and which are welcomed by the public as well.

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

MR IP WAI-MING (in Cantonese): *President, I have always asked the Secretary about the role of the Government, if*

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

MR IP WAI-MING (in Cantonese): *..... if the public at large or Members think that the measures concerned are not acceptable, will the Government give full play to its function as the major shareholder and directly instruct the MTRCL to offer more effective fare concessions to the public? What exactly is the role of the Government in this respect?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I think that we cannot discuss this issue in such an isolated manner. Now what we are discussing is the fact that we must act according to the OA which is a legally binding document and consider the overall arrangement in fare adjustments this year. On the other hand, however, our position is also very clear and that is, the MTRCL must provide effective fare concessions. Now at this stage, the corporation is considering this and it will certainly listen carefully to the views expressed by Members and try its best to put these into practice.

MS MIRIAM LAU (in Cantonese): *President, the Secretary has pointed out in the main reply that it is the view of the Government that the MTRCL should, apart from considering its commercial operations, give due regard to its corporate social responsibility and the Government has also urged the MTRCL to implement more and various effective fare concessions. The MTRCL has recorded a surplus of \$14.7 billion and actually it does have the ability and financial strength to offer effective fare concessions to the public or passengers to offset entirely the additional expenditure that has to be met by an increase in fares.*

As seen in the situation of 2011 as listed in the Annex to the main reply, the MTRCL recorded a surplus of \$12 billion in that year, but the additional concession offered was only the "Ride \$100 Get 1 Free" promotion scheme benefiting only 5 million passenger trips. The MTRCL has an annual patronage of 1.4 billion passenger trips but only 5 million passenger trips benefited from that scheme and the percentage was less than 0.4%.

May I ask the Secretary whether this can be called an effective fare concession? If the Secretary agrees that it is not an effective fare concession, will she urge the MTRCL directly to accept or offer some other kinds of effective fare concessions such as same-day return trip concession, non-peak hours fare concession, monthly pass concession for use on all the railways, or fare concession for all full-time students including postsecondary students aged 25 or above?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, all views put forward by Members will be considered carefully. However, I wish to point out that the Government as the major shareholder of the MTRCL will transfer the profits made by the corporation to the public coffers and hence the money will become public assets. We must understand that when the OA was first formulated, it was hoped that a mechanism with greater transparency would be adopted to deal with matters in fare adjustment. For if not, such matters cannot be dealt with in a specific and objective manner. So with respect to the valuable suggestions made by Members, we will consider them carefully and relay them to the MTRCL.

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

MS MIRIAM LAU (in Cantonese): *There is one point which the Secretary has not yet answered. Does she think that the fare concession offered last year an effective concession?*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I think if the initiative concerned is not well-received, the MTRCL would have known of the situation from the data gathered and it would act according to what we have urged it to do and offer other concessions which would be better received by the public and are more effective.

DR PRISCILLA LEUNG (in Cantonese): *President, about the response made by the Secretary to the proposed fare increase by the MTRCL, may I ask the Secretary if the Government has ever emphasized in the operation of the MTRCL that any fare increase must be justified by financial reasons? This is because we can see that the MTRCL has recorded an enormous surplus but against this backdrop of a huge surplus and the FAM which provides for both upward and downward adjustments, it will only increase the fares but never reduce them. And with respect to the demands for welfare benefits by the public, it has failed to meet public expectations. This includes the \$2 fare promotion. Then when the Government discusses with the MTRCL and subsequently agrees to its fare increase proposal, has the Government ever considered corporate social responsibility and asked it to offer welfare benefits which will meet public expectations while increasing the fares?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the MTRCL is operating as a railway company and matters concerning welfare should be taken care of by the Labour and Welfare Bureau. So efforts regarding the concessions offered to persons with disabilities and the \$2 fare

promotion for the elderly and persons with disabilities are all under the co-ordination of the Labour and Welfare Bureau.

As to the question of whether there should be any presumptions in fare adjustment, I have explained in the main reply that the existing FAM has taken into account two major factors and they are the CCPI and the Nominal Wage Index (Transportation Section). As far as I understand it, when the mechanism was first set up, it was hoped that the former could reflect the macro situation in the Hong Kong economy while the latter could reflect the staff cost of the MTRCL.

However, we also know that there is a need for us to keep abreast of the times and that is why the procedure for review has been activated to study whether or not those factors including operation costs which are the concern of Members should be introduced and how best they should be introduced. The other factors are the profit margin as mentioned by some Members earlier, or the efficiency of operation mentioned by Mr CHAN Hak-kan in the main question, service performance, and affordability of the public which has become a cause of public concern. I believe, after conducting a consultation exercise and putting in place an improved mechanism, all the above factors should be able to be taken care of. However, at this stage, we have to act in accordance with law and the contract terms. As for the factors which should be considered under the existing mechanism, I have given an explanation earlier on.

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

DR PRISCILLA LEUNG (in Cantonese): *President, just now I have used the words "welfare benefits" and they may really not be appropriate. What I mean should be concessions. So I would like to ask the Secretary once again this question. When raising the fares or giving approval to the MTRCL to raise its fares, has consideration been given to asking the MTRCL to offer more concessions such as permitting all elderly persons to ride on its railways at any time by paying a fare of \$2?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, concerning the scheme to allow elderly persons to ride on the MTR at any time by paying a fare of \$2, the Chief Executive has announced that this initiative will be put into practice. I would also hope that this can be implemented as soon as possible. I think the departments concerned will report to the relevant panel of this Council and an application for funding will be made to this Council as well. As for other kinds of concessions, I have stressed that we will urge the MTRCL to offer various kinds of effective fare concessions.

PRESIDENT (in Cantonese): We have spent nearly 23 minutes on this question. Fourth question.

Sub-divided Units, Cubicle Apartments and Bedspace Apartments

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *While Hong Kong is Asia's world city, quite a number of people are still living in sub-divisions of flat units (commonly known as sub-divided units), cubicle apartments and bedspace apartments (commonly known as caged homes). In addition to appalling living conditions, the layout of these residential units also hinders escape and rescue efforts in case of fire. In this connection, will the Government inform this Council:*

- (a) *of the respective and total numbers of households currently living in sub-divided units, cubicle apartments and caged homes according to the estimates made by the authorities; the respective and total numbers of inspections of sub-divided units, cubicle apartments and caged homes conducted by the Buildings Department (BD) and the Fire Services Department (FSD) in the past six months, together with the respective and total numbers of households and flat units involved, and among them, the respective and total numbers of households and flat units involved in cases of contravention of the Buildings Ordinance and the Fire Services Ordinance;*
- (b) *of the number of fires which involved the aforesaid three categories of residential units in each of the past four quarters; the measures*

currently put in place by the authorities to prevent and cope with fires in the aforesaid three categories of residential units; and

- (c) *of the respective and total numbers of residents of the aforesaid three categories of residential units who were allocated public rental housing (PRH) units in each of the past three years; how the authorities help those residents currently living in the aforesaid three categories of residential units move into PRH units as soon as possible; whether the authorities will increase public housing production to shorten the waiting time for such persons?*

SECRETARY FOR SECURITY (in Cantonese): President, my reply to the various parts of the question is as follows:

- (a) According to the information provided by the Home Affairs Department (HAD), there are currently 15 licensed caged homes in Hong Kong. The Administration does not maintain information on the number of residential units and households inside the sub-divided units or cubicle apartments.

Currently, there are legislative requirements on the provision of fire service installations and equipment in common areas of composite and domestic buildings and inside licensed premises. However, there is no such requirement for the interior of domestic units. Indeed, the fire hazards dealt with under the legislation also refer mainly to those found in the common areas of buildings, such as obstruction to the means of escape by floating objects. Accordingly, for general domestic buildings, the FSD only inspects their common areas to check if there is any violation of the Fire Services Ordinance (Cap. 95), such as whether there are obstructions to means of escape and whether the fire service installations in common areas function properly, and so on. The FSD does not inspect the interior of general domestic units, and they will not know whether there are sub-divided units or cubicle apartments inside. In the past six months, the FSD has conducted 880 inspections on old composite buildings and issued 272 Fire Hazard Abatement Notices in respect of obstructions to means of escape.

As regards the safety problems of the sub-divided units, (including the seal-off of means of escape by alteration of building partition walls) inside a building, the BD commenced a large-scale operation in April 2011. In the past six months, the BD has inspected 573 sub-divided units and issued 189 statutory orders and 329 advisory letters against sub-divided units which contravened the Buildings Ordinance (Cap. 123) and required the owners to rectify irregularities concerned.

The HAD is responsible for the licensing control of caged homes, under which the licensing requirements include the provision of fire services installations inside the premises. In the past six months, the HAD has conducted 57 inspections and issued one warning and took one prosecution action against suspected unlicensed operation of caged home.

- (b) In 2011, the number of fires involving buildings of residential use was about 2 700. The FSD does not maintain statistics on fires involving subdivided units, cubicle apartments or caged homes respectively.

Most of the sub-divided units, cubicle apartments and caged homes are found in old composite or domestic buildings. To improve the fire safety standard of old buildings, the Fire Safety (Buildings) Ordinance (Cap. 572) came into effect in 2007. The purpose of the Ordinance is to provide composite or domestic buildings constructed on or before March 1987 with fire protection which better meets the needs of today's society. The FSD and the BD have been inspecting target buildings in Hong Kong under a programmed approach to enhance their fire safety standard and fire safety construction measures as required by the Ordinance. As at March 2012, the FSD and the BD have conducted joint inspections on 4 986 target buildings and issued some 93 700 Fire Safety Directions. If obstructions to means of escape are identified during inspections on these buildings, the FSD will take enforcement action. If suspected illegal structures or structural problems are identified, the BD will take follow-up actions.

As pointed out in part (a), to tackle the building safety and fire safety problems in sub-divided units, the BD commenced a large-scale operation in April 2011 to inspect sub-divided units of 150 buildings annually. The target has been increased to 200 buildings from April this year. In view of the higher potential fire risks posed by hawker pitches to neighbouring old buildings, the BD has specifically increased the number of composite and residential buildings to be inspected in 2012 to 340, with a focus on inspecting sub-divided units inside old buildings in close proximity to hawker pitches.

Regarding licensed caged homes, the HAD will ensure that the relevant premises comply with the fire safety requirements during its inspections.

Furthermore, to improve fire safety in old buildings in a more effective and comprehensive manner, the FSD introduced a four-pronged approach in late 2008 to target at old buildings with higher potential fire risks in densely populated areas, such as To Kwa Wan, Yau Tsim Mong and Wan Chai. The four prongs are publicity, enforcement, inspection and community partnership. On publicity, the FSD invites District Fire Safety Committees and Fire Safety Ambassadors to promote fire safety to old buildings. On enforcement, the FSD deploys the special enforcement unit to carry out inspections and take enforcement actions on old buildings in those districts. On inspection, officers of the fire stations in the district concerned will conduct regular inspections after the potential fire hazards of a building have been eradicated. On community partnership, the FSD appoints "Building Fire Safety Envoys" to assist in organizing fire drills and fire safety talks, and so on.

The FSD is also committed to promoting fire safety public education. Its efforts include:

- (i) promoting the importance of fire safety by distributing leaflets, pamphlets and posters to the public and owners of target buildings, and so on;

- (ii) drawing public attention to fire safety and educating them on the correct ways of evacuation in case of fire through announcement of public interests on television, drama episodes and radio programmes; and
 - (iii) carrying out publicity by the Fire Safety Education Bus particularly in areas with a high density of old buildings, and educating members of the public on how to make appropriate judgment on whether they should seek to escape and how to escape through the simulation of a fire scene.
- (c) According to information provided by the Transport and Housing Bureau, eligible low-income families or individuals with housing needs, including those who live in sub-divided units, cubicle apartments and caged homes, can apply for PRH through the Waiting List (WL). Those who have pressing housing needs on medical or social grounds may consider applying for Compassionate Rehousing. The Housing Department (HD) would process these applications in conjunction with recommendations by the Social Welfare Department. PRH applicants on the WL may also apply for early flat allocation through the Express Flat Allocation Scheme.

As the HD does not require PRH applicants to declare the type of accommodation they reside in at the time of application, it does not have analysis on the types of housing occupied by PRH applicants.

On PRH production, according to the latest Public Housing Construction Programme of the Hong Kong Housing Authority (HA), the HA will build a total of about 75 000 PRH flats in the five-year period from 2011-2012, which means an annual average of 15 000 PRH flats. However, the annual production of 15 000 new PRH units is not a fixed target. The target of the HA is to maintain the average waiting time for general WL applicants at around three years. If necessary, the HA will adjust the level of PRH production and increase supply so as to maintain the above target.

MR CHEUNG KWOK-CHE (in Cantonese): *President, caged homes, sub-divided units and cubicle apartments have caused a lot of problems in building structure and fire safety. The Secretary said in his reply earlier that in the past six months since April 2011 (sic), the BD has inspected 573 sub-divided units and issued 189 statutory orders and 329 advisory letters to require the owners to rectify the irregularities concerned. It means that over 90% of the sub-divided units are exposed to risks. May I ask the Government what administrative measures will be taken in future to address this situation, including whether a comprehensive policy will be drawn up covering the compilation of statistics on the sub-division of flat units, imposing legislative control on the sub-division of flat units, rehousing the tenants, and so on.*

SECRETARY FOR SECURITY (in Cantonese): President, according to the BD's experience in enforcement, sub-divided units generally involve several types of building works, many of which being exempted works under the Buildings Ordinance. Although these works still have to meet various building standards in the Ordinance, such as not causing any overloading to the building or obstruction to means of escape, owners who carry out these works are often not required to apply to and obtain the approval of the Building Authority prior to such works, and the Ordinance does not require that such works be carried out by authorized persons or registered contractors.

If irregularities are found in sub-divided units during inspections by the BD, the BD will certainly take enforcement actions and require the owners to rectify the irregularities. However, this can only deal with irregularities that already exist, but not directly preventing them. Therefore, the authorities must adopt a multi-pronged policy. While enforcement actions are taken against irregularities in sub-divided units, the regulation of such works also has to be enhanced in parallel.

The Development Bureau has proposed to incorporate the sub-division works into the minor works control system and require owners to hire trained and qualified contractors to carry out such works through simple and effective procedures. This can better guarantee the quality of the works and in the meantime, minimizing the safety hazards of the sub-divided units and the nuisance caused. Besides, after this proposal is implemented, the BD can obtain more comprehensive information on the location, quantities and scale of such

works according to the information on minor works submitted by owners and contractors. This will enable the BD to formulate its enforcement strategies more effectively.

With regard to the legislative proposals that I have just mentioned, the Development Bureau will table the amendment regulation to the Legislative Council as soon as possible and strive for the completion of deliberations within the current Legislative Session.

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary has not given me an answer on whether or not there are comprehensive statistics on the sub-division of flat units.*

SECRETARY FOR SECURITY (in Cantonese): President, I will provide a reply in writing after obtaining the relevant information from the Development Bureau later. (Appendix I)

MRS SOPHIE LEUNG (in Cantonese): *President, I have this question. While the Secretary said in the main reply that they do not maintain information on the number of residential units inside the sub-division of flat units (commonly known as sub-divided units), I can see that the Secretary has carried out more inspection work. May I ask the Secretary whether, according to his view or estimate, the number of sub-divided units has substantially increased recently? And, can the Secretary explain to us by how many times their number has increased, so that we can have an idea of whether or not the situation of cubicle apartments or sub-divided units is really very serious.*

SECRETARY FOR SECURITY (in Cantonese): President, I do not have any information on hand showing whether or not sub-divided units or cubicle apartments have increased substantially recently.

MR CHAN KIN-POR (in Cantonese): *The Secretary said earlier that the minor works to be carried out in new sub-divided units in future are required to meet*

the requirements in law, but this will apply only to new sub-divided units. If the Government does not have information on the number of existing sub-divided units and the number of people living in such units, it is indeed difficult to take actions against them in a systematic manner. So, I would like to ask a question in this connection. Will the Government have the determination to set up a database, in order to understand the development of sub-divided units in Hong Kong, such as whether their number will be increasing or decreasing in future, and how many people are living in these units or their number in total, with a view to drawing up a comprehensive plan to address the problem?

SECRETARY FOR SECURITY (in Cantonese): President, we do not have this database now. But after the fire involving hawker pitches this year, we will target at old buildings in the vicinity of hawker pitches, especially as sub-divided units were involved in that fire. The BD and the FSD hope to conduct inspections on 340 old buildings in proximity to hawker pitches this year. If sub-divided units are found, we will look into whether there is any irregularity or breach of law in these units and if so, the owners will be required to make rectifications. The Development Bureau will table a new piece of legislation to the Legislative Council. We hope that Members will scrutinize it expeditiously, so as to provide us with a legal basis for the regulation of sub-divided units in future and bring the existing sub-divided units under proper control.

MR LAU KONG-WAH (in Cantonese): *President, these sub-divided units are, after all, a time bomb. The fire in Fa Yuen Street mentioned by the Secretary seems to be a warning. However, the Government has yet to set up a database, so how can the Secretary expect owners who have carried out sub-division works to make declarations on their own initiative? This is actually quite a tall task. If you purely want to punish them, they may be deterred further or become more apprehensive about declaring these works, and the risks involved will be even greater. Are there other ways to induce owners to make declarations on their own initiative, in order to reduce the risks involved?*

SECRETARY FOR SECURITY (in Cantonese): President, as I mentioned just now, there is not a specific piece of legislation which regulates alteration works carried out for the purpose of sub-division of flat units. We hope to bring this

under legislative control in future. In fact, the BD has, through various channels over the past year, stepped up public education on irregularities commonly found in sub-division works and the potential hazards of such works. The relevant work includes publishing information in a number of local newspapers and publications to educate the public on how they can tell whether or not the works carried out in flat units have irregularities commonly found in sub-divided units, and also on matters that warrant owners' attention when carrying sub-division works or general renovation works. We have carried out publicity by putting up advertisements in public transport to remind the public of the risks of carrying out non-compliant sub-division works. Announcements of public interest are produced and broadcast on television and radio. We have, based on the enforcement experience of the BD and past enquiries and opinions received, produced a series of answers to questions frequently asked by the public about sub-divided units, which are disseminated to the public through the website of the BD.

We hope that through a series of publicity work, we can enhance public understanding of the risks of sub-divided units. We also hope to encourage people living in sub-divided units to lodge reports with us as they may know that certain sub-divided units are exposed to risks, such as the obstruction of means of escape by sub-divided units.

MR LEUNG YIU-CHUNG (in Cantonese): *President, other than those cubicle apartments, sub-divided units and bedspace apartments mentioned by Mr CHEUNG Kwok-che, rooftop structures are similar dwelling places with appalling living conditions and constantly under the threats of fire. We can see that their situation is also very serious and hope that the authorities can pay more attention to rooftop structures.*

My supplementary question is this: A vast majority of people living in these places actually do not wish to live there. They live there because they have no alternative. The main reason is that on the one hand, they may have financial problems and do not have the means to rent a private flat with better conditions and on the other, they may be waiting for PRH allocation, disregarding whether they are eligible applicants or not. However, the Secretary pointed out in part (c) of the reply that "The annual production of 15 000 new PRH units is not a fixed target. The target of the HA is to maintain the average waiting time for general WL applicants at around three years. If necessary, the HA will adjust

the level of PRH production and increase supply so as to maintain the above target."

I have this question for the Secretary. They often said that the production of 15 000 PRH units is not a fixed target and that the waiting time of three years is negotiable. But the problem is that the Secretary did say that no review would be conducted. If there will not be a review, how can the Government know that there is a different need now and that it is necessary to increase the production of PRH units? Therefore, may I ask the Secretary whether an extensive consultation will be conducted afresh to ascertain whether the annual production of 15 000 PRH units can meet the current public demand and whether the average waiting time of three years will need to be shortened to two years or whether the current eligibility criteria for WL applicants should be relaxed?

SECRETARY FOR SECURITY (in Cantonese): President, it has been our policy objective to maintain the average waiting time at three years for PRH allocation. We have been keeping watch of whether this target can be achieved every year. This is why I said just now that if the target is not achieved, the level of production can be increased on top of the annual production of 15 000 PRH units. But the target is to maintain the average waiting time for housing allocation at around three years.

From our experience, the Housing and Transport Bureau compiled annual statistics and let me read them out for Members' reference now. According to the information of the Housing and Transport Bureau, the average waiting time for general household applications is two and a half years, which is in keeping with the policy target of maintaining the average waiting time at three years for PRH allocation. The average waiting time for one-person elderly applicants is 1.2 years, which is even less than one and a half years. Therefore, insofar as these two waiting lists are concerned, we have been able to maintain the policy objective of keeping the average waiting time at three years for PRH allocation.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered? Please repeat it concisely.

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary has not given an answer on whether a review should be conducted despite that the policy objective is to maintain the average waiting time at three years. It is because there are now so many people on the WL, and in fact, those figures mentioned by the Secretary, such as two and a half years, 1.2 years, and so on, are all untrue. These figures are not true and do not tally with the reality.*

PRESIDENT (in Cantonese): Mr LEUNG, no debate should be conducted in this session. Are you asking the Secretary whether there is a need to review the target of three years mentioned by him?

SECRETARY FOR SECURITY (in Cantonese): President, in fact, this policy is subject to regular review, but we consider that the policy target of maintaining the average waiting time at three years for PRH allocation is a correct decision in terms of the use of public coffers.

PRESIDENT (in Cantonese): We have spent more than 24 minutes on this question. Fifth question.

Promotion of Research and Development in Science and Technology

5. **DR RAYMOND HO** (in Cantonese): *President, will the Government inform this Council:*

- (a) *whether the authorities have studied the research and development (R&D) situation in science and technology in Hong Kong and Singapore; if they have, how the two places compare with each other in respect of their strengths and weaknesses in this regard;*
- (b) *apart from the Research and Development Cash Rebate Scheme, whether the authorities have formulated other specific measures to encourage local universities to participate in R&D projects in science and technology undertaken by the innovation and technology*

sector and the industrial sector, so as to enhance Hong Kong's overall capability in R&D in science and technology; and

- (c) *whether it knows if local universities at present collaborate with the innovation and technology sector and the industrial sector in the development of R&D projects in science and technology; if they do, of the number and scopes of research of such projects, as well as the amounts of investment involved?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the Government attaches great importance to promoting innovation and technology. With innovation and technology being identified in 2009 as one of the six industries where Hong Kong enjoys clear advantages, the Commerce and Economic Development Bureau and the Innovation and Technology Commission (ITC) have adopted a multi-pronged approach to promote R&D activities and technology transfer through enhancing collaboration among the government, industry, academic and research sectors.

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

- (a) Given the unique history and situation of development in different economies, the Administration has not conducted any study to directly compare the R&D development in Hong Kong and Singapore. Nevertheless, we have kept track of the international indicators on innovation and technology as well as R&D development and measures in other regions as a reference to further enhance our efforts.

On R&D development, both Singapore and Hong Kong are well endowed. Both places possess a sound legal system, enjoy a free flow of information, and have access to a pool of talent with good language skills, and so on.

Singapore has its own advantages, such as a larger manufacturing base. Hong Kong is a service-driven economy, and its manufacturing sector dominated by original equipment manufacturing contributed to less than 2% of the Gross Domestic

Product (GDP) in 2010, which is in stark contrast to 22% in Singapore and 30% in Korea. In addition, many other countries have greater demands for R&D because of the need for national defence. For Korea and the United States, government budget for defence R&D accounted for 17% and 51% of total government R&D budget respectively in 2009. Hong Kong does not have these prerequisites to stimulate a large amount of R&D activities. Hong Kong's gross domestic expenditure on R&D for 2010 stood at US\$1.7 billion, which is 0.76% of our GDP. Singapore's gross domestic expenditure on R&D for 2010 was US\$4.7 billion, which is 2.14% of its GDP.

It should be stressed that enhancing R&D and innovation capability requires long-term investment. With the efforts made by various sectors over the years, Hong Kong has made considerable achievements in the development of innovation and technology:

- In the past decade, Hong Kong's R&D expenditure has been increasing at an average annual growth rate of 7%, from 0.55% to 0.76% when expressed as a percentage of GDP;
- The R&D expenditure by the public sector (including Government and higher education sectors) has continued to increase at an average annual growth rate of 4.8%, from \$5 billion in 2001 to \$7.5 billion in 2010, accounting for 57% of the gross R&D expenditure; and
- The number of companies operating in the Science Park has also been on the rise over the years from about 160 in 2007 to over 380 at the moment, employing over 6 300 R&D personnel.

With access to the huge domestic market in the Mainland, especially with the Pearl River Delta (PRD) as our hinterland, Hong Kong is also well-positioned to develop science and technology. Innovation and technology is one of the focused areas for development under the National 12th Five-Year Plan (FYP). The 12th FYP also has a dedicated chapter setting out support for Hong Kong's innovation

and technology development. This has brought tremendous development opportunities for the local R&D sector.

(b) and (c)

Promoting collaboration between universities and the industry is of paramount importance. To this end, we have adopted various measures:

1. The Innovation and Technology Fund (ITF)

As at end February 2012, the ITF has supported over 1 700 R&D projects, of which over 910, that is, more than half, were undertaken by universities, involving a total approved funding of about \$2.4 billion. Some examples include:

- the joint development of the application solution for the fourth generation broadband mobile communication technology by the Partner State Key Laboratory on Millimeter Waves in Hong Kong and a well-known company in Guangzhou; and
- the development of authentication method for high-value food stuff such as abalone and bird's nest through DNA sequencing analysis and the establishment of a reference database.

These examples involve R&D work by universities and the participation and support from the industry. We also introduced various enhancement measures under the ITF, including amongst others expanding the funding scope to cover prototype and sample production and encouraging trial use of products in the public sector through the R&D Centres. For example, The Hong Kong Polytechnic University (PolyU) and Hong Kong Applied Science and Technology Research Institute have recently conducted R&D on various intelligent home systems and equipment. Together with the Hong Kong Housing Society, a demonstration centre has been set up in

Yau Ma Tei to provide information with a view to enhancing the quality of living of the elderly.

In addition, our R&D Cash Rebate Scheme also encourages the industry to establish stronger partnership with local universities and research institutes by providing enterprises with a cash rebate equivalent to 30% of their R&D expenditure.

2. Funding from the University Grants Committee (UGC) and Research Grants Council (RGC)

Our R&D funding currently comes from two main sources, with the ITC supporting applied R&D and the UGC together with its RGC supporting academic research.

The Government set up an \$18 billion Research Endowment Fund in 2009 and injected another \$5 billion into the Fund this year, which demonstrates the Government's staunch support for the research activities of tertiary institutions. Furthermore, since 2009-2010, the UGC has introduced an additional stream of recurrent funding earmarked for the institutions to strengthen and broaden their endeavours in knowledge transfer. All institutions are also setting aside some of their own funds to enhance work in this area.

3. The Five R&D Centres

Since 2006, the five R&D Centres set up by the Government have been committed to partnering with the university and industry sectors to conduct R&D projects and promote commercialization of R&D results in selected technology areas. We have just completed a review on the Centres' performance and effectiveness during their first five years of operation. The results and our recommendations were reported to the Legislative Council Panel on Commerce and Industry last week. I would like to thank the Panel for supporting the extension of the operation of the Centres

beyond the original expiry of end March 2014. We will submit the proposal to the Legislative Council Finance Committee for approval in due course.

4. Hong Kong Science Park

Many Members have visited the Science Park in Sha Tin. The Science Park not only encourages technology companies but also the academic and research sectors to set up R&D facilities in the Park. For example, PolyU and the Hong Kong Baptist University will conduct R&D projects on areas relating to food safety, Chinese medicines and environment. I would like to thank Members for supporting the development of the \$4.9 billion Science Park Phase 3 in 2010.

5. Collaboration with the Mainland

We have set up collaboration platforms at the Central, provincial and municipal levels, such as the Shenzhen-Hong Kong Innovation Circle and the Guangdong-Hong Kong Technology Cooperation Funding Scheme, to promote university participation in exchanges and R&D. In particular, it is encouraging that four local universities⁽¹⁾ have established their Industry, Academic and Research Bases in the High-Tech Zone of Nanshan District in Shenzhen over the past two years to conduct R&D and collaborate with the Mainland.

As a knowledge-based economy, we firmly believe that innovation and technology is a key driver for economic development. We shall capitalize on our advantages and opportunities together with the joint efforts of the Government, industry, academic and research sectors with a view to achieving remarkable progress in the areas of science and research. My special thanks go to Members for their

(1) Including City University of Hong Kong, The Chinese University of Hong Kong, The Hong Kong University of Science and Technology and PolyU.

support for and valuable views on innovation and technology development.

DR RAYMOND HO (in Cantonese): *The Secretary has not answered part (a) of my question. According to information available, Singapore's R&D expenditure accounts for 2.14% of its GDP while Hong Kong's R&D expenditure accounts for only 0.17% of its GDP. However, I have requested that a comparison between the two places be made in respect of their strengths and weaknesses in their R&D in science and technology. The Secretary has not provided such information.*

Singapore's investment in R&D, such as oil rigs, started from scratch and has now become a world authority. Its R&D in computers is also excellent. In fact, we also have our own edges. For instance, the Mainland can serve as a large production base, which can also provide a large amount of human resources and a huge market. I would like to ask the Secretary to take this opportunity to tell us one thing: Why can we not make the same investment by using the \$2,400 billion Exchange Fund so that the technology researched and developed universities can be industrialized with a view to promoting industrial development?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Dr Raymond HO's for his supplementary question. In the main reply, I have provided data on R&D expenditure in Hong Kong and Singapore, and explained the differences between these two places. For example, Singapore's manufacturing sector accounts for 22% of its GDP and Hong Kong's accounts for only 2% of its GDP, which is its uniqueness. As R&D can be driven by industrial and manufacturing development, our services sector accounts for as much as 93% of our GDP while that of Singapore accounts for only 72% of its GDP. The situation of the two places can be described as totally different.

As I also mentioned just now, technological innovation and development is an important lifeline of Hong Kong economy. Over the years, the Hong Kong Government has invested heavily in R&D projects. The R&D expenditure by the public sector accounts for 57% of the gross R&D expenditure. Compared

with the public sectors of other places or countries, the investment in R&D by the public sector of Hong Kong is much greater. However, we must also collaborate with the business sector to significantly enhance the effectiveness, quantity and quality of R&D projects.

MR ANDREW LEUNG (in Cantonese): *President, the Secretary's reply made me very worried. He said that our manufacturing sector now accounts for less than 2% of the GDP, while the relevant figures for Singapore and South Korea are 22% and 30% respectively. It seems to imply that we do not have to conduct R&D projects anymore because our manufacturing sector only accounts for 2% of our GDP. However, he has ignored the fact that Hong Kong businessmen have set up 50 000 to 60 000 factories and employed 10 million employees in the PRD, which is close to Hong Kong. Therefore, such a reply makes me worried.*

Besides, in comparing the edges of Hong Kong and Singapore, the Secretary fell short of mentioning one point, that is, Singapore has made a lot of efforts in the past two decades not only in nurturing talents but also attracting a lot of overseas talents to Singapore to conduct R&D projects. Furthermore, it has also provided tax incentives for R&D investment to R&D companies which have settled in Singapore so that they can enjoy concessions in profits tax.

May I ask the Secretary what Hong Kong should do to catch up with the others so that local R&D work can promote the development of tens of thousands of factories in the PRD?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks to Mr Andrew LEUNG for his views. In my speech just now, I mentioned that every place has its unique history and situation of development, which will indeed affect its R&D in science and technology. As I pointed out in the main reply earlier, there are some differences between Hong Kong and Singapore in respect of their manufacturing and services sectors. Certainly, I agree with Mr LEUNG that we have a large production base in the PRD. In this connection, Hong Kong and the Mainland, especially Guangdong Province and Shenzhen, have maintained a close tie. In my speech just now, I also mentioned such examples as the Shenzhen-Hong Kong Innovation Circle.

In other words, R&D work is conducted in Hong Kong and production work is conducted in Shenzhen.

I would like to point out that if we just look at the percentage of R&D expenditure to our GDP, we cannot grasp the full picture. In the past decade, the average annual increase in Hong Kong's R&D expenditure is 7%, while the relevant figure for Singapore is 9%. Although the figure for Singapore is higher than ours, the difference is small. Take the situation in 2009-2010 as an example. Although Hong Kong's gross expenditure on R&D in that year increased by 4%, the GDP also increased by 7%. As a result, the expenditure on R&D as a percentage of GDP had dropped to 0.76%. Therefore, we should take into consideration the growth in GDP when looking at this percentage.

Mr Andrew LEUNG mentioned that Hong Kong's edge is our simple tax regime. In order to maintain a simple tax regime, we have provided incentives in various forms, such as the setting up of the Cash Rebate Scheme, to encourage the business sector to promote R&D. As we all know, under the Cash Rebate Scheme, the rebate rate has been increased from the former 10% to the present 30%. Using the profits tax rate of 16.5% as the basis for calculation, the Cash Rebate Scheme is tantamount to providing a tax deduction rate of around 250%. Thus, if one just looks at the tax measures without regard to other incentives, one cannot see that the SAR Government has in fact attached great importance to investment in R&D and made substantial investment in this aspect.

MRS SOPHIE LEUNG (in Cantonese): *President, I am glad to hear that the Secretary is full of confidence in the growth of our expenditure on R&D, which has indeed substantially increased over the past few years. May I ask the Secretary whether the Government will consider setting up a Patent Office in Hong Kong expeditiously in order to encourage R&D and development of innovation and technology? Why do I ask this question? More than a decade ago when we raised this subject in Hong Kong, among all local lawyers, I only know that three of them were engaged in patent-related work. But today, many local lawyers are engaged in such work. They have started to support the setting up of a Patent Office by virtue of the advantage of Hong Kong as a rule of law city so that R&D results can be patented expeditiously.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Mrs Sophie LEUNG for her question. I am also very concerned about the development of intellectual property rights because the R&D results will ultimately be turned into intellectual property.

The data concerning the application for and issuance of patents can reflect the R&D results of Hong Kong in the past. Let us take a look at the latest data. In Hong Kong, the number of patent applications approved by local authority is 5 353 while the relevant number in Singapore in the same period is 4 442. It is a meaningful contrast in comparison. The Intellectual Property Department has exerted its best to create a favourable environment in patent application in order to promote R&D in science and technology.

As Mrs Sophie LEUNG may also know, we have conducted a public consultation on the patent system in future. The relevant committee, which is now examining the consultation report, will later recommend the way forward for the development of the patent system. Recently, Members are particularly concerned about intellectual property management and trading centres. I am also very concerned about this. In fact, Hong Kong has an enormous edge in this aspect. The long-term economic development of Hong Kong will certainly stand to benefit greatly if Hong Kong can develop in this direction, coupled with its own R&D results.

MR WONG TING-KWONG (in Cantonese): *President, undoubtedly the Government has been more proactive in promoting R&D in recent years than in the past, although there is still a big gap compared with international standards. Besides, importance should also be attached to local R&D results. President, may I ask the Secretary whether the Government has taken the initiative to make use of local R&D results and offered more preferential policies for R&D projects?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Mr WONG Ting-kwong for his question. The Government has taken the initiative to make use of local R&D results. In Hong Kong, we have all along adopted a set of open and fair tendering procedures

which are in line with the requirements of the World Trade Organization. This is very important to Hong Kong as an international business centre.

On the other hand, we certainly hope that there are more opportunities for local R&D results to be used in the community. To this end, we have expanded the funding scope of the ITF to cover prototype and sample production and encourage trial use of products by the Government and public organizations, in the hope that R&D personnel, after developing the products, can market the products with the benefit of reference information gained through trial use by the Government and public organizations. This will help the practical application of local R&D results.

The funding ceiling is now proposed to be 30% of the original expenditure on the R&D project. As this scheme is still at its initial stage of implementation, it will only be applicable to projects of R&D Centres at the present stage. However, government departments, public organizations and the industry may participate and there are ample examples of such collaboration. President, please allow me to spend some time to cite some examples. The Hong Kong R&D Centre for Logistics and Supply Chain Management Enabling Technologies has developed an E-lock-enabled tracking platform for the Customs and Excise Department. By using this R&D product, movement of vehicles can be monitored and cargo security can be ensured. This product has been installed and used at various control points. The Hong Kong Research Institute of Textiles and Apparel has manufactured the multi-function odour-control uniform for the Food and Environmental Hygiene Department for trial use by front-line staff responsible for handling dead bodies and other personnel. They are very satisfied with our R&D results.

President, we have made efforts in various aspects in the hope that local R&D results can be put to trial use in the Government and public sector with a view to enabling their commercialization expeditiously.

PRESIDENT (in Cantonese): We have spent almost 22 minutes and 30 seconds on this question. Last oral question.

Property Development Rights of MTR Corporation Limited

6. **MR PAUL CHAN** (in Cantonese): *President, in order to support the adoption of railways as the backbone of Hong Kong's transport system, the Government gives the MTR Corporation Limited (MTRCL) various items of support, including granting to the MTRCL the property development rights on top of the stations along the railway. However, the MTRCL's Fare Adjustment Mechanism (FAM) does not take into account the series of MTRCL's benefits arising from property development rights. In this connection, will the Government inform this Council:*

- (a) *of the real estate projects the property development rights of which were obtained by the Mass Transit Railway Corporation (MTRC) before the rail merger; in respect of each of the projects, the land premium paid by the MTRC; the amount of grant provided to the MTRC by the Government based on estimates to bridge the funding gap when it granted the property development rights to the MTRC; the actual revenue received by the MTRC after completing the development; the difference between such revenue and the funding gap bridged by the government grant which was calculated based on estimates; the respective annual rentals and other revenues for the year ended 31 December 2011 and the 15 years before that year derived by the MTRC from the properties in those real estate projects which were not sold but were partly or wholly kept by the MTRC for rent or business operation purposes; the respective amounts of the fair value or valuation of these properties from the dates of completion to the end of each of the years; and set out the aforesaid information of each project in table form;*
- (b) *when the MTRC merged with the Kowloon-Canton Railway Corporation (KCRC) to form the MTRCL in 2007, whether the Government had sold to the MTRCL all property development rights on top of the stations along the Kowloon-Canton Railway; if not, how the property development rights not sold to the MTRCL were dealt with in that year; if so, list the locations and the details and scales of development of such projects in table form; of the price (including the land premium per square foot of floor space and the total amount of land premium) paid by the MTRCL for each project;*

the respective actual revenues (after deducting the aforesaid price paid to the KCRC or the Government) derived by the MTRCL from the completed projects; in each of the undeveloped projects, the difference between the current estimated land premium per square foot of floor space and that paid by the MTRCL to the KCRC or the Government at that time; set out in table form the aforesaid related information in respect of the developed and undeveloped parts of those projects which are under development but are not fully completed; and

- (c) *of the details (including whether the funding gaps for the projects were subsidized with the returns from property development (for example, the South Island Line) or the projects were constructed with government funding (for example, the West Island Line (WIL))) of the funding arrangement for each railway project confirmed for construction after the rail merger; of the respective amounts of land premium received or to be received from the MTRCL and the funding gap subsidized or to be subsidized in respect of the projects the property development rights of which were granted by the Government, with a breakdown in table form by project?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, railway development projects involve substantial capital investment. Despite their benefits conducive to the development of our society, these projects are usually non-viable financially or with low financial viability. Overseas experience shows that most projects require government direct funding or other support to take forward. Hong Kong is no exception.

The Rail-plus-Property development model (R+P model) is one of the approaches adopted by the Government to provide financial support to new railway development projects. In the past decades, this approach has been used to implement a number of railway projects with success. It enables speedy implementation of the projects to meet the transport demand of the public. This arrangement optimizes the use of public resources in the absence of competition with other public works projects for resource allocation. It also smoothens the interface between stations, depots and topside developments to ensure timely completion of the railway works while avoiding the need to carry out property

development works within the railway areas in future which may affect railway operation.

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

- (a) Before the public listing of the then MTRC (currently named as the MTRCL) in 2000, the Government was the sole shareholder and wholly owned the company. When developing the Kwun Tong Line, Tsuen Wan Line, Island Line, Airport Railway and Tseung Kwan O Extension, the Government granted property development rights to the company to finance the corresponding railways under the R+P model. Not only to satisfy the transport demand, the Government has other crucial consideration in adopting such an arrangement. With the R+P model, the railway development spearheads the growth of local communities along the rail lines. The model also empowers the company to raise funds from the market for the railway and property developments. Since its listing, the MTRCL has not implemented any railway project under the R+P model in the decade ending 2010. Those financed under this model in 2011 are elaborated in part (c) of my reply.

The sales proceeds, rental income and property value generated by the property development projects between 1970s and 2000, when the company went public, were considered, settled, and reflected in the market value and share price of the company at that time. The information was published in detail in the Initial Public Offer (IPO) prospectus of the MTRCL in 2000. Most of the information requested by the Honourable Paul Chan has also been included in the IPO prospectus. We also attached the relevant pages of the prospectus at Annex 1 for reference.

Under the R+P model, the Government and the railway company share the risks and benefits. In spite of the government funding via the grant of property development rights, the MTRCL has to arrange on its own the necessary funding beforehand to settle the construction costs of the railways, the operation expense and fixed asset replacement costs during the operation period, and later to pay

the expenses on property development and land premium. As property developments above stations or depots cannot start until the completion of the railway projects, it is estimated that such developments can only be completed for sale about 10-odd years after the commencement of railway construction. As a result, the MTRCL has to bear long-term risks in financing the railway projects, fluctuations in the property market as well as the operation responsibilities of the railways while the Government is spared.

- (b) The financial terms negotiated between the MTRCL and the Government for the rail merger include, *inter alia*, the property package for acquisition of property and other commercial interests. The property package covers the purchase from the MTRCL the property development rights in respect of six property sites held by the then KCRC, plus two property sites along Kowloon Southern Link held by Government at that time. According to the financial terms of the rail merger, the MTRCL paid the KCRC \$4.91 billion for the development rights over these eight sites. The professional property valuation consultant commissioned by the Government at that time had confirmed that the pricing of the development rights over these eight property development sites was fair and reasonable.

The information of these eight sites including their location, current development scope, content, land premia paid by the MTRCL to the Government as well as land premium per square foot are set out in Annex 2. Out of the eight property sites, flat sales of three developments comprising Ho Tung Lau (that is, The Palazzo), Wu Kai Sha Station (that is, Lake Silver) and Tai Wai Maintenance Centre (that is, Festival City) are almost completed with some flats remain unsold. Construction works are being carried out by respective developers on another three sites comprising Che Kung Temple Station (that is, The Riverpark), and Site C and Site D of Kowloon Southern Link's Austin Station. Land grant applications for the remaining two sites, that is, Tai Wai Station and Tin Shui Wai Light Rail Tin Wing Stop, are underway.

In addition, under the above-mentioned property package, the MTRCL has replaced the KCRC as the agent of the Government after the merger for developing the property sites along the West Rail Line. In other words, the property development rights for the sites concerned have not been sold to the MTRCL. Under the relevant arrangements, the MTRCL only acts as the agent of West Rail property development projects and receives an agent's fee equivalent to 0.75% of the gross return on sales from these projects.

The post-merger property development profits of the MTRCL are presented in its annual reports. Relevant information is detailed in Annex 3 and briefly set out as follows:

Year 2008	\$3.91 billion
Year 2009	\$3.03 billion
Year 2010	\$3.26 billion
Year 2011	\$4.23 billion

- (c) Since the merger, we have implemented five new railway projects under the Operating Agreement signed with the MTRCL in 2007. They are the WIL; Guangzhou-Shenzhen-Hong Kong Express Rail Link (Hong Kong Section) (XRL); South Island Line (East) (SIL(E)) and Kwun Tong Line Extension (KTE) which are under construction; and the Shatin to Central Link (SCL) of which the construction is scheduled to commence in mid-2012.

Among these projects, the WIL is funded by a capital grant. The Legislative Council has approved a provision of \$12.7 billion for the MTRCL to bridge the funding gap. Financial support by means of granting property development rights is not involved.

Both the XRL and the SCL are implemented under the concession approach. The Government seeks funding for the construction of both projects directly from the Legislative Council under the

appropriate public works programmes. Thus, the grant of property development rights to the MTRCL is not involved in these projects either.

The SIL(E) and the KTE are implemented under the R+P model. After a detailed assessment conducted by an independent consultant commissioned by the Government, it confirmed that the capital cost of the SIL(E) is \$12.4 billion while that of the KTE is \$5.3 billion. The independent consultant considered that both projects were financially non-viable, and that funding support from the Government was required to bridge the funding gaps of \$9.9 billion and \$3.3 billion respectively. In May 2011, the Executive Council approved granting to the MTRCL the property development rights for the ex-Wong Chuk Hang Estate site and ex-Valley Road Estate Phase 1 site as the funding support for developing the two railway projects.

We have commissioned an independent consultant to assess the development costs of the two property developments, and engaged another two independent surveying companies to help assess their property values. Based on their assessments, the funding assistance to be offered by the property developments may barely bridge the estimated funding gap in the light of the increases in development costs and implementation of the latest planning parameters.

The topside property developments of the two sites will not be able to commence until the stations and depot concerned have completed in 2015. The Lands Department (LD) will assess the land premium payable by the MTRCL according to established procedures only after it has received the company's application for land grant. After granting the land to the MTRCL, the LD will publish the relevant information, including the land premium payable by the company, on its website.

Extracted from the Initial Public Offer prospectus of the then MTR Corporation Limited in 2000
(Cover page of the prospectus, Page 102 to 106 and Page V-8 to V-10 of Appendix V)

If you are in any doubt about this prospectus, you should consult your stockbroker, bank manager, solicitor, professional accountant or other professional adviser.



MTR Corporation Limited

(地鐵有限公司)

(Incorporated in Hong Kong with limited liability under the Companies Ordinance)

MTR Privatisation Share Offer

Global Offering by

The Financial Secretary Incorporated on behalf of

the Government of the Hong Kong Special Administrative Region

Number of Offer Shares under the Global Offering:	1,000,000,000 (subject to reduction and Over-allotment Option)
Number of Hong Kong Offer Shares:	200,000,000 (subject to adjustment)
Maximum Offer Price:	HK\$9.38 per Offer Share payable in full on application in Hong Kong dollars, subject to refund
Nominal value:	HK\$1.00 per Share
Stock code:	66

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The Stock Exchange of Hong Kong Limited and Hong Kong Securities Clearing Company Limited take no responsibility for the contents of this prospectus, make no representation as to its accuracy or completeness and expressly disclaim any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this prospectus.

A copy of this prospectus, together with the documents specified in the paragraph headed "Documents Delivered to the Registrar of Companies" in Appendix X, has been registered by the Registrar of Companies in Hong Kong as required by Section 38D of the Companies Ordinance (Chapter 32 of the Laws of Hong Kong). The Securities and Futures Commission and the Registrar of Companies in Hong Kong take no responsibility as to the contents of this prospectus or any other document referred to above.

The Offer Price is expected to be fixed by agreement between the Joint Global Coordinators, on behalf of the Underwriters, and the Selling Shareholder, after consultation with MTR Corporation Limited, on the Price Determination Date. The Price Determination Date is expected to be on or around 1st October, 2000. Investors applying for Hong Kong Offer Shares must pay the maximum Offer Price of HK\$9.38 per Offer Share, together with brokerage of 1% and Stock Exchange transaction levy of 0.01%.

The Joint Global Coordinators, on behalf of the Underwriters, may, with the consent of the Selling Shareholder, reduce the number of Shares being offered in the Global Offering and/or the indicative Offer Price range below that stated in this prospectus (which is HK\$8.00 to HK\$9.38 per Offer Share) at any time prior to the morning of the last day for lodging applications under the Hong Kong Public Offering. In such a case, notices of the reduction in the number of Shares and/or the indicative Offer Price range will be published in the South China Morning Post and the Hong Kong Economic Times not later than the morning of the last day for lodging applications under the Hong Kong Public Offering. If applications for Hong Kong Offer Shares have been submitted prior to the day which is the last day for lodging applications under the Hong Kong Public Offering, then even if the number of Shares and/or the Offer Price is so reduced, such applications cannot be subsequently withdrawn.

If, for any reason, the Offer Price is not agreed between the Joint Global Coordinators, on behalf of the Underwriters, and the Selling Shareholder, after consultation with MTR Corporation Limited, the Global Offering will not proceed.

25th September, 2000

BUSINESS

Property developments related to the Tsuen Wan, Kwun Tong and Island Lines

As set out in the table below, a total of 18 property developments associated with the construction of the Tsuen Wan, Kwun Tong and Island Lines have been developed in conjunction with developers. All residential units and offices in these developments have been sold. Almost all of the retail space has either been sold or leased.

Location	Completion (Year)	Residential (No. of units)	Office (GFA m ²)	Retail (GFA m ²)	GIC
					Facilities (GFA m ²)
Telford Gardens/Telford Plaza I and II	1980/1996	4,992	52,482	83,201	909
Admiralty Centre	1980	—	72,290	18,114	—
Worldwide House	1981	—	33,314	7,141	—
Fairmont House	1982	—	20,886	—	—
Argyle Centre	1983	—	26,308	—	—
Luk Yeung Sun Chuen	1983	4,000	—	15,548	13,562
New Kwai Fong Gardens	1983	1,264	—	4,484	540
Sun Kwai Hing Gardens	1983	600	—	7,317	10,321
Fortress Metro Towers	1986	757	—	6,791	—
Komhill/Komhill Gardens	1987	8,828	—	104,170 ⁽¹⁾	9,640
Hongway Garden	1987	412	—	2,544	—
Vicwood Plaza	1988	—	29,618	7,239	—
Perfect Mount Gardens	1988	760	—	1,119	19,830
New Jade Gardens	1988	1,488	—	11,100	5,400
Southorn Garden	1988	480	—	2,646	40,918
Heng Fa Chuen/Heng Fa Villa	1989	6,560	—	26,742	20,120
Park Towers	1989	493	—	1,207	18,897
Felicity Garden	1990	732	—	—	13,386
Total		<u>31,366</u>	<u>234,898</u>	<u>299,363</u>	<u>153,523</u>

Note:

(1) Commercial GFA of 104,170 m² comprises retail, office and hotel areas.

Property developments related to the Airport Railway Project

Under the terms of the Airport Railway Agreement, the Company was granted the preferential right to undertake residential and commercial developments on approximately 62.37 hectares of land at sites above or around the five MTR Stations along the Tung Chung and Airport Express Lines, namely, Hong Kong, Kowloon, Olympic, Tsing Yi and Tung Chung stations. These developments, as currently planned, comprise 15 development packages totalling approximately 26,620 residential units and approximately 1.3 million m² of office, hotel and retail space. As of the date of this prospectus, the Company had awarded all of these packages to various developers following competitive tendering processes.

Several property developments associated with the construction of the Airport Railway Project have been completed. These comprise an aggregate of approximately 170,900 m² of commercial office space, 7,972 residential units and approximately 119,250 m² of retail space (of which 1,900 m² have been sold and approximately 117,350 m² are for leasing). As of 30th June 2000, approximately 75% of the retail space has been leased.

The Government is replanning the land use adjacent to Kowloon station to create a major cultural and tourist zone. It is expected that Kowloon station will be a key entry point to this new zone. Package Seven at Kowloon station is currently planned to include a 102-storey tower, incorporating office and retail space, a hotel and restaurants, which will be one of the tallest buildings in Asia. Town Planning Board approval for Package Seven was granted in October 1999. On the other side of the harbour, the laying of the foundations of an 88-storey tower adjacent to Hong Kong station commenced in February 2000. Occupying

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two prime sites, these two tall towers are planned to complete the “gateway” vision of landmark commercial towers above the Hong Kong and Kowloon Airport Express Line stations on each side of Victoria Harbour.

Despite volatile property market conditions in Hong Kong during 1998, the first sales of development properties relating to the Airport Railway Project, including an office building complex at Olympic station and residential units at the Tsing Yi station were concluded in 1998. Sales from the first property development package at Olympic station commenced in November 1998. Pre-sales of residential units at Tung Chung, Kowloon and Olympic stations property developments are continuing.

In 1998, the Company took possession of Maritime Square, a new retail shopping complex adjacent to Tsing Yi station as sharing in kind under the relevant development agreement. The shopping complex has attracted significant business and a substantial number of people have visited it since its opening in April 1999. The concept, design, marketing and management of Maritime Square are under the Company’s direct control. The Company believes that the success of Maritime Square has been a significant achievement in view of the generally weak retail market conditions which have prevailed in Hong Kong since the opening of the complex.

The awarded development packages include the developments associated with the Hong Kong, Kowloon, Tsing Yi, Tung Chung and Olympic stations. In 1997, the Town Planning Board gave its approval to increase the residential gross floor areas to be allocated to development packages for development at Tung Chung station. The additional land premium for the additional residential development area for Package Two and Package Three has been paid by the developers and the Company is in discussion with the developer of Package One on the possible expansion of that package. The Town Planning Board has also approved a change of use for Olympic Station Package Three from hotel to residential and the Company is now holding discussions with the Government on this change of use. These changes to the developments at Tung Chung and Olympic stations will increase the total number of residential units by 3,666. The Company awarded Kowloon Station Development Packages One, Two, Three and Four in 1996, 1997, 2000 and 1999, respectively. Kowloon Station Development Packages Five, Six and Seven were awarded as a single package on 6th September, 2000 and, in accordance with the terms of the relevant tender conditions, a development agreement will be entered into between the Company, the developer and its parent company, Sun Hung Kai Properties Limited, within 21 days of the award, substantially on the terms specified in the paragraph headed “Proposed development agreement for Kowloon Station Development Packages Five, Six and Seven” in Appendix IX.

The awarded property development packages have been, or are expected to be, completed (as the case may be) between 1999 and 2007. The amount of actual profit realised by the Company will depend on the development costs, the ability to sell or lease the completed properties, the timing of completion of competing development projects and general economic conditions.

As of 30th June, 2000 the balance of up-front payments received from participating developers in connection with property developments related to the Airport Railway Project in excess of related expenditures on foundations and enabling works incurred by the Company, net of amounts already recognised in the Company’s profit and loss account, was HK\$13,028 million.

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The tables below contain information relating to Airport Railway Project property developments:

<u>Location</u>	<u>Development consortium members</u>	<u>Type</u>	<u>Permitted maximum gross floor area (m²)</u>	<u>Parking spaces (No.)</u>	<u>Actual or Expected completion date</u>	
Hong Kong Station	Sun Hung Kai Properties Limited	Office	254,190	—	By phases from 1998-2004	
	Henderson Land Development Co. Limited	Retail	59,460	—		
	The Hong Kong & China Gas Co. Limited	Hotel	102,250	—		
	Bank of China Group Investment Limited	Carpark	—	1,344		
Kowloon Station	Package One	Wing Tai Holdings Limited	Residential	147,562	—	2000
		Temasek Holdings (Pte) Limited	Carpark	—	1,332	
		Singapore Land Limited				
		Keppel Land Limited				
	Package Two	The Wharf (Holdings) Limited	Residential	210,319	—	By phases from 2002-2003
		Wheelock and Company Limited	Carpark	—	1,313	
		New Asia Realty and Trust Company, Limited				
		Realty Development Corporation Limited				
	Package Three	Sun Hung Kai Properties Limited	Residential	100,000	—	2004
			Carpark	—	684	
	Package Four	Amoy Properties Limited	Residential	128,845	—	2003
			Carpark	—	864	
	Package Five ⁽¹⁾	Sun Hung Kai Properties Limited	Retail	70,000	—	2003-2004
			Residential	21,300	—	
			Hotel	30,750	—	
			Carpark	—	767	
Package Six ⁽¹⁾	Sun Hung Kai Properties Limited	Service apartment	68,472 – 72,472	—	2003-2004	
		Office	79,778 – 83,778	—		
		Carpark	—	467		
Package Seven ⁽¹⁾	Sun Hung Kai Properties Limited	Retail	12,750	—	2005-2007	
		Office	152,000	—		
		Hotel	64,250	—		
		Carpark	—	740		
Olympic Station	Package One	Sino Land Co. Limited	Office	111,000	—	By phases from 1998-2000
		Bank of China Group Investment Limited	Retail	14,900	—	
		Kerry Properties Limited	Residential	169,950	—	
		China Overseas Land and Investment Limited	Carpark	—	1,380	
	Package Two	Sino Land Co. Limited	Retail	47,500	—	By phases from 2001-2002
		Kerry Properties Limited	Residential	220,050	—	
		Bank of China Group Investment Limited	Carpark	—	932	
		China Overseas Land and Investment Limited				
	Package Three ⁽²⁾	Sun Hung Kai Properties Limited	Retail	2,600	—	2001
			Hotel	62,000	—	
Carpark			—	169		

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Location	Development consortium members	Type	Permitted Maximum Gross floor area (m ²)	Parking spaces (No.)	Actual or Expected completion date
Tsing Yi Station	Cheung Kong (Holdings) Limited	Retail	46,170	—	By phases from
	Hutchison Whampoa Limited	Residential	245,700	—	1998-1999
	CITIC Pacific Limited	Carpark	—	920	
Tung Chung Station					
Package One	Hang Lung Development Co. Limited	Office	15,000	—	By phases from
	Henderson Land Development Co. Limited	Retail	48,500	—	1999-2003
	New World Development Co. Limited	Hotel	22,000	—	
	Sun Hung Kai Properties Limited	Residential	260,960	—	
	Swire Properties Limited	Carpark	—	2,002	
Package Two	HKR International Limited	Retail	2,500	—	By phases from
	Hong Leong Holdings Limited	Residential	253,100	—	2001-2004
	Recosia Pte Limited	Carpark	—	632-745	
	Lippo China Resources Limited				
Package Three	Cheung Kong (Holdings) Limited	Retail	5,000	—	By phases from
	Hutchison Whampoa Limited	Residential	407,300	—	2002-2004
		Carpark	—	1,215	

Notes:

- (1) Kowloon Station Development Packages Five, Six and Seven were awarded to a subsidiary of Sun Hung Kai Properties Limited as a single package.
- (2) The Town Planning Board has approved the change of land use from hotel to residential development of 103,152 m² and 252 carparking spaces for Package Three. Discussions are currently being held with the Government on the lease modification for this proposed change of use. Subject to agreement being reached with the Government, the Company currently plans for the development of Package Three to be completed by 2004.
- (3) The areas of GIC Facilities are excluded from the figures contained in this table.

Property developments related to the TKE Project

Tseung Kwan O is one of Hong Kong's major strategic growth areas with a target population of about 520,000 people by the year 2011. The Tseung Kwan O Line will link the new town of Tseung Kwan O to other parts of Hong Kong. Construction of the new railway line has resulted in property development opportunities at four stations and accessibility to the main urban areas via the Tseung Kwan O Line is expected to be a key attraction of the future station property complexes. As with the property developments related to the Airport Railway Project, the Company intends to build integrated communities above or adjacent to the stations which will become major transport, commercial and residential hubs of Tseung Kwan O new town.

The TKE Project Agreement provides that the Company shall have the right to undertake development at four locations within the project. Three developments will be located at Tiu Keng Leng, Tseung Kwan O and Hang Hau stations. The fourth development, being the largest, will be situated at Area 86, where the railway depot and future Tseung Kwan O South station that is planned to be constructed when the population catchment builds up will be located. Collectively, these four development projects will occupy a total site area of approximately 42.64 hectares and will comprise a gross floor area of approximately 2,335,000 m². This is expected to include approximately 28,800 residential units and 103,100 m² of offices and 132,000 m² of local and district-scale shopping facilities.

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The Company plans to divide these four developments into 23 development packages to be offered for tender, completion of which is anticipated over 10 years. The size of individual tender packages is expected to encourage participation from medium-sized developers and to allow for greater flexibility in the Company's tender strategy in response to property market uncertainties. The expected total investment cost, the bulk of which is planned to be borne by developers, is approximately HK\$70 billion based on 2000 prices.

On 7th July, 2000 the Company entered into a development agreement with a developer consortium in relation to the development of Area 57a at Tseung Kwan O station. The development consists of a three-level podium including carpark and retail space and 46 residential floors above the podium on a site area of approximately 3,600 m² which is expected to be completed in 2003. Area 57a is adjacent to two other sites which are being developed by substantially the same consortium and therefore the Company did not offer the development to other developers by public tender. Under the terms of the development agreement the Company received a mandatory payment to cover the cost of enabling works and has the right to share in the profits of the completed development. The developer has an option to purchase the retail element at a price calculated by reference to the open market value.

All development projects are planned and designed to create a user-friendly and pleasant living and working environment. They include areas of open space, recreational facilities, community and infrastructural provisions to ensure that each development produces a fully integrated and quality environment.

The proposed property development at Area 86 represents one of the largest single planned development schemes in Hong Kong covering approximately 32.21 hectares. It represents a new model for high density community living with segregated areas for automotive and pedestrian movement and large open space for leisure activities. A detailed plan for this large scale project, called the "Dream City", was introduced to the public in late 1999. As a "garden city and smokeless zone" located on the Clearwater Bay Peninsula, Area 86 is planned as a community containing 50 residential towers with up to 21,500 units accommodating approximately 58,000 people, schools, shops, recreation and neighbourhood facilities. The future Tseung Kwan O South station will be used as a key point for planning the pattern of community activities and movement within the entire development.

Property development related to Choi Hung station

The Company has received planning permission from the Town Planning Board to develop property above and near Choi Hung station on the Kwun Tong Line. This is expected to include a public transport interchange, commercial space, residential units and "park and ride" facilities for commuters from the southeast part of the New Territories. At present, the Government is processing the formal grant of land to the Company.

The timing of this development project depends on the finalisation of the formal land grant and the Company is considering how to progress the development. Its current intention is to identify a joint venture property developer and then enter into a joint venture arrangement with that property developer once the terms of the land grant are available.

APPENDIX V

PROPERTY VALUATION REPORT

SUMMARY OF VALUES

Group I — Property Interests Held for Investment

No.	Property	Open Market Value in Existing State as at 31st July, 2000 (HK\$)	Interest Attributable to the Company(%)	Open Market Value in Existing State Attributable to the Company as at 31st July, 2000 (HK\$)
1.	Telford Plaza I including shopping arcade, podium shops, recreational facilities, cinema, school, market and various carparking spaces, Telford Gardens, No. 33 Wai Yip Street, Kowloon Bay, Kowloon	4,310,600,000	100%	4,310,600,000
2.	Telford Plaza II including shopping arcade and various carparking spaces, Telford Gardens, No. 33 Wai Yip Street, Kowloon Bay, Kowloon	1,252,700,000	50%	626,350,000
3.	Luk Yeung Galleria including shopping arcade, podium shops and supermarket together with various carparking spaces, Luk Yeung Sun Chuen, Tsuen Wan, New Territories	1,128,640,000	100%	1,128,640,000
4.	Heng Fa Chuen Shopping Centre on the podium and market stalls, LP gas storage compound, club house and associated recreational facilities and 415 private carparking spaces in the West Carpark Block, Heng Fa Chuen, No. 100 Shing Tai Road, Chai Wan, Hong Kong	1,369,500,000	100%	1,369,500,000
5.	Maritime Square including shopping arcade, kindergarten, cinemas and various car and motor cycle parking spaces, Tierra Verde, No. 33 Tsing King Road, Tsing Yi, New Territories	2,282,000,000	100%	2,282,000,000
6.	Ground Floor of No. 308 Nathan Road, Yau Ma Tei, Kowloon	21,700,000	100%	21,700,000
7.	Ground Floor of No. 783 Nathan Road, Mong Kok, Kowloon	4,200,000	100%	4,200,000

APPENDIX V		PROPERTY VALUATION REPORT		
No.	Property	Open Market Value in Existing State as at 31st July, 2000 (HK\$)	Interest Attributable to the Company(%)	Open Market Value in Existing State Attributable to the Company as at 31st July, 2000 (HK\$)
8.	Kindergarten on Podium Level and Car Park Nos. 1-126, New Kwai Fong Gardens, Nos. 12-20 Kwai Yi Road, Kwai Chung, New Territories	45,300,000	100%	45,300,000
9.	136 private carparking spaces within International Finance Centre, No. 1 Harbour View Street, Central, Hong Kong	122,400,000	51%	62,424,000
10.	292 carparking spaces on Car Park Floors P1, P2 & P3 at Section B of Phase 1 Carparking Spaces, No. 10 Hong Yue Street, Kornhill, Quarry Bay, Hong Kong	87,600,000	100%	87,600,000
11.	Neon light sign on the roof of Tower 1, Admiralty Centre, No. 18 Harcourt Road, Admiralty, Hong Kong	28,000,000	100%	28,000,000
12.	Shop Nos. 44, 85 to 93 on 1st Floor of the Commercial Podium of Admiralty Centre, No. 18 Harcourt Road, Admiralty, Hong Kong	30,900,000	50%	15,450,000
13.	Indoor Sports Hall at Island Harbourview in Site C (Phase I) of Olympic Station Development, No. 11 Hoi Fai Road, Tai Kok Tsui, Kowloon	45,500,000	100%	45,500,000
Sub-total:				10,027,264,000
Group II — Property Interests Held for Owner-occupation				
14.	Office No. 2101 on 21st Floor of World-Wide House, No. 19 Des Voeux Road Central, Central, Hong Kong	15,700,000	100%	15,700,000
15.	MTR Tower at Telford Plaza and 52 carparking spaces at Telford Gardens, No. 33 Wai Yip Street, Kowloon Bay, Kowloon	843,800,000	100%	843,800,000
16.	Levels 2, Mezzanine, 8 to 10 and 23 of Hang Seng Tower at Telford Gardens, No. 33 Wai Yip Street, Kowloon Bay, Kowloon	241,000,000	100%	241,000,000
Sub-total:				1,100,500,000

APPENDIX V		PROPERTY VALUATION REPORT	
No.	Property		Open Market Value of Property Interest Attributable to the Company as at 31st July, 2000 (HK\$)
Group III — Property Interests Held for Development (Packages Awarded)			
17.	Airport Railway Property Development		
	(a) Hong Kong Station, Central, Hong Kong		4,785,300,000
	(b) Kowloon Station Packages One to Four, 1 Austin Road West, Kowloon		4,679,100,000
	(c) Olympic Station, Tai Kok Tsui, Kowloon		2,146,290,000
	(d) Tung Chung Station, Tung Chung Town Centre, Lantau Island		755,000,000
Sub-total:			12,365,690,000
Group IV — Property Interests Held for Development (Packages to be Awarded) and Property Interests held for Future Development			
18.	Airport Railway Property Development Package Five, Six and Seven of Kowloon Station Development, 1 Austin Road West, Kowloon		
19.	Tseung Kwan O Extension Property Development at Tiu Keng Leng Station; Tseung Kwan O (Town Centre) Station, Area 55b, Area 56 and Area 57a; Hang Hau Station; Area 86, Tseung Kwan O		
20.	Residential/Commercial Development with Park and Ride and Public Transport Interchange, Clear Water Bay Road, Choi Hung, Kowloon		
Sub-total:			8,270,130,000
Group V — Other Property Interests of the Company			
		Open Market Value in Existing State as at 31st July, 2000 (HK\$)	Open Market Value in Existing State Attributable to the Company as at 31st July, 2000 (HK\$)
21.	Various Lorry Parking Spaces at Transport Interchange Building of Tsing Yi Station, No. 31 Tsing King Road, Tsing Yi, New Territories	No Commercial Value	No Commercial Value
22.	Leased Office Premises on the Second Floor of Chestnut Field, Regent Place, Rugby, United Kingdom	No Commercial Value	No Commercial Value
Sub-total :			—
TOTAL:			31,763,584,000

Annex 2

Information of the Eight Property Development Sites (As at 20 April 2012)

(1) Ho Tung Lau (that is, The Palazzo)

- Location: Sha Tin Town Lot No. 470
(adjacent to Fo Tan Station of the East Rail Line)
- Site area: 2.67 ha
- Content:
- residential gross floor area 1 301 368 sq ft
 - commercial gross floor area 21 528 sq ft
 - total gross floor area 1 322 896 sq ft
 - 1 375 flats
 - 239 parking spaces
- Other information:
- land premium at \$1,322,000,000 (average land premium at \$999 per square foot)
 - project completed in 2008 and occupation permit issued by the Buildings Department

(2) Wu Kai Sha Station (that is, Lake Silver)

- Location: Sha Tin Town Lot No. 530
(south of Wu Kai Sha Station of the Ma On Shan Line)
- Site area: 3.41 ha
- Content:
- residential gross floor area 1 815 349 sq ft
 - commercial gross floor area 32 292 sq ft
 - gross floor area of kindergarten 10 764 sq ft
 - total gross floor area 1 858 405 sq ft
 - 2 169 flats
 - 309 parking spaces
- Other information:
- land premium at \$5,391,190,000 (average land premium at \$2,901 per square foot)
 - project completed in 2009 and occupation permit issued by the Buildings Department

(3) *Che Kung Temple Station (that is, The Riverpark)*

Location: Sha Tin Town Lot No. 519
(north of Che Kung Temple Station
of the Ma On Shan Line)

Site area: 1.81 ha

Content:

- residential gross floor area 966 521 sq ft
- commercial gross floor area 2 077 sq ft
- gross floor area of kindergarten 7 212 sq ft
- total gross floor area 975 810 sq ft
- 981 flats
- 232 parking spaces

Other information:

- land premium at \$3,662,460,000 (average land premium at \$3,753 per square foot)
- tendering for project completed; under construction by the developer

(4) *Tai Wai Maintenance Centre (that is, Festival City)*

Location: Sha Tin Town Lot No. 529
(southwest of Tai Wai Station of the
East Rail Line)

Site area: 7.06 ha

Content:

- residential gross floor area 3 379 411 sq ft
- total gross floor area 3 379 411 sq ft
- 4 264 flats
- 745 parking spaces

Other information:

- land premium at \$11,559,860,000 (average land premium at \$3,421 per square foot)
- project completed in phases and occupation permit(s) issued by the Buildings Department in 2010 and 2011

(5) Tai Wai Station

- Location: to be named Sha Tin Town
Lot No. 520
(adjacent to Tai Wai Station of the
East Rail Line)
- Site area: 4.84 ha
- Content:
- residential gross floor area 2 050 327 sq ft
 - commercial gross floor area 667 368 sq ft
 - gross floor area of tertiary institute 161 460 sq ft
 - total gross floor area 2 879 155 sq ft
 - 2 900 flats
 - 801 parking spaces
- Other information: - MTRCL's application for land grant being processed
by the Lands Department

(6) and (7) Sites C and D of Austin Station of the Kowloon Southern Link

- Location: Kowloon Inland Lot Nos. 11126 and
11129
(i) surrounded by Jordan Road,
Canton Road and Wui Cheung
Road; and
(ii) surrounded by Wui Cheung
Road, Canton Road and Austin
Road)
- Site area: 2.09 ha
- Content:
- residential gross floor area 1 282 165 sq ft
 - total gross floor area 1 282 165 sq ft
- Other information: - land premium at \$11,707,640,000 (average land
premium at \$9,131 per square foot)
- tendering for project completed; under construction
by the developer

(8) Tin Shui Wai Light Rail Stop

Location: to be named Tin Shui Wai Town Lot
No. 23 Tin Shui Wai Light Rail Tin
Wing Stop
(surrounded by Tin Wing Road, Tin
Shing Road and Tin Yan Road)

Site area: 1.82 ha

Content:	- residential gross floor area	980 073 sq ft
	- commercial gross floor area	2 207 sq ft
	- total gross floor area	982 280 sq ft
	- 1 600 flats	
	- 222 parking spaces	

Other information: - MTRCL's application for land grant being processed
by the Lands Department

Annex 3

Profits after tax from property developments of MTRCL since the rail merger are as follows:

Year 2008	\$3.91 billion (\$0.85 billion)*
Year 2009	\$3.03 billion (\$1.52 billion)*
Year 2010	\$3.26 billion (\$0.73 billion)*
Year 2011	\$4.23 billion (\$3.53 billion)*

Note:

* Profits generated by the development of KCRC properties, that is, Ho Tung Lau, Wu Kai Sha Station and Tai Wai Maintenance Centre.

MR PAUL CHAN (in Cantonese): *President, the Administration is fooling us with its reply by evading the key points of the question. The Secretary told us to read the prospectus, but the prospectus does not contain the information requested by me in part (a) of my main question, that is, the actual revenue received by the MTRC in respect of each of the projects after completing the development, as well as the difference between such revenue and the funding gap bridged by the government grant which was calculated based on estimates, let alone the relevant information on rentals. Likewise, for example, in part (b) of my main question, I requested the Administration to provide information on the land premium paid by the MTRCL for each project and the scope of development at the time of the rail merger. In particular, I requested information on the actual revenues derived by the MTRCL from the completed projects. Annex II lists eight projects, but not the actual revenues derived by the MTRCL from each of these completed projects. President, let us take the Ho Tung Lau (The Palazzo) project as an example. The land premium is \$999 per square foot, but I found out earlier on the Internet that the property price is \$9,000 per square foot on average. The profit generated from this project alone already amounts to \$8 billion. Of course, this sum of \$8 billion has yet to be shared with the real estate developer.*

The thrust of my supplementary question is that, after the rail merger, the MTRC got a share of the profit, being \$6.63 billion in total, from three KCRC projects, namely Ho Tung Lau, Wu Kai Sha Station and Tai Wai Maintenance Centre, as also shown in Annex III. At that time, the MTRC paid the Government a price of \$4.01 billion in respect of six relevant projects, but these three projects alone have already enabled the MTRC to earn \$2.62 billion more, not yet taking into account the other three projects. President, my supplementary question is: Did the Secretary refuse to give a detailed account of these data for fear of public outcry subsequent to learning about them? President, I wish to ask the authorities through you to comprehensively furnish the Legislative Council within one week with the relevant information not given in the main reply as requested in my main question.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, part of the information requested by the Member is actually information possessed by the MTRCL, which is not in our hands, but I can contact the MTRCL in this regard. As an accountant, Mr CHAN should know*

very well how the funding gaps are estimated — he is asking about the funding gaps of the relevant projects. The estimation is based on a financial model built on a time period of 50 years.

Let me take the property development on the first site as an example. That property is by now just 30-odd years old, not yet reaching the year for projection and estimation of the overall funding gap. Therefore, it is not yet possible at this moment to make a settlement, that is, calculation of its net current value by counting together the budgeted costs and revenues in the 50-year operation period, as well as the discounting of annual cash flows. The experts must know better than me on this issue. They know that some relevant projects have not yet reached that stage. As regards the annual accounting exercise, since listed companies are subject to requirements of transparency, they will certainly work in accordance with the requirements. We will try our best to provide information, but I also hope the Member will understand that some of the information requested by him is not available because, in fact, the relevant projects have not yet completed the 50-year time period and hence not entered the settlement stage.

The Member also asked about how the land premium was calculated in the past. As I said earlier, independent property valuation consultants were hired to conduct the valuations. The Government certainly believed that they made the valuations in good faith and a professional manner. We certainly understand that the property market is subject to fluctuations, but the Government, as a shareholder, can also receive revenue from the distribution of dividends at the current stage. Overall speaking, President, we have provided as much information as possible. If the Member still wants some specific information, I would certainly try my best to make it available but, as I said earlier, some core issues may not be able to undergo an overall settlement before the 50-year time period expires, because this has all along been the method for calculating the funding gap.

MR CHIM PUI-CHUNG (in Cantonese): *President, the Secretary pointed out in the main reply that the Government had granted eight sites to the MTRCL. As the MTRCL is currently not a wholly owned company of the Government which is only one of its shareholders, may I ask the Government whether it has any plan to*

withdraw the corporation's shares or relevant investment, so as to have an effect on the FAM without affecting the corporation's assessment of its assets.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, if my understanding is correct, the existing FAM is based on three major components: First, changes in the Composite Consumer Price Index; second, wage changes in the transport industry; third, productivity. Therefore, the profit level and distribution of dividends are not taken into account under the existing mechanism. However, when we initiate a review, we will also be willing to examine the profit level in addition to the operating costs, and even the quality of service as mentioned by Members. So, in the next phase of the review, we will examine this series of issues.

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

MR CHIM PUI-CHUNG (in Cantonese): *In that case, when the Government has the factual data in the next phase, please Of course, she may not be the Secretary anymore then, but the Government should submit the relevant data to the Legislative Council.*

PRESIDENT (in Cantonese): Mr CHIM, you have made a new suggestion, and I believe the Secretary has already caught it.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary said that property development undertaken by the MTRCL is open to risks. Will the Secretary cite an example of the MTRCL making a loss from property development? If there is not any, where do the risks lie?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have mentioned the risks in a general context. In fact, to build a railway, the MTRCL has to take risks for 50 years, in addition to bearing the land premium for property development, regardless of the fares or patronage.

Moreover, it is fully responsible for overall maintenance and upgrading. Therefore, in general, this is not a zero-risk investment. However, I hope Members will understand that we have been using the R+P model ever since the very beginning. Back then the Government was the sole shareholder, and we had other policy objectives as well, that is, to promote local community development through the development of railway by the MTRC. Our memory remains fresh that, no matter in Telford Gardens or Heng Fa Chuen at the earliest stage, or in Tseung Kwan O in modern days, railway development serves as the backbone to drive the development of the entire community. Therefore, the payback period will be longer than that for properties in general.

As I have said, property development will begin five to six years after the commencement of the entire project. By the time the investment pays back, it would usually be 10 to 15 years down the line. If a period of 15 years is considered a cycle, we will also witness significant ups and downs in the property market during its course. Overall speaking, the risks that I referred to are not merely the risks in property development, but also the overall risks in terms of the operating costs and revenues in 50 years.

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

MR LAU KONG-WAH (in Cantonese): *The Secretary's reply is very complicated, but my supplementary question is actually very simple. From which of its property developments has the MTRCL made a loss? Will she tell us from which property development a loss has been made?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in fact, I have already pointed out in my earlier reply to Mr Paul CHAN that in the calculation of the funding gap, we take into account not only the revenue from property development, because what the MTRCL undertakes is not just property development. Therefore, to calculate the profit and loss, one must look at the comparison between the revenues and costs related to the overall operation after 50 years. There are no other ways to know the result.

MR LEE CHEUK-YAN (in Cantonese): *President, I feel that the Secretary is treating Hong Kong people like three-year-old children, because everyone knows that those engaged in property development in Hong Kong will never suffer losses. We also see that the 10 major real estate developers are the richest people in Hong Kong, with one of them being undoubtedly the Government. The MTRCL is a major real estate developer. With eight sites granted to it by the Government, the MTRCL will definitely make money. This is a well-known fact. The Secretary need not deceive us.*

President, the Secretary said earlier that the R+P model has all along been the development strategy, but why would this development strategy amount to "fleecing" the public by forcibly imposing a fare hike having no regard to their affordability? Look at the current operation of the MTRCL. In 2011, it earned \$14.7 billion in total. From property development alone, it earned more than \$4 billion. Its operating gross profit margin is 55.2%. Any enterprise coming to know of this figure would be flabbergasted by such a high gross profit margin. However, despite such a high gross profit margin, plus so much land granted by the Government, the MTRCL still wants a fare hike. In that case, may I ask the Secretary why the Government has to grant sites to the MTRCL and let it develop properties?

In fact, the Government's original intent is to let the MTRCL develop properties so as to stabilize the fares. However, despite the concession from the Government allowing it to develop properties, and having maximized the revenues arising from its properties, the MTRCL still wants to squeeze money from the public, and even "maximize" its profit. Is this not a case of greed? If we say that the MTRCL is an unscrupulous enterprise, then the Government is an unscrupulous government. The Secretary should not be labelled an unscrupulous director unscrupulous secretary

PRESIDENT (in Cantonese): Mr LEE, please clearly ask your supplementary question for the Secretary to answer.

MR LEE CHEUK-YAN (in Cantonese): *My supplementary question is: Since the Government lets the MTRCL develop so many properties and make huge profits, why does the MTRCL still want to "fleece" the public by raising the fares?*

Property development has brought enormous revenues, which are simply subsidies to the MTRCL by nature. Why should the Government let the MTRCL make money in this way after granting it subsidies?

PRESIDENT (in Cantonese): Mr LEE, you have already asked a supplementary question. Secretary, please reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, my understanding is that, firstly, as I have already explained just now, the eight sites were not given to the MTRCL. After valuation, the MTRCL is required to pay the market values assessed by the property valuation consultants. Besides, as I have also explained, the R+P model has all along been adopted by us as a means of financing prior to the completion of construction of a railway. The original intent is to make good use of resources and obviate the competition for other public resources.

Regarding the issue raised by the Member as to whether part of its profits can be used to offset the fare adjustment, as far as the present stage is concerned, I have just now undertaken to include examination of the profit level in the review. However, as I have also pointed out, if any profit, be it dividends or property earnings, is used to offset the fare adjustment, it is not just an issue of transport policy, but also an issue of public finance, because the dividends received by the Government as a shareholder will eventually be accounted to the public coffers, and ultimately be subject to approval by the Council and spent on different service areas of the Government. Therefore, we have to carefully consider this matter to see whether a "dedicated-fund-for-dedicated-use" approach should be adopted? That said, this is not our established principle of public finance. I hope Members will understand that. Nevertheless, we will also examine the profit level in the review.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Removal and Resite of Chuk Yuen Village**

7. **MS CYD HO** (in Chinese): *President, the Development Bureau pointed out in its paper submitted to the Panel on Development of this Council on 22 November 2011 that as the implementation of the project on Liantang/Heung Yuen Wai Boundary Control Point (the BCP) required resumption and clearance of the whole Chuk Yuen Village (CYV), the Government would provide a village resite area at Ta Kwu Ling with supporting infrastructure to resite those villagers of CYV who were eligible for village removal terms. In this connection, will the Government inform this Council:*

- (a) of the policy currently in place for removal of villages in the New Territories, and provide the relevant papers;*
- (b) given that it has been learnt that some villagers of CYV do not hold the land title of their houses, how the authorities make the removal arrangement for those indigenous villagers (IVs) who do not own any building land;*
- (c) of the detailed arrangements for the construction of resite houses by the Government for IVs of CYV and the compensation involved (including the relationship between compensation options and the type and area of the original building lands, as well as other factors of consideration; building specifications of resite houses; compensation options for building lands on which abandoned, vacant or collapsed houses are located; the formula for calculating the resite house entitlements which are offered in cash; the compensation arrangement for IVs who own more than one piece of building land; the number of building lots within the village environs of CYV for which compensation was offered; the respective total numbers of resite houses and sites as well as the total amount of building allowance covered by resite house entitlements offered as compensation); and*
- (d) of the latest details of and the detailed expenditures incurred in the removal of the whole CYV (including a breakdown of the number of*

resite houses built by the Government, the building costs of each resite house and the amount of compensation, and so on)?

SECRETARY FOR DEVELOPMENT (in Chinese): President, on 18 September 2008, the Hong Kong and Shenzhen Governments jointly announced the construction of a new BCP at Liantang/Heung Yuen Wai. Subsequently, both sides have reached a consensus on the implementation of the project. The engineering works of the BCP will commence on both Hong Kong and Shenzhen sides in 2013 with a target commissioning of the new BCP in 2018.

To make way for the implementation of the new BCP, the entire CYV has to be resumed and cleared. CYV is a pre-1898 recognized village located at the Frontier Closed Area. The IVs and non-IVs of the village have been living in the same community together for many years, and they have strongly expressed their wish to continue living together after the clearance of CYV. The Government understands the special circumstances and request of the villagers, and has previously decided to offer some special arrangements, in addition to the established compensation and rehousing policy (the details are set out in the paper submitted to the Panel on Development on 22 November 2011). In view of some Members' concerns raised in the meeting of the Panel and to more fully respond to the request of villagers, the Government works out the final arrangements on compensation and rehousing, the details of which have been set out in the discussion paper for the meeting of the Panel on Development on 24 April 2012 (CB(1)1607/11-12(04)). The Chuk Yuen Residents Village Removal Committee and the Village Representatives of CYV welcome these final special arrangements.

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

- (a) Under the existing New Territories Village Removal Policy, where land resumption is required to facilitate implementation of public works, the affected IVs who own building lots or non-IVs who have owned building lots pre-war (prior to 25 December 1941) or by succession, may be provided with village resites when their building lots are resumed. The resite house entitlements, taking into account the site area involved, would be in the form of resite houses built by the Government; or a site (without a house on it) plus a building

allowance equivalent to the building costs of a Government-built resite house; or in cash, known as a "house allowance" which is equivalent to the full market value of a resite house. When post-war new grant building lots (including Small Houses granted under the Small House Policy) are resumed, eligible IV owners would be compensated by the grant of resite houses in the resite area, provided that the building development has been completed. Where the building development has not been completed, the IV owner would be given a building site only in the resite area.

As for the clearance of CYV to make way for the implementation of the new BCP project, a village resite area is provided in Ta Kwu Ling with supporting infrastructure to resite those in CYV who are eligible for village removal terms. Works for the village resite area, started in August 2010, have basically been completed.

- (b) Those IVs of CYV who do not own any building lot may exercise their once-in-a-lifetime right for Small House grant by acquiring private agricultural land in the area adjoining the village resite area for village type development and applying to the Government for a Free Building Licence for construction of Small Houses.
- (c) The detailed arrangements for the compensation of resite houses are as follows: For old scheduled building lots and pre-war new grant building lots owned by IVs in the New Territories, compensation will be calculated on the basis that one resite house (floor area of 700 sq ft and three-storey high) will be offered as compensation for every 0.01 acre of building lot resumed, irrespective of whether or not the land is abandoned or vacant. For post-war new grant building lots owned by IVs in the New Territories, if the lot concerned is in compliance with the Building Covenant of New Grant, one resite house will be offered as compensation for every new grant building lot; and if the lot concerned is not in compliance with the Building Covenant of New Grant, a building lot of 700 sq ft will be offered as compensation for every new grant building lot. If the entitled compensation for the resumed building lots exceeds three resite houses, the exceeding entitlement will be compensated in cash. Within the village environs of CYV, there are 37 building lots

entitled to compensation under the New Territories Village Removal Policy, involving a total of 44 resite house entitlements. In addition, the building allowance involved will be around \$28 million in total.

- (d) The cost of reprovisioning CYV is \$51.3 million, covering site formation, infrastructure facilities and road improvement works for the resite area. The Government will also be responsible for building 10 resite houses, each costs around \$1.35 million. The total cost for the compensation and ex gratia allowance involved in reprovisioning CYV will be around \$56 million.

Other than the arrangements for IVs covered by the question, information on the special arrangements for the non-IVs of CYV has been set out in the discussion paper for the meeting of the Panel on Development on 24 April 2012 (CB(1)1607/11-12(04)).

Possible Abuse of Trial Scheme on One-off Ad Hoc Quotas for Guangdong/Hong Kong Cross-boundary Private Cars by Non-local Pregnant Women

8. **MRS REGINA IP** (in Chinese): *President, at a special meeting of the Finance Committee of this Council, the Secretary for Security pointed out that last year, around 50% of the non-local pregnant women rushing directly to the accident and emergency (A&E) department of public hospitals for delivery without appointment entered Hong Kong in cross-boundary private vehicles that have obtained approval for regular quotas (commonly known as "cross-boundary vehicle licences"); hence, out of the 1 656 non-local pregnant women giving birth in public hospitals last year via A&E departments, around 800 entered Hong Kong in cross-boundary private vehicles. Earlier on, at a public hearing held by the Panel on Transport of this Council, many members of the public expressed concern that, in view of implementation of the first phase of the trial scheme on one-off ad hoc quotas for Guangdong/Hong Kong cross-boundary private cars (hereinafter referred as "self-drive tour scheme") in March this year, vehicles going to Guangdong under the scheme might similarly be abused and used to carry non-local pregnant women to Hong Kong on their return trip. In this connection, will the Government inform this Council:*

- (a) *given that at the aforesaid public hearing, some members of the Panel queried the effectiveness of the measure of the Department of Health (DH) deploying healthcare staff to assist the authorized officers of the Immigration Department (ImmD) at boundary control points (BCPs) in identifying pregnant women, pointing out that the healthcare staff may not be able to determine whether a person entering the territory is pregnant just by visual inspection, as well as doubting that they are not conferred adequate authority and are not able to stop and check those suspected pregnant women, and some members even pointed out the acute manpower shortage of the healthcare staff concerned, what measures the authorities have in place to tackle the problems pointed out by the members; of the current number of healthcare staff deployed to station at BCPs, and whether such manpower will be further increased; and*
- (b) *given that the measures for drivers and passengers of cross-boundary private vehicles to cross the boundary without alighting from vehicles are implemented at Shenzhen Bay Port (SBP) at present, whether the inspection facilities at SBP are sufficient to effectively prevent the abusive use of the "self-drive tour scheme" as a means for non-local pregnant women to enter Hong Kong; if so, of the specific details; if not, whether it has any plan to update the facilities; if it has, of the implementation timetable?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in formulating the implementation arrangements for the first phase of the ad hoc quota trial scheme for cross-boundary private cars (the Scheme), we have carefully considered the possible abuse of the private cars concerned and put in place appropriate regulatory measures. For example, each eligible car owner is allowed to apply for only one quota at one time and a new reservation can only be made at least six weeks from the effective start date of the last quota approved; the applicant has to be on board the private car concerned upon entering the Guangdong Province; the applicant has to be one of the designated drivers and meet the relevant eligibility requirements; the private car concerned can only be driven by no more than two designated drivers to make one round trip to and from Guangdong Province during the specified period through only the SBP,

where designated clearance kiosks have been arranged for cross-boundary vehicles under the Scheme.

Both the Governments of Guangdong and Hong Kong have a full grasp of the particulars about the applicants, drivers and vehicles using the ad hoc quotas under the Scheme. Such particulars facilitate follow-up and investigation of suspected cases by the law-enforcement departments. The two Governments will definitely act on any illegality and irregularities in accordance with the law.

Based on the information provided by the Food and Health Bureau and the Security Bureau, my reply to the two parts of the question raised by Mrs IP is as follows:

- (a) Currently, the DH has deployed a total of 14 doctors and 21 nurses (comprising both full-time and part-time staff) to the Lo Wu and Lok Ma Chau BCPs to assist the ImmD by giving professional assessment and advice on pregnancy and other physical conditions of non-local pregnant women. The DH will recruit additional doctors and nurses for stationing at the BCPs at Lo Wu, Lok Ma Chau and Shenzhen Bay to enhance its support to the ImmD. Healthcare professionals of the DH will work shifts to provide services during all opening hours of the BCPs.

In addition to healthcare professionals, 42 health surveillance assistants of the DH are stationed at the relevant BCPs to identify non-local pregnant women by visual inspection. They will request these pregnant visitors to produce proof of delivery booking in Hong Kong to help separate non-local pregnant women with booking and those without, and direct them to the appropriate immigration counters for arrival clearance. Since it is voluntary for non-local pregnant women to show the health surveillance assistants their travel documents to indicate if delivery booking has been made, the assistants will, in case of refusal to produce such documents, immediately approach immigration officers for assistance and follow-up. The ImmD has posted notices at the relevant BCPs to inform inbound visitors of the immigration control arrangements relating to non-local pregnant women.

The DH will flexibly deploy healthcare professionals and health surveillance assistants to various BCPs according to operational needs, and monitor the situation closely with the ImmD for reviewing manpower requirements.

- (b) Non-local pregnant women found entering Hong Kong on private cars using the ad hoc quotas are treated no differently from those found on other cross-boundary vehicles. They will be further questioned by immigration officers upon arrival and requested to produce the "Certificate on confirmed antenatal and delivery booking" issued by a Hong Kong hospital. Those who fail to produce such proof may be refused entry.

To deter non-local pregnant women without appointment from taking the risk of gate-crashing the A&E departments for delivery, the ImmD has comprehensively strengthened the inspection of non-local pregnant women at major BCPs, including stepping up the check on cross-boundary vehicles (including private cars using the ad hoc quotas).

The DH staff will assist officers of the ImmD to screen out non-local pregnant women by visual inspection at the vehicle clearance kiosks at the BCP. Where necessary, passengers on board may be requested to co-operate in order that the screening process can be completed. The two departments will maintain close communication and co-ordination, and review their work arrangements from time to time to strengthen the relevant checks so as to do the gate-keeping work properly.

Waiting Time for Allocation of Public Rental Housing Units

9. **MR FRED LI** (in Chinese): *President, in recent years, I have received complaints from quite a number of families of four persons or more which are applying for public rental housing (PRH) that they have been waiting for a very long time but have yet to be allocated PRH units, and that even those with elderly family members are not allocated PRH units within three years, let alone priority allocation for elderly persons. In reply to a question from a Member of this*

Council in February this year, the Government indicated that at present, the demand for large units remained strong and PRH units accommodating larger households were in short supply. In this connection, will the Government inform this Council:

- (a) of the number of large PRH units allocated to family applicants with four or more members in each of the past three years; the average waiting time (AWT) of those family applicants with four or more members which were allocated PRH units, and the number of those which had waited for more than three years; if the relevant figures are not available, of the reasons for that;*
- (b) of the current number of family applicants with four or more members on the Waiting List (WL) for PRH (together with a breakdown by their waiting time, that is, less than three years, three to less than four years, four to less than five years, and five years or more); if the relevant figures are not available, of the reasons for that;*
- (c) whether the authorities collect information on the waiting time of family applicants with four or more members on the WL through the annual Survey on Waiting List Applicants for Public Rental Housing; if not, of the reasons for that;*
- (d) of the numbers of newly completed or refurbished large PRH units available for allocation to family applicants with four or more members in each of the next five years according to the authorities' projection, together with a breakdown by district; and*
- (e) of the means (including whether existing construction arrangements will be reviewed with a view to building more large PRH units) by which the authorities can accelerate the provision of large PRH units for allocation to family applicants with four or more members?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, it is the objective of the Government and the Hong Kong Housing Authority (HA) to provide PRH to low-income families who cannot afford private rental

accommodation, with a target to maintain the AWT of general WL applicants (excluding non-elderly one-person applicants under the Quota and Points System) at around three years. My reply to Mr LI's question is as follows:

(a) to (c)

In 2008-2009, 2009-2010 and 2010-2011, about 4 700, 2 900 and 2 700 flats respectively have been allocated to WL applicants with a household size of four persons or above.

In view of the public's concern on the waiting time of WL applicants, especially those applications with waiting time over three years, the HA conducted a detailed analysis in 2011, including going through the relevant records manually, to understand the situation of applicants with longer waiting time. According to the information available at that time, as at end June 2011, there were 24 800 applications with a household size of four persons or above on the WL. Among them, applicants with waiting time of three years or above and without any flat offer are set out as follows:

	<i>Applications with a household size of four persons or above on the WL with waiting time of three years or above and without any flat offer (as at end June 2011)</i>
3 years to less than 4 years	2 800
4 years to less than 5 years	1 800
5 years or above	600

Note:

Figures are rounded to the nearest hundred.

The analysis also showed that, among the general WL applicants rehoused between July 2010 and June 2011, over half of them received the first offer within two years and most of them received the first offer within three years.

For the rehoused general WL applicants who received their first offer at or after three years, the analysis showed that most of them opted for PRH flats in the Urban and Extended Urban Districts. In general, this reflects the popularity of the Urban and the Extended Urban Districts, and thus WL applicants opting for these two Districts were more likely to have a longer waiting time than WL applicants opting for other Districts. Similarly, for the general applicants on the WL with waiting time of three years or above and without any flat offer, most of them also opted for the Urban and Extended Urban Districts.

We pay due regard to the general WL applicants with particularly long waiting time. The study result revealed that roughly over half of the cases involve special circumstances of various kinds, including cancellation periods (the applicants were ineligible for rehousing during the periods concerned. If the cancellation periods are excluded, their waiting time would in fact be shorter), location preference on medical or social grounds, and so on.

We will continue to closely monitor the waiting time of WL applicants, especially the situation of those with longer waiting time; and report to the HA on the situation of WL from time to time.

(d) and (e)

As for new PRH production, a total of about 75 000 PRH flats will be built by the HA during the five-year period starting from 2011-2012. Of these, about half of them are one-bedroom flats or two-bedroom flats which can be allocated to larger families. As for refurbished PRH flats, it depends on the number and types of recovered flats in the future period.

In response to the demand for larger units from PRH applicants, the HA would make effort in two areas, that is, the recovery of and the production of PRH.

On recovery of PRH flats, the HA decided in October 2010 to accord priority in handling about 2 500 most serious under-occupied

households without elderly or disabled persons. We believe it could help increase the supply of PRH flats of larger size.

On new PRH production, the HA will continue to regularly review the flat mix for new flat production having regard to the distribution of household size of WL applicants, population and household projections, and so on, in order to meet the demand of applicants with different household sizes.

Social Work Officers Acting as Appointees of Applicants for CSSA

10. **MR TAM YIU-CHUNG** (in Chinese): *President, in reply to my question raised at the Council meeting of 6 July last year concerning the arrangement of the Social Welfare Department (SWD) in requiring Social Work Officers (SWOs) to use their personal identity card (ID card) numbers to act as appointees of relevant Comprehensive Social Security Assistance (CSSA) applicants concerned, the Secretary for Labour and Welfare pointed out that the SWD had considered the feasibility of using other proofs of identity, such as Government Identity Card/Departmental Identity Card (GIC/DIC) numbers, as substitute for ID card numbers, but as the numbers of such proofs may be changed and replaced, and other information shown thereon may be outdated, they are not safe and unique means for identification purpose, and the use of them to replace ID card numbers may result in a higher risk of mistakes in the release of CSSA payments when the appointees approach the SWD for immediate advance of cash for recipients. The Secretary for Labour and Welfare also indicated that for the aforesaid reasons, the SWD is still adopting the existing arrangement but will continue to explore the feasibility of using other identity documents to replace ID cards. In this connection, will the Government inform this Council:*

- (a) *given that the Secretary for Labour and Welfare indicated that the SWD will continue to explore the feasibility of using other identity documents to replace ID cards, whether any concrete progress has been made so far; if so, of the details; if not, the reasons for that;*
- (b) *with regard to the concern that GIC/DIC numbers are not safe and unique means for identification purpose, whether the SWD can make use of such card numbers and verify against the departmental*

records and staff management and accounting records to confirm the identity of SWOs; if it can, whether the authorities will use GIC/DIC numbers as substitute for ID card numbers; if not, of the justifications for that; and

- (c) *in the meantime when the SWD continues to explore the feasibility of using other identity documents to replace ID cards, how the SWD protects the privacy of the personal data of SWOs contained in the case files concerned (including whether the documents therein which contain their ID card numbers are put in sealed envelopes, and with such numbers obliterated); further, of the details of the next step of work of the authorities in exploring the feasibility of using other identity documents?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr TAM Yiu-chung's question is as follows:

- (a) and (b)

As mentioned in our reply of 6 July 2011, the SWD has consulted the Department of Justice on the practice of having social workers of the SWD acting as appointees. The legal advice was that requiring an appointed SWD social worker to provide his Hong Kong Identity Card (HKIC) number when he applied for CSSA on behalf of another person, for the purpose of clearly establishing his identity as an appointee, was in compliance with the requirements of the "Code of Practice on the Identity Card Number and other Personal Identifiers" (the Code) issued by the Office of the Privacy Commissioner for Personal Data (the Office), and also in the interest of the HKIC holder. Besides, the legal advice pointed out that the SWD might, based on section 5 of the Registration of Persons Ordinance (Cap. 177), require any person registered thereunder to, in all dealings with the Government, furnish his HKIC number and, as far as practicable, the HKIC number of any other person whose particulars he was required by law to furnish.

The Office understands that the practice adopted by the SWD aims to ensure the proper use of public fund and safeguard the interests of the CSSA applicants and the appointees themselves. The Office considers that there is no *prima facie* evidence of the SWD's practice contravening the Personal Data (Privacy) Ordinance (Cap. 486) and the Code.

As regards cases involving social workers of the SWD acting as appointees, the SWD has considered the feasibility of using other proofs of identity such as the GIC/DIC number as substitute for the HKIC number. However, the numbers of such proofs may be changed and replaced. Moreover, other information shown thereon may be outdated. Therefore, they are not safe and unique means for identification purpose, and the use of them to replace the HKIC number might result in a higher risk of mistakes in the release of CSSA payments through immediate advance of cash.

- (c) Whilst the SWD will maintain the existing practice, it has enhanced measures to protect the privacy of appointees' personal data. For example, when a social worker of the SWD is appointed as an appointee, it is no longer necessary for the responsible social security field unit to enclose in the notification to the service unit of the social worker a copy of the appointment form containing the appointee's HKIC number. The replacement notification memo only contains such information as the appointee's name and post. The SWD has also required all casework service units to, before filing the relevant CSSA documents, delete from such documents the HKIC numbers of the SWD social workers acting as appointees.

Regional Co-operation Plan on Building a Quality Living Area

11. **DR DAVID LI:** *President, regarding the three-month public consultation commencing on 1 September 2011 on the initial proposals for the Regional Co-operation Plan on Building a Quality Living Area (the Plan), will the Government inform this Council:*

- (a) *as the dedicated website <www.gprd-qla.com> for the consultation is unreachable, how members of the public may follow future progress under the Plan;*
- (b) *whether a dedicated co-ordinating framework or agency exists among the Governments of Guangdong, Macao and Hong Kong to take forward the cross-boundary initiatives outlined in the consultation document; if not, whether the three Governments have held any discussion with a view to establishing a dedicated co-ordinating framework or agency and the details thereof; and*
- (c) *whether the Government has conducted any review to identify measures which can be taken forward before final decisions are made so as to score "early wins" (for example, noting the significant progress that Guangdong Province has made in creating cycling "greenways" since the beginning of 2010, whether the Hong Kong Government has given consideration to facilitating cycle access across the boundary)?*

SECRETARY FOR THE ENVIRONMENT: President,

- (a) To implement the "Outline of the Plan for the Reform and Development of the Pearl River Delta Region (2008-2020)", the Hong Kong Special Administrative Region (HKSAR) Government, the Guangdong Provincial Government and the Macao Special Administrative Region Government are jointly drawing up the Plan. The public consultation jointly carried out on the initial proposals for the Plan was completed in the second half of 2011. The three governments are consolidating views and suggestions received during the consultation period to conclude the compilation of the Plan. The HKSAR Government will brief to the Panel on Environmental Affairs of the Legislative Council.

The dedicated website for the Plan had operated properly during the consultation period. However, due to technical problems that recently took place at the server of the network service provider, the performance of the dedicated website had been unstable. We had

subsequently followed up the matter and the network service provider had also carried out improvement works. The website is now in normal operation.

- (b) With a view to promoting collaboration efforts, the three governments had already established the Hong Kong-Guangdong, Guangdong-Macao Co-operation Joint Conferences as co-operation platforms, under which various expert groups had been set up. The existing institutional framework provides a solid basis for taking forward the various collaboration initiatives proposed in the Plan. Specific co-operation proposals will be taken up and discussed at the relevant expert groups, and there shall be co-ordinated implementation having regard to the prevailing circumstances. On environmental protection, we will continue to join hands with Guangdong in pursuing the various environmental co-operation initiatives at the Hong Kong-Guangdong Joint Working Group on Sustainable Development and Environmental Protection, which is co-chaired by the Secretary for the Environment and the Director-General of Environmental Protection Department of Guangdong Province.
- (c) In implementing co-operation proposals of the Plan, the three governments will accord higher priority to those that enjoy wider consensus. Well founded initiatives or proposals that sustain past efforts will be taken forward as they become mature. In areas such as improving the regional environmental and ecological quality, Hong Kong and Guangdong will strive for early completion of the joint study on air pollutant emissions reduction arrangements in Hong Kong and the Pearl River Delta (PRD) Region for 2011-2020; enhance the regional air quality monitoring network; and explore opportunities in controlling air pollutant emissions from vessels in the Greater PRD waters, including giving consideration to promoting ocean-going vessels at berth at the Greater PRD ports to use cleaner fuels, and so on.

The HKSAR Government will also continue to facilitate convenient commuting between Hong Kong and Guangdong as well as encourage green transportation. Taking account of practical

considerations, we shall follow up the collaboration recommendations of this area to be put forward in the Plan.

Population Policy for Hong Kong

12. **MR LAU KONG-WAH** (in Chinese): *President, the Government published in 2003 the Report of the Task Force on Population Policy (the Report) which recommended the dedication of resources to take forward the population policy and review annually the implementation of relevant decisions and programmes, with a view to publishing a report every two to three years. In addition, the Government established in 2007 the Steering Committee on Population Policy (SCPP) which is led by the Chief Secretary for Administration, with a view to facilitating the planning and co-ordination of efforts on population policy. In this connection, will the Government inform this Council:*

- (a) *whether the authorities follow the recommendations made in the Report to publish a review report on population policy every two to three years; if so, of the respective years when the review reports were published; if not, the reasons for that;*
- (b) *of the total number of formal meetings held by the SCPP since its establishment, and the policy recommendations put forth by it; and*
- (c) *given that in the 2010-2011 Policy Address, the Chief Executive indicated that he had asked the SCPP to focus its study on two topics, namely "ways to facilitate and support our elderly people to settle in the Mainland after retirement if they so wish" and "the ramifications of children born in Hong Kong to Mainland women returning to Hong Kong to study and live", and the Chief Secretary for Administration's Office pointed out in its paper submitted to this Council in December 2010 that "the SCPP will study the above two topics in detail in the coming months and aims at working out initial proposals in about a year's time", when the relevant study will be completed and when the proposals will be published?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, in 2003, the Government published the Report which put forward a range of recommendations having taken into account the prevailing population characteristics and profile as well as the projected population trends. The recommendations were implemented and followed up by various bureaux. From time to time, the relevant bureaux have, in accordance with the existing mechanisms of the Government, examined and reviewed the population-related measures under their purview. They have considered if such measures should be updated in the light of the latest population projections. In addition, a total of over 3 000 public responses were received through the Public Engagement Process on Population Policy conducted by the Council for Sustainable Development (SDC) from June to October 2006. The SDC made a number of recommendations in its Report on the Public Engagement Process on Population Policy published in June 2007. In response to these recommendations, the Administration examined the measures in question and subsequently released a report in December 2007.

Since its establishment in 2007, the SCPP has held 10 meetings. Over the past few years, the SCPP has discussed various issues, including encouraging births and attracting talents, and so on. The SCPP has also focused its study on two specific topics as stated in the 2010-2011 Policy Address, namely, ways to facilitate elderly people to reside in the Mainland after retirement, and major issues and challenges in relation to the trend of Mainland women giving birth in Hong Kong. The outcome of the review was elaborated in the 2011-2012 Policy Address. Various long-term and short-term measures were put forward therein, for example, the "Guangdong Scheme" which would enable eligible Hong Kong elderly people, who choose to reside in Guangdong, to receive a full-year payment of Old Age Allowance in Guangdong without the need to come back to Hong Kong. As population policy covers a number of policy areas, the SCPP, in addition to the abovementioned work, is studying the relevant issues, such as manpower projection and admission of talents, and collection of the related data. We plan to give a further account on the review of the overall population policy in the second quarter of this year.

Offices of Government of HKSAR on the Mainland

13. **DR LAM TAI-FAI** (in Chinese): *President, a number of small and medium sized enterprises in Hong Kong have relayed to me that, with the rapid*

development of the Chinese economy, the Mainland market has profound potential for development, and quite a number of Hong Kong enterprises hope to seize the business opportunities brought by the "Outline of the Twelfth Five-Year Plan for the National Economic and Social Development of the People's Republic of China" (the 12th Five Year Plan) and expand domestic sales on the Mainland. However, due to inadequate support from the offices of the Hong Kong SAR Government on the Mainland (Offices on the Mainland), they lack understanding of the actual situation of the Mainland market and the channels to access the market. In this connection, will the Government inform this Council:

- (a) of the total number of requests for assistance from Hong Kong enterprises in developing businesses on the Mainland received by various Offices on the Mainland in each of the past five years, and the number of such cases in which assistance had been provided;*
- (b) of the total number of Hong Kong enterprises which had received support services for business development from various Offices on the Mainland in each of the past five years, with a breakdown by type of service;*
- (c) of the general procedure and practices of the Offices on the Mainland for handling requests for assistance made by Hong Kong enterprises when developing businesses on the Mainland;*
- (d) whether it plans to increase the number of Offices on the Mainland and expand their functions in response to the huge market on the Mainland and rising demand for support from Hong Kong enterprises; if so, of the details; if not, the reasons for that;*
- (e) whether the Offices on the Mainland will conduct regular surveys on the market conditions in various Mainland provinces and cities, and provide Hong Kong enterprises with the relevant and detailed information; if they will, of the details; if not, the reasons for that;*
- (f) whether the Offices on the Mainland will assist Hong Kong enterprises which intend to develop their businesses on the Mainland in liaising and acquainting with the appropriate government*

departments and relevant regulatory authorities on the Mainland, and inform them of the channels to access the market; if they will, of the details; if not, the reasons for that;

- (g) whether the Offices on the Mainland will consider providing legal and taxation services to the Hong Kong enterprises developing businesses on the Mainland; if they will, of the details; if not, the reasons for that;*
- (h) of the specific plans put in place by the Offices on the Mainland to further assist Hong Kong enterprises in expanding domestic sales in the Mainland market and seizing the business opportunities brought by the 12th Five Year Plan;*
- (i) given the reply of the Secretary for Commerce and Economic Development to my question on 29 February this year that should individual Hong Kong enterprises encounter problems in accessing the Mainland market, they can provide the specific details to the Offices on the Mainland, which will relay the cases with reference to their contents to the relevant Mainland authorities and then pursue follow-up action, of the total number of cases received by various Offices on the Mainland and referred to the Mainland government departments in each of the past five years, and among such cases, the number of those which had been settled; and*
- (j) whether comparison has been made on the difference between the work of various Offices on the Mainland and that of the overseas offices of the SAR Government in helping Hong Kong enterprises develop their businesses; if so, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, our reply to the various items relating to Hong Kong enterprises developing their businesses in the Mainland, and the support work of the Mainland Offices are set out as follows:

(a), (c) and (i)

The Beijing Office and the Hong Kong Economic and Trade Offices (ETOs) in Guangdong, Shanghai and Chengdu (the Mainland Offices) have been providing practical assistance to Hong Kong enterprises and residents in the Mainland as necessary. Upon receipt of the requests for assistance, the Mainland Offices will study the cases and liaise with the assistance seekers to gather more information about the cases as necessary. They will follow the "one country, two systems" principle and provide appropriate assistance having regard to the specific circumstances of the cases concerned and the wish of the assistance seekers, including referring the cases to the concerned Mainland authorities.

The Mainland Offices compile statistics on the assistance cases under four categories, namely "business and trade disputes", "complaints relating to real estate in the Mainland", "complaints against administrative, law enforcement and judicial agencies in the Mainland" and "others". Save for the category of "complaints relating to real estate in the Mainland", the other three categories may cover cases relating to "Hong Kong enterprises intending to develop their businesses in the Mainland". The Mainland Offices do not maintain separate statistics on this type of cases. The number of assistance cases handled by the Mainland Offices since 2007 is set out below (not including the cases relating to immigration and personal safety matters):

	2007	2008	2009	2010	2011	2012 <i>January to March</i>
Total	375	267	330	221	196	36

Owing to the varied nature and ways of handling the assistance cases, the Mainland Offices do not maintain statistics on the number of cases successfully assisted.

(b) The Mainland Offices are devoted to providing support to Hong Kong enterprises in the Mainland. The work in this area includes:

- (i) Handling general enquiries from Hong Kong enterprises and residents in the Mainland, which can be broadly grouped into the categories of "trade and business-related enquiries", "enquiries seeking information on the Government of the Hong Kong Special Administrative Region (HKSAR) or organization in Hong Kong", "enquiries seeking information on the Mainland", "miscellaneous enquiries or expression of views" and "initial enquiries relating to request for assistance". According to the existing categorization, the Mainland Offices do not maintain separate statistics on enquiry cases of "Hong Kong enterprise developing businesses in the Mainland". The number of enquiry cases since 2007 is set out below:

	2007*	2008	2009	2010	2011	2012 <i>January to March</i>
Total	9 307	19 260	19 339	17 933	16 626	3 490

Note:

* Before 2008, the Beijing Office adopted a different approach in recording the number of enquiries. Only those enquiries that were directed to certain desk officers were recorded.

- (ii) Assisting Hong Kong enterprises in obtaining information on operating businesses in the Mainland, including those relating to new laws, regulations and policies, economic and trade development, and various economic and trade activities. Individual Mainland Offices publish such information through newsletters and websites, publications, seminars and exhibitions, and so on. The Mainland Offices also organize activities such as seminars and study missions to facilitate the trade to have a better understanding of the local business environment and policies.
- (iii) The Mainland Offices are committed to maintaining close contact and relations with Hong Kong enterprises in the Mainland, and will assist in reflecting issues of common concern to the relevant Mainland authorities through appropriate channels.

- (d) Currently there are four offices of the HKSAR Government in the Mainland, namely the Beijing Office, Guangdong ETO, Shanghai ETO and Chengdu ETO. There are also three liaison units established in Shenzhen, Fujian and Chongqing (the first two are under the Guangdong ETO, the third one is under the Chengdu ETO). At the moment, the Government does not have any plan to establish new ETOs in the Mainland.
- (e) The Hong Kong Trade Development Council conducts research on the business and trade policies, laws and regulations, business environment and major domestic markets in the Mainland, and publish the related information with a view to assisting Hong Kong enterprise in exploring business opportunities. The Mainland Offices also conduct studies on specific topics.
- (f) If Hong Kong enterprises encounter difficulties in developing their businesses in the Mainland, the Mainland Offices will have regard to the specific requests of the concerned enterprises and the circumstances of the cases and endeavour to provide information and facilitation in liaising and communicating with the concerned local authorities under the "one country, two systems" principle and in accordance with their scope of duties and responsibilities.
- (g) Hong Kong enterprises conducting businesses in the Mainland are required to comply with the relevant Mainland laws and regulations and pay the required taxes. The Mainland Offices provide relevant information to the trade through their websites and bulletins, and so on. Regarding legal advisory support, since early 2009, the Guangdong ETO has, through an open tender process, commissioned the Hong Kong Federation of Trade Unions as the service provider to launch the "Free Legal Advisory Service" and to arrange professional Mainland legal practitioners as advisors to take shifts in the three counselling centres of the association in Guangzhou, Shenzhen and Dongguan to answer questions of Hong Kong enterprises and Hong Kong residents on Mainland-related legal matters through interviews or telephone.

- (h) The HKSAR Government has been assisting Hong Kong enterprises in promoting sales in the Mainland domestic market and in capturing the massive opportunities arising from the 12th Five Year Plan to explore and develop the Mainland market through multiple channels. The concerned bureaux and departments have maintained close liaison with the trade and the relevant Mainland authorities and reflect to the latter the views and concerns of Hong Kong enterprises and discuss with them measures to support the trade. The Government also provides support to the trade, especially the small and medium enterprises, under various funding schemes and through various organizations such as the Hong Kong Trade Development Council, the Hong Kong Productivity Council and trade associations to provide them with business information in the Mainland and support services on brand and market development as well as to organize relevant promotion activities.

In 2012-2013, the Mainland Offices will collaborate with trade associations in Hong Kong or other organizations to organize activities such as study missions, seminars, exhibitions or "Hong Kong Week", with a view to promoting Hong Kong brands and products, and assisting Hong Kong enterprises in building up image and promoting awareness of their brands in the Mainland market.

To provide further support for Hong Kong enterprises in increasing their competitiveness in the Mainland market, the Chief Executive announced in the 2011-2012 Policy Address the proposal to set up a \$1 billion dedicated fund to assist Hong Kong enterprises in exploring and developing the Mainland market through developing brands, upgrading and restructuring operations and promoting domestic sales in the Mainland. The Government proposes that the dedicated fund should comprise two parts: provide funding support to individual enterprises and to the non-profit-distributing organizations. The concerned bureau has consulted the Legislative Council Panel on Commerce and Industry and plans to submit the funding application to the Finance Committee in May 2012, with a view to launching the fund by mid-2012.

- (j) Save individual overseas ETOs with dedicated roles and functions (such as the Geneva ETO), generally speaking, the work of the Mainland Offices and overseas ETOs in assisting Hong Kong enterprises in developing businesses in the local area is similar.

Suspected Cases of Children Abduction

14. **DR PRISCILLA LEUNG** (in Chinese): *President, it has been learnt that earlier on a man allegedly attempted to induce and abduct several students of the La Salle Primary School (LSPS) in Kowloon Tong near the school when they were on their way walking to take a nanny van after school. LSPS reported the case to the police for record. In addition, crime squad police officers collected video records of the closed-circuit television cameras nearby for investigation. In this connection, will the Government inform this Council:*

- (a) *of the number of children who went missing in the territory of Hong Kong in the past three years; among them, the number of those who were suspected to be abducted, induced or kidnapped; the number of those who were successfully found, and whether any of them who went missing in Hong Kong was found outside the territory;*
- (b) *of the number of persons arrested for allegedly to have abducted, induced, forcibly taken away or kidnapped children in the past three years; among them, the number of those who were convicted, and the penalties generally imposed on them; whether the persons arrested (including those who were eventually acquitted) included any non-Hong Kong resident;*
- (c) *given that it has been reported that recently incidents involving suspected failed attempts of abducting and inducing children occurred one after another in many public places in Hong Kong, and some parents reported the incidents to the police for assistance afterwards, whether the police has formulated any contingency measure in respect of the series of cases of alleged attempts of abducting and inducing children; if so, of the measures; if not, the reasons for that; and*

- (d) *whether the police has, in respect of the recent incidents involving suspected failed attempts of children abduction, liaised with the law-enforcement departments on the Mainland and exchanged intelligence with them; if so, whether there are signs showing that "children abduction syndicates" from the Mainland attempt to abduct children in the territory of Hong Kong; if not, of the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) and (b)

The police received a total of three reports of "child abduction" cases (that is, stealing a child aged 14 or below) from 2009 to 2011. All the three children were found. A total of three persons were arrested. Two of these three cases involved children taken away by either their parents as well as runaways. In the remaining case, a stranger was involved and one person was arrested by the police. The arrested persons mentioned above were all Hong Kong residents. The case that involved a stranger took place in April 2010, in which a man took away a two-year-old girl from a park in Sham Shui Po. The police located the girl in the vicinity of the park on the same day and arrested the man. The girl sustained no injuries. The man was subsequently charged with "stealing child under 14 years" and "indecent assault". He was then convicted and sentenced to three years' imprisonment.

"Child abduction" is a very serious offence. According to section 43 (Stealing Child under 14 years) of the Offences Against the Person Ordinance (Cap. 212), any person who unlawfully, by any means, leads or takes away, or decoys or entices away, or detains any child under the age of 14 years, with intent to deprive any parent, guardian, or other person having the lawful care or charge of such child of the possession of such child shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for seven years.

(c) and (d)

From 2 February to 16 April this year, the police followed up a total of 22 cases of suspected child abduction. After investigation, it is confirmed that among these cases seven are merely misreported, another seven are out of misunderstanding and two are neither related to abduction nor criminal in nature. The six remaining cases are being followed up, and the major concern is that it is suspected that children had been followed, accosted or contacted by strangers. Up till now, there is no proof that these cases involve the offence of child abduction.

The police have attached great importance to reports of suspected attempt of child abduction and will follow up each and every case seriously. The Immigration Department has also stepped up checking at control points. It will strengthen its liaison with the police in a timely manner to prevent criminals from abducting children out of the territory.

Child-care Services and Facilities

15. **MR IP WAI-MING** (in Chinese): *President, regarding child care assistance and child care services, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of children aged between zero and three as well as four and six in various districts in the past three years, broken down by the 18 District Council districts (18 districts) in Hong Kong;*
- (b) *of the respective service quotas of child care centres, kindergarten-cum-child care centres (KG-cum-CCCs), residential child care centres (RCCCs), special child care centres (SCCCs), mutual help child care centres (MHCCCs) and Neighbourhood Support Child Care Project (NSCCP) in various districts in the past three years, broken down by the 18 districts in Hong Kong;*

- (c) *of the respective current demands for the services of child care centres, KG-cum-CCCs, RCCCs, SCCCs, MHCCCs and NSCCP, broken down by the 18 districts in Hong Kong; the respective average waiting time for the services of the various types of centres;*
- (d) *of the respective service quotas of child care centres, KG-cum-CCCs, RCCCs, SCCCs, MHCCCs and NSCCP provided by the authorities in 2012-2013, broken down by the 18 districts in Hong Kong; the increase/decrease in these service quotas;*
- (e) *whether the authorities have conducted a review of the various types of child care assistance and child care services; if they have, when the review was conducted and what the outcome is; if not, of the reasons for that;*
- (f) *of the respective general service hours of child care centres, KG-cum-CCCs, RCCCs, SCCCs, MHCCCs and NSCCP at present; given that quite a number of parents have to work for increasingly long hours, whether the authorities will consider extending the service hours of such centres; if they will, of the details; if not, the reasons for that; and*
- (g) *in respect of NSCCP, of the number of persons who had served as home-based child carers and the number of home-based child carers the authorities had planned to recruit in the past three years, broken down by the 18 districts in Hong Kong?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, it is the fundamental responsibility of parents to take care of their young children. To support parents who are unable to take care of their children temporarily because of work or other reasons, the Administration has all along provided subvention to non-governmental organizations (NGOs) to run a variety of day child care services, and endeavours to enhance the flexibility of such services. Families in financial difficulty may apply for different service subsidies or fee waiver.

On the other hand, RCCCs are set up to support children under six years old who cannot receive proper care from their families because of various reasons. They are required to undergo a comprehensive assessment on their welfare needs conducted by social workers before referral can be made for them to receive free residential care services. For children from birth to six years old with disabilities, the Government provides a series of pre-school rehabilitation services⁽¹⁾ to them. Through these early intervention services, the Government strives to enhance their physical, psychological and social developments, thus improving their opportunities for joining ordinary schools and participating in daily life activities, as well as to help their families meet their special needs.

My reply to the seven parts of Mr IP Wai-ming's question is as follows:

(a) The respective numbers of children "aged below three" as well as "aged above three and below six" in the past three years in Hong Kong broken down by the 18 districts are tabulated at Annex 1.

(b) and (d)

The number of places for RCCCs, a non-district-based service, remained at 207 from 2009-2010 to 2011-2012. To meet the service demand and further support needy families, the Administration will further enhance residential care services for children by providing an additional 130 places, including places for RCCCs, in phases from 2012-2013 onwards.

Upon the regularization and extension of the NSCCP to all 18 districts in October 2011, a minimum of 40 service places (including 26 home-based child care places and 14 centre-based care group places) are provided in each of the 18 districts. In order to meet the community's demand for child care services, service operators would increase the number of home-based child care places on a need basis and develop child carers' network.

The numbers of places in standalone child care centres (standalone CCCs), KG-cum-CCCs, RCCCs, SCCCs, MHCCCs and NSCCP

(1) Pre-school rehabilitation services subvented by the Social Welfare Department (SWD) include early education and training centres, SCCCs and integrated programmes in KG-cum-CCCs.

from 2009-2010 to 2012-2013 in each of the SWD's 11 administrative districts are tabulated at Annex 2.

- (c) Day child care services in various districts including standalone CCCs, KG-cum-CCCs, MHCCCs and NSCCP can meet the different needs of parents.

RCCC is not a district-based service. As for residential creches and residential nurseries, their utilization rates in the period from April to December 2011 were 92% and 98% respectively, while their respective average waiting time was less than a month and less than three months.

Unlike other child care services in general, before a child receives pre-school rehabilitation services, an assessment will be conducted by a doctor or a psychologist so as to ascertain the abilities and service needs of the child. A child in need will then be referred by social workers from the SWD, Hospital Authority or NGOs to the SWD's Central Referral System for Rehabilitation Services to waitlist for services. As such, the SWD does not have statistics on the utilization rates of SCCCs by district. As at March 2012, the number of children waitlisted for SCCC places was 1 319. In 2010-2011, the average waiting time was about 15 months.

The utilization rates of standalone CCCs, KG-cum-CCCs, MHCCCs and NSCCP in each of the SWD's 11 administrative districts from April to December 2011 are tabulated at Annex 3.

- (e) According to the above information, there is in general a continuous need for different kinds of child care services, and the service demand and supply remain at a stable level.

The SWD has been closely monitoring the service demand and operation of various day child care services. Efforts have been made to understand the local need for such services through District Social Welfare Offices, in order to ensure that these services can meet the demand in different districts. We note the demand of

stakeholders for flexible child care service, and thus more flexible services have been provided in recent years to meet different needs of parents, including the pilot implementation of NSCCP since 2008-2009. After reviewing the need for various day child care services, the SWD regularized and extended NSCCP to all 18 districts in October 2011.

The SWD has all along been closely monitoring the demand for residential child care services through a central referral system (CRS). The CRS captures the number of children referred by social workers for residential care service. To meet the service demand and reduce waiting time, the SWD provided in 2008-2009 and 2009-2010 an additional 100 residential child care places. We have also streamlined the referral, processing and admission procedures and improved the case management mechanism. As mentioned above, the Administration will provide an additional 130 places of residential care service for children (including RCCCs) in phase starting from 2012-2013.

Furthermore, the objective of pre-school rehabilitation services is to enable children with special needs to receive appropriate training as early as possible. Therefore, in the past five years, the SWD has allocated funding to provide about 1 393 additional places (including SCCC places), representing an increase of nearly 30%. A total of 6 230 pre-school rehabilitation service places are available at present, 1 757 of which are SCCC places. An additional 126 SCCC places are expected to come on stream in 2012-2013. Separately, the Community Care Fund has started to provide training subsidy for children who are on the waiting list of subvented pre-school rehabilitation services since January 2012, with a view to providing training subsidy for not more than 12 months for pre-school children from low-income families and in need of rehabilitation services, so as to enable them to receive necessary services as soon as possible, thereby facilitating their learning and development.

- (f) The Administration has strived to enhance the flexibility of day child care services. To effectively support parents who cannot take care

of their children because of long working hours or other reasons, some CCCs will extend their service hours till 8 pm from Monday to Saturday as needed. The operating hours of NSCCP, covering evenings, weekends and holidays, are more flexible than those of regular services.

The service hours of standalone CCCs, KG-cum-CCCs, RCCCs, SCCCs, MHCCCs and NSCCP are tabulated at Annex 4.

- (g) The pilot NSCCP was implemented in the 11 administrative districts of the SWD in October 2008. Each service operator was required to provide at least 26 home-based child care places and 14 centre-based care group places. In other words, at least 286 home-based child care places and 154 centre-based care group places would be provided over the territory. Upon the regularization and extension of NSCCP to all 18 districts in October 2011, at least 468 home-based child care places and 252 centre-based care group places are available over the territory at present. The service operators have the flexibility to provide additional home-based child care places on top of the minimum requirement set by the SWD to meet the actual service demand.

Annex 1

Number of children "aged below three"
by District Council District in 2009 to 2011

<i>District Council District</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Central and Western	6 700	6 800	5 700
Wan Chai	3 800	3 700	3 400
Eastern	10 100	11 800	11 000
Southern	4 600	6 200	6 500
Yau Tsim Mong	6 800	7 500	7 900
Sham Shui Po	6 300	6 800	8 300
Kowloon City	6 900	6 600	8 400

<i>District Council District</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Wong Tai Sin	5 400	5 600	6 100
Kwun Tong	9 900	9 400	10 900
Kwai Tsing	9 300	8 400	8 400
Tsuen Wan	7 200	7 000	7 100
Tuen Mun	9 600	9 100	10 000
Yuen Long	11 700	11 600	11 900
North	5 800	4 900	6 300
Tai Po	5 300	5 700	5 100
Sha Tin	10 700	11 000	11 600
Sai Kung	9 200	9 900	10 000
Islands	3 200	3 900	3 400
Overall ^{Note}	132 200	136 000	142 300

Note:

Figures above are rounded to the nearest hundreds, and thus may not add up to the total due to rounding

Source: General Household Survey, Census and Statistics Department

Number of children "aged above three and below six"
by District Council District in 2009 to 2011

<i>District Council District</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Central and Western	4 500	6 200	6 000
Wan Chai	2 300	4 000	3 500
Eastern	10 600	11 000	11 800
Southern	5 300	4 900	5 300
Yau Tsim Mong	6 700	7 800	8 200
Sham Shui Po	7 800	7 300	7 700
Kowloon City	6 900	8 300	8 000
Wong Tai Sin	7 100	6 900	7 700
Kwun Tong	11 700	12 200	14 000
Kwai Tsing	10 300	11 000	11 100
Tsuen Wan	6 800	8 200	7 600
Tuen Mun	8 800	10 000	9 700
Yuen Long	12 300	12 500	13 400

<i>District Council District</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
North	6 600	7 700	6 200
Tai Po	4 200	4 400	5 600
Sha Tin	11 200	11 600	12 900
Sai Kung	9 200	10 500	10 800
Islands	4 500	3 900	3 800
Overall ^{Note}	136 900	148 400	153 400

Note:

Figures above are rounded to the nearest hundreds, and thus may not add up to the total due to rounding

Source: General Household Survey, Census and Statistics Department

Annex 2

Places for Various Services (2009-2010 to 2012-2013)

<i>Administrative districts of the SWD</i>	<i>Aided standalone CCCs⁽¹⁾</i>				<i>KG-cum-CCCs⁽²⁾</i>			<i>SCCCs⁽³⁾</i>			<i>MHCCCs⁽⁴⁾</i>			
	<i>2009- 2010</i>	<i>2010- 2011</i>	<i>2011- 2012</i>	<i>2012- 2013</i>	<i>September 2009</i>	<i>September 2010</i>	<i>September 2011</i>	<i>2009- 2010</i>	<i>2010- 2011</i>	<i>2011- 2012</i>	<i>2009- 2010</i>	<i>2010- 2011</i>	<i>2011- 2012</i>	<i>2012- 2013</i>
Eastern/Wan Chai	96	96	96	96	3 394	3 713	3 556	180	204	204	0	0	0	0
Central/Western/Southern and Islands	40	40	40	40	2 868	2 879	3 057	199	199	199	67	67	67	67
Kwun Tong	0	0	0	0	1 218	1 378	1 427	66	66	66	56	56	56	56
Wong Tai Sin/Sai Kung	0	0	0	0	2 227	2 557	2 814	297	297	333	14	14	14	14
Kowloon City/Yau Tsim Mong	144	144	144	144	2 982	3 215	3 468	24	24	24	14	14	14	14
Sham Shui Po	62	62	62	62	546	636	712	157	157	205	51	51	51	51
Sha Tin	70	70	70	70	1 493	1 746	1 796	138	138	138	0	0	0	0
Tai Po/North	48	48	48	48	1 418	1 760	1 533	192	192	192	14	14	14	14
Yuen Long	64	64	64	64	1 179	1 145	1 175	81	81	108	42	42	42	42
Tsuen Wan/Kwai Tsing	102	102	102	102	1 876	2 011	2 096	168	168	168	28	14	42	42
Tuen Mun	64	64	64	64	1 038	1 264	1 082	120	120	120	28	28	14	14
Total	690	690	690	690	20 239	22 304	22 716	1 622	1 646	1 757	314	300	314	314

Notes:

- (1) To more effectively meet the different needs of parents and encourage mutual assistance in the neighbourhood by building up support network at the district level, the SWD has focused its resources on launching child care services that offer greater flexibility in the community. Thus, the SWD has no plan to expand services in the mode of standalone CCCs.
- (2) Only the places for CCCs attached to kindergartens are included. The service places for the coming school year (that is, September 2012) are not available at this stage.
- (3) The Administration plans to provide an additional 126 SCCC places in 2012-2013. Since the additional places are at the preparatory stage (including conducting local consultation, application for change in land use, drawing up the configuration of the premises, and so on), the SWD cannot provide detailed information on the district distribution of such places at this stage.
- (4) Given the low utilization rate of MHCCCs and that the SWD has provided additional resources to regularize and extend NSCCP (a similar service but with greater flexibility) to all 18 districts, the SWD has no plan to further expand the service of MHCCCs.

Utilization of Various Services (April to December 2011)

<i>Administrative Districts of the SWD</i>	<i>Aided standalone CCCs Utilization rate (%)</i>	<i>KG-cum-CCCs⁽¹⁾ Utilization rate (%)</i>	<i>MHCCCs⁽²⁾ Utilization rate (%)</i>	<i>NSCCP Number of children beneficiaries⁽³⁾</i>
Eastern/Wan Chai	100	82	N.A.	203
Central/Western/Southern and Islands	100	60	10	415
Kwun Tong	N.A.	85	3	508
Wong Tai Sin/Sai Kung	N.A.	64	33	622
Kowloon City/Yau Tsim Mong	100	90	Less than 1	431
Sham Shui Po	100	80	14	585
Sha Tin	94	78	N.A.	317
Tai Po/North	100	64	2	484
Yuen Long	100	85	4	680
Tsuen Wan/Kwai Tsing	100	83	6	541
Tuen Mun	97	76	1	791
Average	99	76	8	Total: 5 577

Notes:

- (1) Only covers the utilization rate of CCCs attached to kindergartens.
- (2) Given the low utilization rate of MHCCCs and that the SWD has provided additional resources to regularize and extend NSCCP (a similar service but with greater flexibility) to all 18 districts, the SWD has no plan to further expand the service of MHCCCs.
- (3) The SWD captures service utilization by counting the number of children using the service in each month. One child is counted only once in the month.

Service Hours of Various Services

<i>Services</i>	<i>Service Hours</i>
Aided standalone CCCs	Monday to Friday: 8 am to 6 pm Saturday: 8 am to 1 pm
KG-cum-CCCs ⁽¹⁾	<i>Full-day⁽²⁾</i> Monday to Friday: 8 am or 9 am to 4 pm or 6 pm <i>Half-day</i> Monday to Friday: 8 am or 9 am to 12 noon; or 1 pm to 4 pm or 5 pm

<i>Services</i>	<i>Service Hours</i>
RCCCs	24 hours
SCCCs	Normal service hours are Monday to Friday, 9 am to 5 pm. Individual centres may have longer service hours on weekdays or provide services on Saturday having regard to district needs.
MHCCCs	The centres provide services according to district needs, and the normal service hours are morning to evening. MHCCCs participating in the Subsidy Scheme for Parents provide services to families in need from 6 pm to 10 pm on Monday to Friday, and eight hours of service on Saturday, Sunday and public holidays through appointments.
NSCCP	Home-based child care service under the NSCCP provides services from 7 am to 11 pm, and centre-based care groups are open till 9 pm the earliest on weekdays and provide services on some weekends and some public holidays.

Notes:

- (1) Only covers the utilization rate of CCCs attached to kindergartens.
- (2) Some non-profit-making KG-cum-CCCs provide full-day services for longer time, and provide services till 1 pm on Saturday.

Use of Compact Fluorescent Lamps and Light Emitting Diode Lamps

16. **MS AUDREY EU** (in Chinese): *President, in recent years, the Government and various sectors of the community advocate abandoning the use of incandescent light bulbs (ILBs) and replacing them with the use of compact fluorescent lamps (CFLs) and light emitting diode (LED) lights. In this connection, will the Government inform this Council whether it knows, in each of the past five years:*

- (a) *the respective quantities of ILBs imported to and re-exported through Hong Kong and the local market share of ILBs;*
- (b) *the respective quantities of CFLs imported to and re-exported through Hong Kong and the local market share of CFLs; and*
- (c) *the respective quantities of LED lights imported to and re-exported through Hong Kong and the local market share of LED lights?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the Census and Statistics Department compiles the import and re-export statistics of ILBs, hot cathode fluorescent lamps (including CFLs and fluorescent tubes) and LED based on the information provided by importers and exporters to the Customs and Excise Department (C&ED). The figures for 2007-2011 are as follows:

- (a) ILB

<i>Year</i>	<i>Imports Quantity (Number in million)</i>	<i>Re-exports Quantity (Number in million)</i>
2007	153	115
2008	161	109
2009	119	85
2010	100	93
2011	109	91

- (b) Hot Cathode Fluorescent Lamps (including CFLs and Fluorescent Tubes)

<i>Year</i>	<i>Imports Quantity (Number in million)</i>	<i>Re-exports Quantity (Number in million)</i>
2007	100	86
2008	107	86
2009	65	47
2010	73	41
2011	49	24

(c) LED ^{Note}

<i>Year</i>	<i>Imports Quantity (Number in million)</i>	<i>Re-exports Quantity (Number in million)</i>
2007	18 710	14 680
2008	21 552	14 093
2009	20 698	14 073
2010	28 356	19 068
2011	32 231	21 794

Note:

Apart from general lighting purposes, LED can also be used as decorative lighting, indicators, display boards, and so on.

The above figures are compiled based on the information provided by various importers and exporters to the C&ED, but the difference between the import and re-export quantities in a particular year is not equivalent to the local sales figure that year.

We do not have local sales figures of various types of lamps each year. According to a survey commissioned by the Electrical and Mechanical Services Department in 2008, the numbers of ILBs, CFLs and fluorescent tubes used in the lighting installations of local residential and commercial buildings were about 11 million, 21.7 million and 19.9 million respectively. The survey did not cover the number of LED.

Beauty Industry Code of Practice

17. **MISS TANYA CHAN** (in Chinese): *President, it has been reported that the Consumer Council (CC) has started discussions with the beauty industry in 2006 and drawn up a Beauty Industry Code of Practice (CoP) with a view to enhancing service quality of the industry and consumer confidence through self-regulation by the practitioners in the beauty industry. Recently, the CC has also published the Report on Unfair Terms in Standard Form Consumer Contract, in which the CC recommends that fair terms be adopted and a cooling-off period be provided in standard form consumer contracts (standard*

contracts) to protect the rights and interests of consumers. In this connection, will the Government inform this Council:

- (a) whether it knows the number of complaints received by the CC in the past three years regarding the pre-payment mode of consumption, the total amounts of money involved and follow-up results, together with a breakdown by industry (including beauty, fitness and other industries);*

- (b) whether the authorities will take specific measures to encourage the beauty and other industries to adopt the standard contract proposed by the CC so as to tie in with the publicity and promotion campaign of the CC; if they will, of the details; if not, the reasons for that; whether the authorities will consider stepping up relevant public education to enable members of the public to know about the latest sample of standard contract released by the CC, and encourage them to advocate the use of relevant standard contracts among the traders; if they will, of the details; and*

- (c) whether at present the authorities will consider incorporating the principles and/or specific terms of the CC's CoP into the legal framework for regulating trade practices, and implementing specifically the "Guidelines on drafting standard form consumer contracts for beauty industry" and the cooling-off period arrangement recommended by the CC for the pre-payment mode of consumption through enacting legislation; if they will, of the specific arrangements for the legislative study and public consultation concerned; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, with a view to encouraging industry self-regulation and protecting consumer rights, the CC joined hands with industry representatives and prepared a Code of Trade Practices for the beauty industry in 2006. The Code covers various operational aspects of the industry, including assurance of quality of services and goods, promotion and marketing practices, the pre-payment mode of operation, promulgation of performance pledges and arrangements for handling consumer complaints. Earlier this month, the CC published a *Report*

on *Unfair Terms in Standard Form Consumer Contracts*, the purpose of which is to encourage and assist traders in avoiding the use of unfair terms. The Council takes the beauty industry as a sample case, and provides a set of guidelines on drafting standard contracts and a model contract for reference by the industry.

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

- (a) The CC groups complaints generally by major industry. The Council does not keep statistics on the number of complaints and the amount of money involved in cases concerning the pre-payment mode of consumption by industry. To reply to the Member's question, the CC has examined all case files under the industries that are named in the question (that is, "beauty care" and "fitness and yoga centres") and "telecommunications" for the past three years. The number of cases involving pre-payment is set out in the following table. As regards the result of follow-up actions, the Council has mediated successfully in around 80% of the cases.

Number of complaint cases involving pre-payment

<i>Year</i>	<i>Beauty care</i>	<i>Fitness and yoga centres</i>	<i>Telecommunications</i>
2009	1 195	385	6 486
2010	568	775	6 477
2011	606	637	5 251
2012 (the first quarter)	137	81	1 314

- (b) According to the Consumer Council Ordinance (Cap. 216), the functions of the Council include collecting, receiving and disseminating information concerning goods, services and immovable property and encouraging business and professional associations to establish codes of practice to regulate the activities of their members. Hence, initiatives to encourage and assist suppliers in avoiding the use of unfair contract terms are within the statutory functions of the Council.

To tie in with the publication of the *Report on Unfair Terms in Standard Form Consumer Contracts*, the CC has launched a series of

publicity activities, including publishing a promotional pamphlet, hosting a press conference and introducing the major findings of the Report through the *CHOICE Magazine* and radio programmes. We will continue to liaise with the Council to see if there is a need to assist the Council in its publicity campaign.

- (c) The recommendations in relation to trade practices in the Code of Trade Practices for the beauty industry seek to ensure that consumers can make an informed transactional decision with sufficient information and under their free will. Aiming to enhance consumer protection, the provisions on trade practices under the existing Trade Descriptions Ordinance (Cap. 362) and the legislative proposals under the Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012 (which is under this Council's scrutiny) are all formulated in accordance with the same principle.

On standard consumer contract, we welcome the CC's initiative of providing a set of guidelines on the standard consumer contracts for the beauty industry. We hope that the business sector will have regard to the guidelines suggested by the Council in drawing up standard consumer contracts. At present, the Unconscionable Contracts Ordinance (Cap. 458) provides for a range of relief measures for aggrieved consumers who enter into contracts that are found to be unconscionable. It sets out a list of factors for the court to determine if a contract (or part of a contract) is unconscionable, such as the relative strengths of the bargaining positions of the consumer and the other party. Many of these factors are analogous to benchmarks adopted in other jurisdictions for determining if a contract term is fair or not. Together with the Misrepresentation Ordinance (Cap. 284) and the Supply of Services (Implied Terms) Ordinance (Cap. 457), the existing law already accords certain protection to consumers aggrieved by unfair contract terms.

The imposition of a mandatory cooling-off period would affect the business operation of traders and the process in which consumers enter into contracts. During the consultation on legislative proposals against unfair trade practices, stakeholders expressed concerns over the practical arrangements of cooling-off period, such

as the arrangements for consumers to exercise the right of cancellation, the refund arrangements and small-value transactions. We need more time to carefully study how to address these concerns properly by legislation. Our current priority is to take forward the Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012. We are working closely with the relevant Bills Committee of this Council with a view to completing the scrutiny of the Bill as soon as possible.

Waste Management in Hong Kong

18. **MR KAM NAI-WAI** (in Chinese): *President, regarding the waste management strategies for Hong Kong, will the Government inform this Council:*

- (a) of the respective costs per tonne for waste treatment through the three strategic landfills and incineration in the past five years, broken down by the procedures of waste collection, transportation, transfer and final disposal; further, the Government's estimation of the respective relevant costs after the extension of the three strategic landfills as planned; as well as the respective relevant costs it estimated for waste treatment at the planned Shek Kwu Chau incinerator;*
- (b) according to relevant information or the Government's estimation, of the cost incurred in the past five years for reducing each tonne of waste through the strategy of waste reduction at source, together with a breakdown by the various measures related to this strategy (for example, publicity, education and recovery programmes, and so on);*
- (c) of the Government's estimation of the cost per tonne for waste treatment through the strategy of anaerobic digestion and composting at the planned Organic Waste Treatment Facilities (OWTFs) in Siu Ho Wan and Sha Ling, together with a breakdown by various procedures of waste collection, transportation, transfer and final disposal; the operation mode of OWTFs; besides these two OWTFs, whether the authorities have planned to identify other sites*

for the construction of additional OWTFs, with a view to increasing the quantity of organic and food waste treated; if they have, of the details and work schedule; if not, the reasons for that; apart from developing public OWTFs, whether the authorities have any policy in place to support the development of private waste treatment centres or facilities; if they have, of the details and timetable of implementation; if not, the reasons for that;

- (d) *of the latest progress, details and timetable of the respective legislative exercises relating to the full implementation of the Product Responsibility Schemes (PRSs) in respect of six types of products, namely, vehicle tyres, plastic shopping bags (PSBs), electrical and electronic equipment, packaging materials, beverage containers and rechargeable batteries; whether it has conducted impact assessment on the full implementation of PRS in respect of these six types of products; if so, of the assessment details for each type of products; if not, the reasons for that; the expected changes in the respective quantity of waste generated in Hong Kong after the full implementation of PRS in respect of the various types of products;*
- (e) *apart from raising the target of waste recovery rate to 55% by 2015, whether the Government has set any clear and feasible target for waste management strategies including waste reduction at source, recycling, waste separation and recovery as well as addressing the waste problem at the output end, and so on, and whether it has assessed the optimal and minimal outcome which can be attained through various waste management strategies; if it has, set out the outcome by strategy and type of waste (for example, domestic waste, commercial waste, municipal solid waste (MSW) and overall construction waste, and so on); further, in setting such targets and implementing the waste management strategies, whether the Government compares the respective advantages and weaknesses between implementing the relevant measures as a package and introducing them one by one; if so, of the details and the respective outcome that can be attained through different combinations of measures; if not, the reasons for that; and*

- (f) *whether it had compiled statistics in the past five years on the annual quantity of waste produced by travellers visiting Hong Kong; if it had, of the quantity of waste produced by those visiting Hong Kong under the Individual Visit Scheme, the percentage of such waste in the annual quantity of waste produced by travellers visiting Hong Kong, and the impact of which on waste management in Hong Kong?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, Hong Kong's waste management problem is exacerbated by the exhaustion of the three existing landfills in 2014, 2016 and 2018. In response to this Council's views in late 2010 regarding the extension of the Southeast New Territories Landfill, we explained to this Council and the wider community in January 2011 that in order to effectively tackle our waste problem, there is a need to pursue a three-pronged waste management strategy including (i) strengthened actions to reduce wastes at source and to promote waste recycling, (ii) introduction of modern technologies to upgrade our waste treatment capability, and (iii) timely extension of landfills. This approach is in line with the experience of many other modern cities across the globe in pursuing sustainable waste management. We also justified in details vide our submission for the special meeting of the Legislative Council Panel on Environmental Affairs (EAP) on 20 April that no modern city in the world could resolve its waste problem solely through waste reduction and recovery. Hong Kong needs to implement the three-pronged strategy in a timely manner and only by this could we tackle our waste problem effectively.

Our reply to the question is as follows:

- (a) Hong Kong does not operate any incineration facilities for treating MSW, and we rely principally on landfills in disposing of our waste. Since the 2007-2008 financial year, the per-tonne cost of individual handling procedures for landfilling is:

Collection and Transportation	Between \$180-\$224
Transfer	Between \$192-\$208
Landfill Disposal	Between \$142-\$168

On the whole, regardless of the disposal method (either through existing landfills or their extensions and Integrated Waste Management Facilities (IWMF) Phase 1 that may be developed in future), the cost for the collection, transportation and transfer of waste will depend on the relevant collection/transportation routes and modes of transfer, as well as the prevailing market conditions.

As for disposal, the disposal cost at the landfill extensions is expected to be comparable to that of the existing facilities. As for the IWMF Phase 1, we estimate that on the basis of money-of-the-day prices, the construction cost of the proposed project is about \$14,960.1 million (that is, equivalent to \$11,383.0 million at September 2011 prices), and the annual recurrent cost is about \$353 million.

- (b) Reducing waste at source and promoting recovery have always been our priorities under the three-pronged waste management strategy; there are multiple initiatives underway for this purpose. The Environmental Protection Department (EPD) is making continuous efforts to work with relevant government departments, district councils, community groups, property management companies, green groups, social services organizations, schools as well as public/private organizations in promoting source separation of waste and encouraging community participation in waste reduction, recovery and recycling in Hong Kong. In addition, following the successful implementation of the first phase, we are now preparing to extend the Environmental Levy Scheme on Plastic Shopping Bags (the Levy Scheme) to cover all retailers, and at the same time we are preparing to introduce a new mandatory PRS on waste electric and electronic equipment (WEEE). We have also recently completed the public consultation on the introduction of MSW into Hong Kong. We shall consider the outcome of the consultation and would as soon as practicable draw up the proposed way forward on the basis of the analysis of the feedback received.

As a result of wide-ranging publicity and educational campaigns as well as relevant waste reduction initiatives, the recovery rate and recovery quantity of MSW in Hong Kong have been increasing

steadily in recent years. The overall recovery rate has increased from 45% in 2006 to 52% in 2010, while the total recovery quantity has increased from 2.84 million tonnes in 2006 to 3.6 million tonnes in 2010. The Government has also committed to raising the recovery rate to 55% by 2015 through stepping up of publicity and promotional efforts, extending the community recycling network and taking forward the relevant legislation. Yet as the effectiveness of these relevant measures is not entirely correlated with the resource input, their benefits could not be reflected in terms of "the cost incurred for reducing each tonne of waste" in a straightforward manner.

- (c) Regarding the cost for the collection, transportation and transfer for the OWTFs, as mentioned in part (a) of the reply, regardless of the disposal method, the cost for the collection, transportation and transfer of waste will be affected by the relevant collection/transportation routes and modes of transfer, as well as the prevailing market conditions. As the tender work for the first phase of OWTF suggests that the costs of the facility might be significantly higher than originally envisaged (\$489 million at money-of-the-day prices estimated in 2010), we are now reviewing the situation and there is no data on the disposal cost of the two facilities at this stage.

As for the mode of operation, Siu Ho Wan in North Lantau has been selected as the site for the first phase of OWTF, which is expected to have a daily treatment capacity of 200 tonnes of food waste. Sha Ling in North District has been selected as the site for the second phase with a treatment capacity of about 300 tonnes per day. The first phase of OWTF will adopt the biological treatment technologies of anaerobic digestion and composting to turn the source-separated industrial and commercial food waste into biogases and compost products. The electricity generated by the biogases can supply power for use by the OWTF and the surplus power can also be exported to the power grid. For both phases of OWTF, the works contracts will be tendered to engage a contractor to design, build and operate the facility. In addition, in early 2011, the Government started the search for suitable sites throughout Hong Kong to construct more OWTF (including regional facilities). Subject to the

result of the site search exercise, we will further examine the feasibility and conduct detailed analysis. On the other hand, organic waste recycling is one of the recycling operations that we accept for the purpose of the tendering in leasing out the EcoPark. The trade may wish to keep in view of the EcoPark's leasing information, and we are willing to provide technical assistance.

- (d) The Government has expedited the implementation of the PRS on the basis of the action agenda announced in January 2011. Our current priority is to implement the full extension of the Levy Scheme, and to introduce the mandatory PRS for WEEE. Having regard to the findings of the respective public consultation exercises, we briefed the EAP at its meeting of 28 November 2011 on the proposed way forward of the two mandatory PRSs. We are now preparing the legislative proposals for their early introduction into and scrutiny by the Legislative Council.

We have assessed the impact of the above two mandatory PRSs. Since the implementation of its first phase, the Levy Scheme has successfully fostered the "Bring Your Own Bag" habit in the community, thus achieving the objective of waste reduction. The disposal of PSBs originated from those registered retail outlets subject to regulation has reduced sharply by about 90%. In planning for the second phase, we have already taken into account the impact assessment and have recommended that in extending the Levy Scheme, we switch to the approach whereby the PSB charge could be retained by retailers. With this approach, small and medium enterprises could be freed from the administrative burden and compliance cost in relation to the present levy remitting requirement. Regarding the PRS for WEEE, we had engaged a consultant and conducted business impact assessments, of which the findings and recommendations have been taken into account as we mapped out the way forward for this PRS. We will continue to engage the relevant trades in drawing up the operational details while we prepare the legislative proposals.

In addition, the EPD has been supporting the relevant trades in implementing voluntary PRSs for compact fluorescent lamps and

fluorescent tubes, computers, rechargeable batteries and glass bottles. Each of these schemes has achieved certain results since inception:

- (i) compact fluorescent lamps and fluorescent tubes: about 1.4 million compact fluorescent lamps and tubes have been recovered since the recovery scheme was launched in March 2008;
- (ii) computers: about 76 000 items of computer products have been recovered since the recovery scheme was launched in January 2008;
- (iii) rechargeable batteries: 317 tonnes of rechargeable batteries have been recovered since the recovery scheme was launched in April 2005; and
- (iv) glass bottles: over 3 200 tonnes of waste glass have been recovered since November 2008 through a number of recovery schemes.

We will regularly monitor the situation of waste generation, and will consider the feasibility in introducing new mandatory PRSs for other products.

- (e) The Government implements a three-pronged waste management strategy and the three components of this strategy are correlated, intertwined and mutually indispensable in seeking to solve the waste management problem of Hong Kong. On the whole, reducing waste at source and promoting recovery are the first priorities in the three-pronged approach of our waste management strategy. As far as MSW is concerned, we have set clear objectives in the light of the actual situation in Hong Kong. We aim to raise the recovery rate of MSW to 55% by 2015 through stepping up publicity and promotional effort on waste reduction and recycling. In parallel, we have expedited the preparation of legislative proposals for PRSs. We are also analysing the feedback collected during the public

consultation for MSW charging with a view to mapping out the way forward. That said, no advanced cities in the world can solve their waste problem solely by waste reduction and recovery. We have pointed out in our submission for the special EAP meeting on 20 April that, even if MSW charging were implemented in Hong Kong to achieve the same magnitude of waste reduction as in the Taipei City and Seoul, in case IWMF Phase 1 is not commissioned as planned, there would still be about 9 000 tonnes⁽¹⁾ of waste to be landfilled by 2018 on a daily basis. Accordingly, there is still a pressing need for us to pursue the timely development of suitable waste treatment facilities in addition to the implementation of various waste reduction initiatives. While the current administration could not complete the procedures for seeking the Legislative Council's funding approval in respect of the introduction of IWMF Phase 1 and the extension of the three strategic landfills, we will continue to carry out our existing waste reduction initiatives.

- (f) We gauge information relating to the generation, recovery and disposal of MSW in Hong Kong every year mainly through analysing the records of waste reception at landfills, surveys of the operational data of the recycling industry and other relevant import/export data. As we cannot trace the specific sources of waste in our analysis and survey, we do not have the statistics on waste specifically generated by inbound visitors.

Mobile Network Failure

19. **MR PAUL TSE** (in Chinese): *President, it has been reported that, due to the power outage in the building in which the New Territories switching centre of the SmarTone Telecommunications Limited (SmarTone) is situated, its mobile communication and Internet services for various districts of Hong Kong Island, Kowloon and the New Territories were disrupted on 9 April 2012 for about eight hours, affecting as many as 1.5 million users. Yet, SmarTone had still not given*

(1) Waste reduction achieved in Taipei City and Seoul has grown over time after the implementation of MSW charging to say 60% cumulative in 10 years. Even if we take this factor into account as well, our waste burden would still be about 7 000 tonnes per day in the long term.

any explanation or made any announcement on the incident by that evening and the company released a statement on the disruption only by 10 April. In this connection, will the Government inform this Council:

- (a) whether the authorities have assessed the impact of the aforesaid incident on the daily operation of Hong Kong as an international financial centre; if they have, of the assessment results; if not, whether an assessment can be conducted as soon as possible;*
- (b) whether telecommunications service providers (service providers) are required by the Government to take contingency measures to minimize the inconvenience and losses caused to users during service disruptions; if so, of such contingency measures; if not, the reasons for that;*
- (c) in response to the aforesaid incident, whether the Government has considered enhancing its supervision of large service providers and imposing heavier penalties on service providers for contraventions of regulations so as to ensure the stability of telecommunications services and reduce the chances of occurring similar incidents;*
- (d) given that some academics have pointed out that at present, service providers should normally provide "three levels of support" in their service delivery systems to ensure that services will remain unaffected during system breakdown but some newspaper reports have pointed out that SmarTone provides only "two levels of support" in its service delivery system, rendering it unable to repair the system immediately during system breakdown, whether the Government will consider setting standards on the stability of service delivery systems to safeguard the public's interests;*
- (e) given that during the aforesaid incident, quite a number of members of the public called the customer service centre of SmarTone or visited its stores to enquire about the cause of the incident, but different replies were given by its customer service centre and stores, of the Government's existing mechanism or policy to safeguard the right of telecommunications service users to be given timely information in case of similar incidents;*

- (f) *whether the authorities have assessed the number of standby officials and healthcare personnel of various Policy Bureaux, government departments and hospitals who needed to use the services of SmarTone during the disruption of its services, as well as the impact of the incident on their work; if so, of the assessment results; if not, whether an assessment can be made as soon as possible; and*
- (g) *in response to the aforesaid incident, whether the Government has considered requiring the five service providers with the largest market shares to come up with an emergency response mechanism so that in case one service provider suffers from network failure, the others will provide communication network to the affected users to ensure that the service is not disrupted?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to the question raised by Mr TSE is as follows:

- (a) The question tapped on the incident which happened on a public holiday in Hong Kong. Our stock market and major financial institutions were closed on that day. The Administration did not receive any reports that the abovementioned incident had impacted on Hong Kong's financial system. The abovementioned incident has minimal impact on the overall operation of the Hong Kong's financial system.

In fact, the Government has already formulated a contingency mechanism with financial regulators to ensure effective communication among financial regulators and timely response in emergency situations so as to maintain market operation as far as possible.

- (b) Under the licence conditions, licensees shall at all times during the validity period of their licences operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Communications Authority (CA). To comply with the licence conditions, network operators are obliged to restore the service

affected as soon as possible in case of service suspension or disruption so as to minimize the inconvenience caused to users. According to the Guidelines for Fixed and Mobile Network Operators for Reporting Network Outage⁽¹⁾ (Guidelines) issued by the Office of the Communications Authority (OFCA), network operators are responsible for providing prompt information to their customers on network outages resulting in service suspension or disruption.

- (c) Section 36C of the Telecommunications Ordinance (TO) provides that, where a licensee fails to comply with any licence condition, the CA may impose a financial penalty not exceeding \$200,000 on the first occasion, and not exceeding \$500,000 and \$1 million respectively on the second and subsequent occasions. Other penalties available to the CA include issuing directions to a licensee under section 36B of the TO, requiring it to take such action as the CA considers necessary in order for the licensee to comply with the conditions of its licence.

According to the Guidelines, SmarTone is required to submit a full report within 14 working days after the incident (that is, on or before 27 April), giving a detailed account of the measures which have been, or will be, taken in order to prevent similar incidents from happening again, as well as an implementation plan for the proposed measures. The CA will carefully consider the report submitted by SmarTone and, taking into account all circumstances of the incident, determine whether there has been non-compliance. If so, regulatory action will be taken as appropriate.

- (d) According to SmarTone's preliminary report, in addition to the building's normal power supply system, its switching centre in Sha Tin is supported by double power backup systems, including a standby battery system and a backup generator. At the beginning of the incident, the standby battery and backup generator functioned

(1) The Guidelines apply to "telecommunications network operators", that is, fixed network operators, mobile network operators, short message service licensees, or international value-added network services operators who provide service for the delivery and exchange of short messages among fixed and mobile networks.

properly. Subsequently, the backup generator malfunctioned and the circuit breakers were triggered. The resulting power outage disrupted the service of 25% of SmarTone's cell sites.

The CA will carefully study the report submitted by SmarTone, investigate the cause of the incident, and confirm whether SmarTone has taken all appropriate measures to prevent similar incidents in the future.

The OFCA has written to all fixed and mobile network operators, requesting them to review the power supply systems of their equipment in order to forestall the occurrence of similar incidents that may affect their network services. In view of the SmarTone incident, the OFCA, together with the network operators, will examine the need to improve the reliability of their power supply systems so as to ensure a high quality of network services.

- (e) We agree that the customers affected by network service disruption or suspension definitely have the right to be informed. Therefore, it is stipulated in the Guidelines that network operators, having first-hand information about the operational status of their networks and services, should be responsible for providing prompt information and advice to their customers on outages. After the SmarTone incident, the OFCA has written to network operators, urging them to review and enhance the existing notification mechanism on network outages. It will also meet with the operators to follow up the matter.
- (f) Standby arrangements, including the means of communication with standby officers in case of emergency, are made by government bureaux and departments according to their operational needs. As to whether any standby officers use the mobile telecommunication service of SmarTone, we do not have the relevant information since officers are generally not required to use the services of specific telecommunication service providers.

As far as medical personnel are concerned, hospital services under the Hospital Authority (HA) were not affected by this incident.

Public hospitals use the Private Automatic Branch Exchange (PABX) system, which is a fixed-line telecommunication system, as their major telecommunication tool and mobile phone is only used as a supplementary tool. HA's hospitals have devised contingency plans for failure in telecommunication systems and conducted drills regularly.

- (g) The implementation of a mechanism to forward communications to other network operators in the event of network failure involves a number of considerations, including technical feasibility, efficient use of the spectrum, operators' network capacity and cost-effectiveness of resource allocation.

The Government considers that in the event of network failure, the telecommunication operator's first and foremost task is to restore its service as soon as possible and disseminate timely information to the affected customers about the incident, such as the districts and areas affected and the estimated time of service resumption, so that they can keep abreast of the situation and make proper arrangements. In view of the SmarTone incident, the OFCA, together with network operators, will review the notification mechanism on network failure and explore technical options for enhancing the stability and reliability of telecommunication networks, including the feasibility of forwarding communications to other network operators in the event of network failure.

Monitoring of Mainland Private Enterprises Listed in Hong Kong

20. **MR FREDERICK FUNG** (in Chinese): *President, quite a number of companies published their results in recent months, and among them many Mainland private enterprises (MPEs) listed in Hong Kong have encountered financial and auditing problems (including resignation of auditors owing to queries about the veracity of the accounts, sharp increase in short-term debts, non-business related losses incurred from participating in financial derivative activities, or deferrals in publishing results because of unclear accounts), leading to substantial volatility of their share prices, and investors suffer losses. Further, such cases have also aroused concern of the market, alleging that the*

standards of corporate governance of MPEs vary, and at the same time querying whether the relevant listing threshold and regulatory mechanism, and so on, are too lenient. In this connection, will the Government inform this Council:

- (a) of the existing measures for regulating the MPEs listed in Hong Kong; whether it had in the past compiled statistics and conducted research in respect of the quality of corporate governance and about the situation of MPEs listed in Hong Kong encountering financial and auditing problems, and so on; if it had, of the findings; whether it has conducted investigation to understand the situation relating to the recent cases of MPEs involving in the aforesaid financial and auditing problems, and so on; if it has, of the reasons why they encountered such problems, and whether issues of violation of the Listing Rules, mismanagement, delays in the dissemination of information and having misled investors, and so on, were involved; whether it knows if the Securities and Futures Commission (SFC) of Hong Kong has followed up the relevant cases; and*
- (b) whether the authorities have assessed the impact of the successive cases of MPEs encountering problems on the stability and reputation of the financial market of Hong Kong; whether it will review if the current listing threshold, the sponsor regulatory regime, as well as the existing regulatory mechanism are too lenient, and appropriately tighten and enhance the mechanism, with a view to restoring the market's confidence in the local financial regulatory regime and the MPEs listed in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, my reply to the two parts of the question is as follows:

- (a) All listing applicants and listed companies including MPEs are subject to the regulation under the Securities and Futures Ordinance (SFO), and the Listing Rules of the Stock Exchange of Hong Kong Limited (the Exchange) as approved by the SFC under the SFO. All listing applicants including MPEs have to meet the listing eligibility requirements including those with regard to profits, market capitalization and revenue. After listing, all listed issuers including

MPEs have to comply with the continuing obligations with regard to disclosure, and so on.

Under the Listing Rules, the Exchange ensures the operation of a fair and orderly market by requiring issuers to disclose all material information, have in place measures to safeguard their assets and have appropriate financial and reporting controls to ensure all material information is disclosed in a timely manner to the investing public. Matters relating to misappropriations, misleading disclosures and market misconduct are governed by Hong Kong laws, most notably the SFO. Where the Exchange becomes aware of circumstances suggesting violations of the law, it would make referrals to the appropriate law-enforcement agencies including the SFC and the police.

The Exchange defines MPEs as enterprises with origins of establishment in the Mainland, excluding H shares and red chips. Currently there are 415 MPEs listed on the Exchange.

In 2011, the listing of four MPEs was suspended by the Exchange in connection with accounting issues. Among these:

- two cases involved possible fraudulent transactions and the Exchange has required these issuers to appoint forensic accountants to investigate the matters. These cases may involve violations of the law and would be investigated by the appropriate law-enforcement agencies;
- one case involved possible Listing Rules breaches and corporate governance issues including unreported connected transactions and pledges of company assets without proper approvals. The Exchange has required the appointment of a forensic accountant to investigate these issues; and
- one case involved insufficient information provided to auditors.

Up to 12 April this year, the Exchange suspended the listing of seven MPEs, four of which were listed within three years, because they were unable to release their financial results for the year ended 31 December 2011. Of these seven cases, three cases involve possible fraudulent activities and false account records, and four cases involve delays in the completion of audit work or the requirement for additional work done relating to particular material transactions of the issuers. The Exchange is continuing the investigation of these cases.

The SFC has commenced investigations or court proceedings in a number of cases in relation to suspected misconduct or breaches of the SFO involving newly listed Mainland companies. In accordance with normal practice, the SFC does not comment on specific cases under investigation.

- (b) In 2010, the Exchange reviewed the Profit Test and all listing eligibility requirements and compared them to those adopted in other major markets. The review showed that the initial listing criteria of the Exchange were comparable, if not higher, than international standards.

To promote good corporate governance, the Exchange amended the Listing Rules and the Corporate Governance Code in January 2012. The new rules promote a stronger and independent board of directors governing listed companies, clarify the roles and responsibilities of directors, and require shareholders' participation in the appointment and removal of auditors.

Separately, the SFC conducted a review of the work of listing sponsors and issued a report on its findings in March 2011. It revealed certain deficiencies in the work of the sponsors and inadequacies in their internal systems and controls. The SFC is reviewing the existing requirements relating to the work of sponsors, with a view to putting forward improvement proposals for market consultation shortly.

To encourage a continuous disclosure culture among listed corporations, the Government introduced the Securities and Futures (Amendment) Bill 2011 (the Bill) in June 2011 to, *inter alia*, oblige listed corporations to disclose price sensitive information (PSI) in a timely manner and impose civil sanctions against non-disclosure of PSI. The Bill will resume Second Reading Debate on 25 April 2012. The statutory PSI regime will further enhance the transparency and quality of our market. It will also bring our regulatory regime more in line with those of other major markets and strengthen Hong Kong's position as a premier capital formation centre. Subject to passage of the Bill by the Legislative Council, our plan is to commence operation of the statutory PSI regime on 1 January 2013.

The Government will continue to work with the Exchange, the SFC and parties concerned to ensure the quality of listing on the Exchange.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bill. We now resume the Second Reading debate on the Securities and Futures (Amendment) Bill 2011.

SECURITIES AND FUTURES (AMENDMENT) BILL 2011

Resumption of debate on Second Reading which was moved on 29 June 2011

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, Chairman of the Bills Committee on the above Bill, will address the Council on the Bills Committee's Report.

MR CHAN KAM-LAM (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Securities and Futures (Amendment) Bill 2011, I now submit the Bills Committee's Report to the Council and report on the highlights of the deliberations by the Bills Committee.

The main objectives of the Securities and Futures (Amendment) Bill 2011 (the Bill) are to enhance the regulatory regime for the financial market and improve investor protection by codifying certain requirements on disclosure of price sensitive information (PSI), enable the Securities and Futures Commission (SFC) to institute proceedings before the Market Misconduct Tribunal (MMT), and strengthen the SFC's investor education role. The Bills Committee supports the policy objectives of the Bill.

The Bills Committee has held 10 meetings. Relevant trade associations, professional organizations and the general public have been invited to give views on the Bill.

In respect of the proposed statutory PSI disclosure regime, some Members have expressed concern about whether the proposed definition of "inside information" is appropriate such that while the effectiveness of the regime can be ensured, the statutory disclosure requirement would not pose undue compliance challenges to listed corporations.

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

The Administration has advised that the Bill proposes borrowing the concept of "relevant information" currently used in the "insider dealing regime in the Securities and Futures Ordinance (SFO) to define "inside information". The market is familiar with the concept of "relevant information" as it has been used for some 20 years. This should facilitate listed corporations in determining whether a particular piece of information is inside information and hence the need for disclosure. This approach is also the same as that adopted by the European Union (including the United Kingdom), which has developed the insider dealing regime and the PSI disclosure regime on the basis of the same concept of "inside information".

As for some Bills Committee Members' suggestion of setting quantitative thresholds in the Bill for determining whether a piece of information is inside information, the Administration has responded that since the business nature, market capitalization and financial situation of each listed corporation is different, and market sentiment and sensitivity also change over time, it is inadvisable to adopt a single bright-line test or numerical figure for all listed corporations for determining inside information for continuous disclosure purposes. To facilitate compliance by listed corporations to fulfil their obligation in the disclosure of inside information, the SFC will publish a set of guidelines called "Guidelines on Disclosure of Inside Information" (the Guidelines), setting out the key aspects of what has been viewed by the Insider Dealing Tribunal (IDT) and the MMT as constituting "relevant information". A list of common examples of events or circumstances is also given for reference by the listed corporations. In addition, the SFC will provide consultation service after the enactment of the Bill into law to assist listed corporations in understanding the relevant provisions initially for 24 months.

With regard to the liability of officers of listed corporations under the proposed statutory PSI disclosure regime, the Bills Committee has asked the Administration to consider the view of the Hong Kong Institute of Certified Public Accountants (HKICPA) that a safe harbour should be added to cover the situation where a corporation has set up internal control procedures and concluded that certain information is not inside information out of good faith.

The Administration has responded that to limit the circumstances wherein a listed corporation would have a disclosure obligation, the Bill has specified "a reasonable person" test. The introduction of such a safe harbour as proposed by the HKICPA which is in a number of important respects a subjective test would render the proposed PSI regime ineffective because disclosure could be withheld as long as a listed corporation believes "in good faith" that the information is not inside information. In effect, the proposed PSI regime risks becoming a voluntary scheme where it would be up to the listed corporation and its officers to decide whether a piece of information is inside information and needs to be disclosed. This would defeat the purpose of the proposed legislation.

The Bills Committee has also noted that under Hong Kong law, there is no distinction between the duties and responsibilities of executive and non-executive directors (NEDs). Some Members have expressed concern that the NEDs of

listed corporations are usually not directly involved in the daily operation of the corporations, and very often they actually do not have knowledge of the inside information of the corporations. As such, it would not be fair to the NEDs if they are equally held responsible for breach of the disclosure requirement as the executive directors of listed corporations.

In view of Members' concerns, the SFC will set out in the Guidelines additional guidance on officers' liability and obligations of the NEDs. The Administration has further advised that when considering whether an officer has taken all "reasonable measures" and whether an officer has been negligent, the SFC will take into account the roles of the officers concerned in the listed corporation.

The Bill also proposes to empower the SFC to institute proceedings before the MMT direct without the prior consent of the Financial Secretary, and to provide for the SFC instead of the Secretary for Justice to be responsible for appointing the Presenting Officer in the MMT proceedings. Members are concerned that the proposed new arrangement would lead to excessive expansion of the SFC's powers and whether suitable checks and balances are available.

The Administration and the SFC have explained that under the current arrangement, in considering the institution of proceedings for any case before the MMT, parties such as the SFC, the Department of Justice, the Financial Services and the Treasury Bureau and the Financial Secretary's Office would be involved. As all the parties will need to examine the information and materials in detail in order to formulate their own recommendations, and it is not uncommon to involve clarifications and questions, the whole process takes time to complete. The proposal will significantly streamline the process and strengthen individual's rights to timely and fair proceedings without compromising the integrity of the system.

The Administration has also advised that under the proposed procedure, although the SFC is no longer required to seek the Financial Secretary's consent before instituting MMT proceedings, there are numerous checks and balances built into the system, including:

- (i) the need for the SFC to obtain the consent of the Secretary for Justice before it may institute MMT proceedings to ensure the primacy of criminal prosecution;
- (ii) the need to obtain the approval of the SFC Board to institute MMT proceedings and there is a significant level of independent views on the Board; and
- (iii) the independence of the MMT which is chaired by Judges appointed by the Chief Executive on the recommendation of the Chief Justice and members are appointed by the Chief Executive (or the Financial Secretary under delegated authority), all of whom are independent of the SFC.

The Bill seeks to widen the SFC's functions in relation to investor education and enable the SFC to establish a wholly owned subsidiary to facilitate the performance of its investor education functions. In this connection, some Members have expressed concern about whether it is appropriate for the SFC to establish such a body as a wholly owned subsidiary of the SFC.

The Administration and the SFC have advised that in addition to taking over the current investor education responsibilities from the SFC on securities and futures products, the investor education body will also undertake investor education work in relation to other financial products such as credit cards and insurance products. The establishment of the body as a wholly owned subsidiary of the SFC will enhance its accountability and transparency in the performance and expenditure on investor education. The board of the investor education body will include representatives from other relevant regulatory bodies, the financial sector and the Education Bureau.

In response to the views expressed by the Bills Committee and the Legal Adviser, the Administration will move a number of Committee stage amendments (CSAs). The Bills Committee agrees with the CSAs proposed by the Administration and supports the resumption of the Second Reading of the Bill.

Deputy President, the following are my views and those of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

The legislative amendment can hopefully increase transparency and stability in the investment market and impose more effective sanctions on market misconduct for the protection of investors. The market welcomes the establishment of a statutory regime to enhance regulation.

The DAB has held many meetings on issues of concern to the market to listen to views from our members as well as the relevant sectors. There is a common concern about the definition of "inside information". We understand that we have to strike a balance between ensuring the effectiveness of the statutory PSI disclosure regime and that such a statutory disclosure requirement should not pose undue compliance challenges to listed corporations and their officers. The DAB thinks that it is appropriate to adopt the concept of "relevant information" to define "inside information". This concept is familiar to the market and consistent with international practice. On top of that, the SFC will issue guidelines on the relevant definition and provide consultation service. We believe these will help listed corporations understand better the definition of "inside information" and adapt to the new regulation.

The DAB agrees that the SFC should be empowered to institute proceedings before the MMT direct without the prior consent of the Financial Secretary. In our opinion, the new requirement regarding the institution of proceedings by the SFC before the MMT has already had a number of checks and balances built in, including the consent of the Secretary for Justice and the approval from the SFC Board; plus the fact that the MMT is a completely independent body with a Judge as its chairman. We believe that impartiality can be ensured and irrespective of who institutes the proceedings, it will not change the criteria employed in making a ruling on any case. In addition, the SFC has gained rich experience over the years in dealing with cases of market misconduct as well as civil proceedings in respect of such cases. We believe that the SFC should be able to cope with such work. The amendments will streamline the procedure and make the powers of the SFC more consistent with statutory securities regulators in other jurisdictions.

In the wake of the financial tsunami, various countries in the world have enhanced their work in investor education and more efforts are made to promote investor education. In addition to organizing seminars in collaboration with institutes of higher education and the professional bodies, specific programmes on investor education have also been launched with the co-operation from various

bodies. These are well-received by the public. Hence there is a great expectation from the public for investor education. The new legislation empowers the SFC to establish a wholly owned subsidiary to undertake education work in relation to financial products. Mr WONG Ting-kwong from the DAB has suggested changing the name of the Investor Education Council to Investor Education Centre. We hope that this Centre can undertake work in publicity and education to enhance investors' awareness of the market rules and product risks, such that they can make better assessment of their risk-bearing ability and hence make prudent decisions in investment. We also hope that securities companies, brokerages and such financial bodies can also undertake the responsibility in investor education and co-operate in fostering a better investment market in Hong Kong.

Deputy President, the DAB supports the amendment proposals and the amendments proposed by the Administration. Thank you.

MR CHIM PUI-CHUNG (in Cantonese): Deputy President, theoretically this Bill is meant to address the many problems in the financial sector. Speaking of the financial structure of Hong Kong as a whole, we can see that the Financial Services and the Treasury Bureau is responsible for policy matters; the Securities and Futures Commission (SFC) is responsible for regulation in the front line while the Hong Kong Exchanges and Clearing Limited (HKEx) is the only recognized centre in Hong Kong for stocks trading currently. Of course, apart from the HKEx which I have just said, the Government had in the past also approved of the existence of the Hong Kong Commodity Exchange Limited.

Deputy President, we understand that the Government has this three-tier framework, but in fact, the SFC is in theory detached from the government structure. So for anything which the SFC does, the Government should really conduct a review of whether the SFC, having been conferred such great powers, should bear commensurate responsibilities. The Government and the SFC must not try to shirk responsibilities and pass them on to the other party after something has happened.

Deputy President, we understand that the SFC and the HKEx both uphold the disclosure-based policy. By this disclosure-based policy, understand that when a listed company or the relevant market player makes a disclosure on a

certain matter, the SFC and the HKEx are not obliged to bear the consequences of such disclosure. In respect of the disclosure made by the company concerned, on the surface the SFC and the HKEx uphold the disclosure-based principle and the company has to be responsible for the matters disclosed. Neither the SFC nor the HKEx will bear any responsibility for it. Even in the case of disclosure in a prospectus for initial public offering or other relevant papers, the HKEx has specified clearly that the company shall bear all the responsibilities for such disclosure. The HKEx will not bear any responsibility whatsoever. Regrettably, these two bodies do not work in this way in the process. They would assess the listed company in question all the time and at times they would even join hands in doing so. As to the length of time regarding the investigation into the papers disclosed, some listed companies have been suspended from trading for more than a year or even two years because of some relevant problems identified. Since these two bodies say that they will not bear the responsibilities, why do they have to check the papers in such great detail? Since they are examining the papers with such great care, very much like interrogating the listed company, then they should bear all the responsibilities.

Deputy President, we can see that there is a consultancy has recently been chastised by the SFC as having misled the investors and hence its licence is revoked and the company has to pay a fine of \$42 million. As a representative of the sector, I absolutely support this. Why? Because although the SFC has given its approval, the company concerned must bear all the responsibilities, including criminal liabilities. If the authority concerned wants to institute criminal proceedings against a certain financial consultant or a consultant of a listed company, and instigates prosecution, then the authority concerned should also bear all the responsibilities. Therefore, the point about this amendment is inside information and by the same token, there is no need for the SFC or the HKEx to go too far in making assessments.

The Government as the policy making body must be clear and distinct about everything that it does and it must not be ambiguous. Our Secretary is a scholar and he is even a professor. He should know that a lot of time has been spent on assessing the acts and moves of the listed companies and it will not do if these companies are not held accountable after these assessments are made. What is the purpose of such assessments if they are made but the companies are not held accountable? So this has to be made clear so that the people will have something to go by. Since examinations are carefully done and questions posed,

then the listed companies after answering such questions should be absolved of their responsibilities unless it is found that they have engaged in misleading acts. Likewise, both the SFC and the HKEx have to bear the responsibilities for the assessments made such that should cases of listed companies having disclosed misleading information as what happened in the said incident, then they will have the grounds or the means to take appropriate actions. This will convince people. If no one has to bear the responsibilities after questions are asked on the information on insider trading, would this not be a waste of time?

Deputy President, we understand that either the SFC or the HKEx has four basic responsibilities. First, they are responsible for supervision. There is no doubt about it. These two bodies have powers of supervision. The second is to balance the interests of all quarters. By all quarters it means both international investors and local investors.

We can see that for some time in the past, the Government and these two bodies have been acting negligently in these aspects. They give a nice-sounding name to what they do and say that it is to facilitate the participation of international institutions. In fact, these institutions are trying to control Hong Kong's financial sector. About finance in Hong Kong, this is something that the Government has always been proud of and policies, especially after the convocation of the Twelfth National Congress of the Chinese Communist Party, have been formulated by the Central Authorities to facilitate greater development of Hong Kong's financial sector. However, we should note that any change made to the existing system by a place or a person is for no other reason than to further its own interests. The only exception is Hong Kong where changes are made to its system for the convenience of international predators. These international predators are greedy to the extreme and if we do anything to satisfy their needs, we will soon become their preys. Has our Government, or the SFC or the HKEx which derive a lot of their income from Hong Kong people, done this kind of thing?

The third point is to protect the rights of investors. Deputy President, we understand that it is necessary to make investors know the rules of the game. We know that gaming companies in all parts of the world would rarely get involved in disputes. This is because no matter if you call it gambling or gaming, people who take part in such activities know the rules of the games before they walk into the venue concerned. This is like some 20 years ago when

the Hong Kong Jockey Club had a pool called the Quartet. Some punters filled in the ticket with the numbers 1, 1, 1, 1 and they corrected these four numbers after the race meet was over. In the end, these people were punished by the law. Therefore, the way for the Government to protect the investors is to make them understand what kind of game they are playing.

We can take a look at the callable bear/bull contracts which are in the vogue these days. Do the regulatory bodies, be they the SFC or the HKEx, make the participants understand beforehand what are the callable bear/bull contracts they are buying? If they know what they are, they will not act foolishly and think that they can treat these as an easy game to play or some kind of gaming, investment or speculative activity. This is the responsibility of the SFC and the HKEx. Can the Government which is the superior of these two bodies shirk its responsibilities? Of course, we know that the Government has recently proposed to set up an Investor Education Council. But in any case, the Government should make the investors know clearly what they are doing.

The fourth point is about boosting the trading volume. We know from the information available that Hong Kong is the place with the most listing activities going on. Now the number has dropped a bit. But that does not really matter. There are ups and downs in everything. And no one will get all the glory and honour all the time. The Government should give them more encouragement. In 2008 after the Lehmann Brothers incident, what lessons had the Government learnt as an initiator of public policy? I have said that the stand of the Government with respect to this incident is like this: we have got laws and you can take your case to the Court if you like. Is that possible? Can the Government say something like that? We know that there are still some 1 000 to 2 000 small investors who are still grumbling and their problems are not yet solved. A responsible government should be able to settle a problem completely to the satisfaction of all sectors across the community. This is the basic responsibility of any government. Hong Kong is an international financial centre, so how can there be such a disgraceful outcome like this?

In addition, Deputy President, we know from this incident that directors of a listed company, be they executive or non-executive directors, must have their responsibilities clearly defined. Since we are scrutinizing the relevant legislation, we have got to make the law clear enough. Both the SAR

Government at present and the British Hong Kong Government in the past are good at leaving some business unfinished. This only gives more business to the lawyers. Deputy President, you are also a lawyer. But I am sure the advantages you have gained in this are much less than the other lawyers. So we have to deliberate on many things and pass laws on them, but personally I think that the SFC has failed to define things clearly in this case.

I think I should have reminded Mr CHAN Kam-lam, Chairman of the Bills Committee earlier. He should declare his interest because he is a director of the SFC, because he has this status and it is the SFC which made the proposals. So even if he does not have any direct advantages in this, he is related in some way or the other. I hope therefore that the Government should do something to make the directors of listed companies know the difference in the responsibilities borne by executive directors and non-executive directors.

We know that an Honourable colleague in this Council is a non-executive director of 17 listed companies and even the chairman of some. Of course, we hope that the Government should make things open and clear in enacting laws. This will prevent people in the sector from being put off by the thought of becoming non-executive directors of listed companies. We know that speaking for the finance and economy of our community, the first thing to do is to enable people to take part in a positive way instead of putting people off. If more people can take part actively in public enterprises or whatever commercial activities, then there will certainly be greater progress in society. But if the Government cannot put people's mind at ease regarding these laws, it will certainly not do any good to the financial development of Hong Kong when litigations or other problems arise in future.

We also know that the SFC has done something unfair in this incident and that is, it takes the place of the Secretary for Justice in instituting proceedings. Of course, such proceedings will have to be approved by the SFC Board. But some criticisms have actually accused the SFC of acting as a supreme power over all the transactions made in the Hong Kong stock exchange. In the memorandum signed with the Financial Secretary, it refused to cancel the levy on the stocks transaction. This in fact runs counter to the meaning of the exchange of a memorandum between the two parties.

I therefore hope that with the passage of this Bill today, both the Government and Members can do something to monitor what the other party is doing.

MR ANDREW LEUNG (in Cantonese): Deputy President, first of all, I would like to declare that I am an independent non-executive director of two listed companies. During the deliberations on this Bill, I was particularly concerned about some areas, namely, the definition of price sensitive information (PSI), the liability of officers (including non-executive directors) in listed companies, any provision that the SFC may institute proceedings concerning market misconduct cases before the Market Misconduct Tribunal (MMT) direct. Now I would like to talk about my views on these issues.

First, on PSI. Hong Kong is a very important international financial centre and I agree that a statutory PSI disclosure regime should be set up, in order to enhance market transparency and quality, protect the interests of small investors, bring our regulatory regime for listed corporations more in line with those of overseas jurisdictions, and to sustain Hong Kong's position as a premier capital formation centre. All Members of this Council from the business sector will see the point that there is difficulty in defining whether some information is inside information in the course of the daily operation of a listed company. I once proposed at a meeting that the Government should set some quantitative thresholds to determine whether a piece of information is inside information. But the Government has stressed on many occasions that since the business nature, market capitalization and financial situation of each listed corporation are different, and market sentiment and sensitivity also change over time, it is inadvisable to adopt a single bright-line test or numerical figure for all listed corporations for determining inside information for continuous disclosure purposes. After much lobbying by Members from the business sector, the Administration has given a reply that the SFC will issue a set of new guidelines called "Guidelines on Disclosure of Inside Information". The Guidelines will set out the key aspects of what has been viewed by the Insider Dealing Tribunal (IDT) and the MMT as constituting "relevant information". It will also give a number of relevant examples, in fact, 34 common examples as well as precedents of cases handled by the IDT and the MMT. This will serve to enable listed companies to consider whether a disclosure obligation arises under such circumstances. In addition, the SFC has also made an undertaking of providing

consultation service to assist corporations in understanding how to apply the disclosure provisions initially for 24 months after the enactment of the Bill. I welcome this arrangement. I hope that the advice given by that time would really work and it is not ambiguous such that the companies are told to go back and consult their lawyers, and so on.

Second, the liability of officers (including non-executive directors). Deputy President, an officer in a listed company means a director, manager, secretary of, or any other person involved in the management of, the corporation. But there is an actual distinction between the role of an executive director and that of a non-executive director. A non-executive officer will not work in the company and personally take part in the day-to-day operation of that company. He is likely to rely on information provided by other officers in the company to understand the company. So it is not likely for him to know of any inside information in a company. If non-executive directors and executive directors are to bear the same liability as a result of failing to comply with the disclosure requirement, it will be most unfair to the non-executive directors.

After hearing our views, the Administration and the SFC have advised that the draft Guidelines to be issued by the SFC will be amended to set out clearly the assumption that where a listed corporation has implemented reasonable measures to prevent such a breach, an officer (including non-executive directors) who acts in good faith and in accordance with his fiduciary duties without actual knowledge of the information or involvement in the corporation's breach is unlikely to be held personally liable on ground of intentional, reckless or negligent conduct.

Insofar as the non-executive directors are concerned, under the new Guidelines, in the event of a breach of the disclosure requirement by a listed corporation, a non-executive director is unlikely to be held liable if proper internal control procedures for monitoring and reporting potential inside information to the board have been established and reviewed periodically, and the non-executive director concerned has no knowledge of the inside information in question because other officers or employees do not comply with the established internal control procedures.

Third, the Administration has proposed that the SFC may institute proceedings before the MMT direct without the prior consent of the Financial

Secretary and that the SFC can take the place of the Secretary for Justice to be responsible for appointing the Presenting Officers in MMT proceedings. In the opinion of the business sector, this is giving too much power to the SFC. We should ensure that there are suitable checks and balances in the system. I am glad to note that the Administration has heeded sound advice and stated clearly what the checks and balances are, including the need for the SFC to submit the relevant papers to the Board and it can institute the inquiry proceedings only after consent from the Secretary for Justice has been obtained. As for the MMT, it is an independent body, with its chairman being a Judge appointed by the Chief Executive and its members also appointed by the Chief Executive. The MMT has full powers to inquire into a case, including the power to require a person to give evidence and produce any record/document relating to the subject matter of the proceedings, and to obtain further evidence through the SFC. Any person who is aggrieved by the MMT finding may appeal to the Court of Appeal. The Administration has also undertaken that it will set out the number of cases handled and figures on the prosecutions in the annual report to be submitted to this Council. With respect to prosecution work, it should not be confined to just a small number of lawyers and adequate training must be provided to local lawyers who are interested so that more lawyers can render their assistance to the work of the tribunal and hence enable the law to be enforced smoothly.

Deputy President, after the Bill is enacted into law, its enforcement would depend very much on the Guidelines compiled by the SFC. The Administration and the SFC have undertaken that any amendments to the Guidelines will first go through a public consultation exercise and approval by the SFC Board will be sought. I hope that should that occasion arise, both the Government and the SFC can listen more to the views expressed by local listed companies and the relevant professional bodies.

I so submit.

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

(Mr CHAN Kam-lam raised his hand to indicate his wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you have already spoken.

MR CHAN KAM-LAM (in Cantonese): I know, Deputy President. I wish to make a declaration, this is because earlier on I

DEPUTY PRESIDENT (in Cantonese): Do you wish to make a declaration only? Please do so.

MR CHAN KAM-LAM (in Cantonese): yes, I have only spoken in my capacity as Chairman of the Bills Committee and spokesman of the DAB on financial affairs. But as mentioned by Mr CHIM Pui-chung earlier, I would be glad to make such a declaration, too. I am a non-executive director of the SFC Board. 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 Financial Services and the Treasury to speak in reply. This debate will come to a close after the Secretary has spoken.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I wish to thank Mr CHAN Kam-lam, Chairman of the Bills Committee and members of the Bills Committee for their meticulous efforts in scrutinizing the Securities and Futures (Amendment) Bill 2011 (the Bill). The main objectives of the Bill are to statutorily oblige listed corporations to disclose price sensitive information (PSI) in a timely manner and impose civil sanctions on failure to comply with the relevant requirements. The Bill also proposes that the Securities and Futures Commission (SFC) may institute proceedings for cases of market misconduct before the Market Misconduct

Tribunal (MMT) direct, enables the SFC to establish a cross-sector Investor Education Council, and makes certain technical amendments to the Securities and Futures Ordinance (SFO). The Bills Committee has raised a lot of valuable suggestions to perfect the Bill. After taking on board the views of the Bills Committee, we have proposed a number of amendments and I will move them at the Committee stage.

To the Hong Kong market, the concept of PSI is no stranger. At present, the requirement on listed corporations to disclose PSI is set out in the Listing Rules of the Stock Exchange of Hong Kong Limited (SEHK). The lack of regulatory teeth or otherwise in the Listing Rules has been an issue of concern. A statutory PSI disclosure regime is necessary to enhance market transparency and quality, strengthen the protection of investors, bring our regulatory regime for listed corporations more in line with those of overseas jurisdictions, and sustain Hong Kong's position as a premier capital formation centre.

The Bill proposes modelling on the concept of "relevant information" currently used in the "insider dealing" regime in the SFO to define PSI. In this way, PSI will be tantamount to information currently prohibited from being used for dealing in the securities of the listed corporation concerned, and such information would be renamed as "inside information". This practice is consistent with the approach adopted in other major international financial centres. The views collected by us during the consultation period are also in favour of this approach generally.

Under the Bill, a listed corporation must disclose any PSI as soon as reasonably practicable when the information has come to its knowledge.

To strike a balance between ensuring market transparency and protecting the legitimate interests of listed corporations in preserving certain information in confidence to facilitate their operation and business development, the Bill will provide safe harbours. These include information prohibited from being disclosed by a Hong Kong Court under Hong Kong statutes, and information concerning an incomplete negotiation or proposal. In view of the fact that many listed corporations have major business activities outside Hong Kong, to cater for the practical needs of such corporations, the Bill provides that if the disclosure is prohibited by legislation in other jurisdictions, the listed corporation concerned may apply to the SFC for a waiver on a case-by-case basis.

Listed corporations or their "officers" found to have breached the statutory PSI disclosure requirements will have their cases handled by the MMT. Civil sanctions may be imposed such as disqualification of the officer from acting as a director of a listed corporation for up to five years; a regulatory fine up to \$8 million on the listed corporation and the parties concerned; ordering an officer to undergo training, or ordering a listed corporation to appoint an independent professional adviser to review its compliance procedure to prevent similar breaches of the disclosure requirement.

To facilitate compliance, the SFC will issue the "Guidelines on Disclosure of Inside Information" which sets out the definition of "inside information", when and how it is to be disclosed and the application of safe harbours. The SFC will also provide an informal consultation service on the disclosure requirement for an initial period of 24 months.

In the course of deliberating on the Bill, the Bills Committee has put forward valuable suggestions on the proposed regulatory regime. In response to concerns raised by members on certain particular issues, the SFC will amend its Guidelines to facilitate compliance. According to section 399(6) of the SFO, the Guidelines made thereunder shall be admissible as evidence and may be taken into account as a relevant matter in deciding any question arising in the proceedings under the SFO.

Some Bills Committee members have suggested setting quantitative thresholds in the Bill for determining whether a piece of information is inside information. In our opinion, since the business nature, market capitalization and financial situation of each listed corporation are different, and market sentiment and sensitivity also change over time, it is unadvisable to adopt a single quantitative threshold for determining whether the information is inside information. To facilitate compliance, the Guidelines of the SFC will set out the key aspects of what has been viewed by the Insider Dealing Tribunal (IDT) and the MMT as constituting "relevant information". A list of common examples is also given of events or circumstances where a corporation should consider whether a disclosure obligation arises. We have also noticed that the IDT and the MMT have given on some occasions their views on the concept of "material change". To address members' concern, the SFC will amend its Guidelines to set out the relevant precedent cases in the IDT and the MMT for listed

corporations' reference in deciding whether a particular piece of information is price sensitive.

Moreover, some members have expressed concern that the definition of "officers" covered by the proposed statutory PSI disclosure regime may be too broad and may catch middle management and low-ranking staff. In fact, the term "officers" has been used in the SFO for many years. The term "officers" as defined in the SFO and in relation to a corporation means a director, manager or secretary of, or any other person involved in the management of, the corporation. The term "secretary" refers to "company secretary", which has the same meaning as under the Companies Ordinance (Cap. 32). To address the concern of members, the SFC will revise the draft Guidelines to specify that the term "manager" normally refers to a person who, under the immediate authority of the board, is charged with management responsibility affecting the whole of the corporation or a substantial part of the corporation. If that person becomes aware of certain information, he is in a position to determine whether such information amounts to inside information. Under the Bill, this person is responsible for taking all reasonable measures from time to time to ensure proper safeguards exist to prevent a breach of the disclosure obligation.

With regard to the liability of "officers", some members have expressed concern about the non-executive directors (NEDs) of listed corporations usually not being directly involved in the daily operation of the corporations, as such, it would not be fair to the NEDs if they are equally held responsible for breach of the disclosure requirement as executive directors of listed corporations.

Under the Bill, individual "officers" would be held liable under two sets of circumstances. First, when the listed corporation has breached the disclosure requirement and such a breach of the disclosure requirement is a result of the "officer's" intentional, reckless or negligent conduct. Second, such a breach is a result of the "officer's" failure to take all reasonable measures to ensure that proper safeguards existed to prevent a breach of the disclosure requirement.

In response to members' concern, the SFC has revised the Guidelines to provide that "assuming a listed corporation has implemented reasonable measures to prevent a breach, an officer (including NEDs) who acts in good faith and in accordance with all his fiduciary duties without actual knowledge of the

information or involvement in the corporation's breach is unlikely to be personally liable on ground of intentional, reckless or negligent conduct."

According to the Bill, the provisions on the PSI disclosure regime will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette. Our plan is to set the date for these provisions to commence operation on 1 January 2013. We intend to table the commencement notice at the Legislative Council for negative vetting in May 2012 after the passage of the Bill. In order to enable the sector to make proper preparations for the implementation of the statutory PSI disclosure regime, we will collaborate with the SFC, the SEHK and the relevant organizations and professional bodies to arrange training programmes for compliance with the regime by listed corporations. After the passage of the Bill, the SFC and the SEHK will make amendments to the Listing Rules in line with the Amendment Ordinance.

Currently under the SFO, MMT proceedings can only be instituted by the Financial Secretary, and the Presenting Officer is appointed by the Secretary for Justice to conduct the proceedings. To allow for a streamlined process to enforce the statutory PSI disclosure requirement and to deal with the existing six types of market misconduct stipulated in the SFO, the Bill proposes empowering the SFC to institute proceedings before the MMT direct, without having to first refer the case to the Financial Secretary for his decision. The Bill also provides for the SFC to be responsible for appointing the Presenting Officer in MMT proceedings in place of the Secretary for Justice.

Under the current SFO, the six types of market misconduct specified are regulated by two alternative and mutually exclusive means: criminal prosecution and civil proceedings before the MMT. To ensure the primacy of criminal prosecution, the Bill provides that the SFC must not institute any MMT proceedings for market misconduct unless it has also obtained consent from the Secretary for Justice. This allows the Secretary for Justice to consider whether criminal prosecution should be instituted for the misconduct in question. However, since a breach of the PSI disclosure requirement will not attract any criminal liability, the SFC does not have to obtain the consent of the Secretary for Justice before instituting MMT proceedings.

Members have also discussed the checks and balances applicable to cases of proceedings instituted before the MMT. Under the proposed procedure, although the SFC is not required to obtain the consent of the Financial Secretary before instituting MMT proceedings, there are checks and balances in the system. These include the need for the executives of the SFC to seek the approval of the SFC Board and as mentioned previously, only after consent of the Secretary for Justice is obtained can MMT proceedings be instituted. This function of the SFC to institute MMT proceedings is non-delegable. The decision must be made by the Board. Since more than half of the members of the Board are NEDs, it is believed that there is a significant level of independent views on the Board.

In addition, the statutory framework governing MMT proceedings provides another level of checks and balances. The MMT is an independent tribunal chaired by Judges appointed by the Chief Executive on the recommendation of the Chief Justice, and members are appointed by the Chief Executive (or the Financial Secretary under delegated authority), so all of whom are independent of the SFC. The MMT has full powers to inquire into cases and to obtain further evidence. It will determine whether there has been any market misconduct after considering all the evidence and submissions from the parties. Moreover, any person who is dissatisfied with the MMT's finding or determination may appeal to the Court of Appeal. We consider these checks and balances effective and adequate.

In view of the constant developments in the financial market, the Bill proposes to enable the SFC to establish a cross-sector Investor Education Council (IEC) in the form of a wholly owned subsidiary to holistically oversee the needs of investor education and delivery of related initiatives. The IEC aims to influence the financial attitude and behaviour of the general public as well as their ideas of risk by improving their financial literacy and capability. International experience has shown that it is more cost-effective and better able to create the most synergy for an investor education body to be set up as part of the regulatory authority. Among the financial regulators in Hong Kong, only the SFC has an explicit statutory remit to promote investor education in the securities and futures sector. This proposal is supported by other financial regulators and well-received by the public.

In addition, we propose to make use of this opportunity to introduce several technical amendments to update the SFO.

In sum, the proposed statutory PSI disclosure regime would help promote a continuous disclosure culture among the listed corporations so that investors can have access to timely and comprehensive information to help them in making their investment decisions. The setting up of the IEC will help improve the public's financial literacy and capability. Therefore, the Bill can bring about a better financial regulation regime for Hong Kong and further protection for investors.

Deputy President, the Bill and the amendments to be moved by the Administration have gained the support of the Bills Committee. I implore Members to support the Bill and the amendments to be moved by the Administration. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Securities and Futures (Amendment) Bill 2011 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): Securities and Futures (Amendment) Bill 2011.

Council went into Committee.

Committee Stage

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

SECURITIES AND FUTURES (AMENDMENT) BILL 2011

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Securities and Futures (Amendment) Bill 2011.

CLERK (in Cantonese): Clauses 1, 2, 4 to 10, 12, 14 to 18, 22, 25, 26, 27, 30 to 35, 38 to 43 and 45 to 49.

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, 4 to 10, 12, 14 to 18, 22, 25, 26, 27, 30 to 35, 38 to 43 and 45 to 49 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): Clauses 3, 11, 13, 19, 20, 21, 23, 24, 28, 29, 36, 37 and 44.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I move the amendments to the clauses read out just now. The amendments are set out in the paper circularized to Members.

I move that clauses 3 and 24 of the Bill be amended. The amendment to clause 3 seeks mainly to amend and improve the Chinese text of section 307C(2), 307D(1) and (2), 307I(heading, subsections (1) and (2), 307J(heading and subsection (1) and 307N(1)(d) to achieve consistency in the provisions. In addition, proposed section 307F(3) is deleted as the circumstances set out in subsection (3) have been stated in subsection (1).

Moreover, pursuant to the recommendation of the Bills Committee, I move that proposed section 307Q(2)(a) and (b), and the existing section 262(2)(a) and (b) under clauses 3 and 24 be amended respectively to stipulate that the text of the report prepared by the MMT for its proceedings shall be submitted at the same time to the SFC and all other relevant parties, instead of being submitted to the SFC first.

As suggested by members of the Bills Committee, I move that clause 11 of the Bill be amended, the aim of which is to add section 13 to Part 1 of Schedule 1 of the Securities and Futures Ordinance (SFO) to clarify that the notes to the Bill have no legislative effect.

I move the amendment to clause 29 of the Bill to add Division 1.

As suggested by members of the Bills Committee, I move that clause 36 of the Bill be amended to revise the Chinese wording of the amendment to section 109 of the SFO to achieve greater clarity in the statement.

As suggested by members of the Bills Committee, I move that clause 37(1) of the Bill be amended to substitute "an on-line medium" by "the Internet".

I move the amendments to the Chinese text of clauses 13(2), 13(9), 13(10), 13(11), 19(3), 20(1), 21, 23(2), 28(1), 28(7) and 44(2) to rectify and improve the wording of the relevant provisions or to make them consistent with the English text.

The Bills Committee has agreed to these amendments proposed by the Administration. I hope Members can support the passage of these amendments.

Thank you, Deputy Chairman.

Proposed amendments

Clause 3 (See Annex I)

Clause 11 (See Annex I)

Clause 13 (See Annex I)

Clause 19 (See Annex I)

Clause 20 (See Annex I)

Clause 21 (See Annex I)

Clause 23 (See Annex I)

Clause 24 (See Annex I)

Clause 28 (See Annex I)

Clause 29 (See Annex I)

Clause 36 (See Annex I)

Clause 37 (See Annex I)

Clause 44 (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 Financial Services and the Treasury 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): Clauses 3, 11, 13, 19, 20, 21, 23, 24, 28, 29, 36, 37 and 44 as amended.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 3, 11, 13, 19, 20, 21, 23, 24, 28, 29, 36, 37 and 44 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.

CLERK (in Cantonese): New Division heading before clause 29	Division 1 Amendments to SFO
New Division heading before new clause 33A	Division 2 Amendment to Prevention of Bribery Ordinance
New clause 33A	Prevention of Bribery Ordinance amended
New clause 33B	Schedule I amended (Public bodies)
New clause 40A	Section 309 amended (Exemptions)
New clause 42A	Section 407 amended (Savings, transitional, consequential and related provisions, and so on)
New Division heading before new clause 44A	Division 1A Miscellaneous Amendments to Companies Ordinance
New clause 44A	Companies Ordinance amended
New clause 44B	Section 38A amended (Exemption of certain persons and prospect-uses from compliance with certain requirements)
New clause 44C	Section 342A amended (Exemption of certain persons and prospect-uses from compliance with certain requirements).

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I move the Second Reading of the new Division headings and new clauses read out just now. The new Division headings and new clauses have been set out in the paper circularized to Members.

I move the Second Reading of the new Division heading before clause 29, the new Division heading before new clause 33A, and new clauses 33A and 33B in order to add Divisions 1 and 2 for purposes of amending Schedule 1 to the Prevention of Bribery Ordinance (PBO). The investor education body to be formed under Part 4 of the Bill will become a "public body" under the PBO to enable the body to come under the regulation of the Independent Commission Against Corruption.

As per the suggestions made by the Bills Committee, I move the Second Reading of the new clause 40A to replace "on-line medium" with "the Internet". The consequential amendments are also applicable to relevant provisions in the Companies Ordinance and they are set out in the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C. I also move that the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C be read the Second time.

I move that the new clause 42A be read the Second time to effect a technical amendment to section 407 of the Securities and Futures Ordinance to state the effect of Part 4 of Schedule 10 and to rectify the Chinese text.

The Bills Committee agrees with the new clauses proposed by the Administration and I hope Members can lend their support to the amendments and pass them.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new Division heading before clause 29, the new Division heading before new clause 33A, new clauses 33A, 33B, 40A and 42A, the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C be read the Second time.

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 new Division heading before clause 29, the new Division heading before new clauses 33A, new clauses 33A, 33B, 40A and 42A, the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C be read the Second time. 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): The new Division heading before clause 29, the new Division heading before new clause 33A, new clauses 33A, 33B, 40A and 42A, the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I move that the new Division headings and new clauses read out just now be added to the Bill.

Proposed additions

New Division heading before clause 29 (See Annex I)

New Division heading before new clause 33A (See Annex I)

New Clause 33A (See Annex I)

New Clause 33B (See Annex I)

New Clause 40A (See Annex I)

New Clause 42A (See Annex I)

New Division heading before new clause 44A (See Annex I)

New Clause 44A (See Annex I)

New Clause 44B (See Annex I)

New Clause 44C (See Annex I)

DEPUTY CHAIRMAN (in Cantonese): I now proposed the question to you and that is: That the new Division heading before clause 29, the new Division heading before new clause 33A, new clauses 33A, 33B, 40A and 42A, the new Division heading before new clause 44A, and new clauses 44A, 44B and 44C be added to the Bill.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you as stated. 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.

SECURITIES AND FUTURES (AMENDMENT) BILL 2011

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, the

Securities and Futures (Amendment) Bill 2011

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 Securities and Futures (Amendment) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): 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. I declare the motion passed.

CLERK (in Cantonese): Securities and Futures (Amendment) Bill 2011.

MEMBERS' BILLS

Resumption of Second Reading Debate on Members' Bills

DEPUTY PRESIDENT (in Cantonese): Member's Bill. We now resume the Second Reading debate on The Hong Kong Polytechnic University (Amendment) Bill 2011.

THE HONG KONG POLYTECHNIC UNIVERSITY (AMENDMENT) BILL 2011

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

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

DR RAYMOND HO (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011 (the Bills Committee), I report to the Legislative Council the major deliberations of the Bill Committee.

The main objects of The Hong Kong Polytechnic University (Amendment) Bill 2011 (the Bill) are to revise the size and composition of The Hong Kong

Polytechnic University (PolyU) Council to strengthen the corporate governance of PolyU and define more clearly its Council's role.

The Bill proposes to reduce the size of the PolyU Council from 29 to 25 members and to revise its composition, including increasing the number of student members from one to two and giving all full-time staff irrespective of rank the opportunity to be represented on the Council. Members noted that the relevant stakeholders, such as the PolyU Students' Union and the PolyU Staff Association, have expressed support for the proposals.

Regarding the appointment of lay members to the PolyU Council, the Bill proposes to reduce the number of lay members appointed by the Chief Executive from 20 to nine and empower the PolyU Council to appoint eight lay members. As the number of lay members appointed by the Chief Executive constitutes more than one third of the total number of Council members, these lay members could exercise veto power over important decisions which require two thirds of the votes of all Council members. Some Members have expressed concern about the proposal and its implication on the institutional autonomy of the University.

PolyU has responded that the Bill has made significant improvements in respect of the appointment of lay members to the PolyU Council. At present, the PolyU Council is not empowered to appoint any lay member. The Bill provides for the appointment of eight lay members by the PolyU Council. The new composition for the PolyU Council has taken into consideration the autonomy required by the Council to appoint lay members in accordance with the needs of the University for expert advice.

Members noted that under the existing Ordinance, the Chief Executive may appoint not more than two public officers to the PolyU Council. PolyU has advised Members that the policy intent of the Administration and PolyU is not to appoint any public officer to the PolyU Council. In response to members' views, Dr LAM Tai-fai will move Committee stage amendments (CSAs) to section 10(1)(d) to provide expressly this policy intent in the Bill. In addition, both PolyU and the Administration have undertaken to continue to enforce the "six-year rule" and the "six-board rule" in making future appointments to the PolyU Council to ensure a healthy turnover of Council members.

Members have enquired about PolyU's position on the appointment of Legislative Council Members to the PolyU Council. Members noted that after the passage of the Bill, the PolyU Council will appoint a working group to work out a mechanism for appointing lay members from various sectors of the community in accordance with the need of the University for expert advice. The PolyU Council will appoint individuals whose expertise and experience will facilitate the long-term development of the University. Under this principle, Legislative Council Members may be invited to serve on the PolyU Council based on their own merit and in their personal capacity, but the University does not see the need to include a designated seat for Legislative Council Members in the PolyU Council.

The Bills Committee has also discussed the appointment and removal of the President and Deputy President. The Bill provides that for the purpose of the appointment and removal of the President and Deputy President, the President or the Deputy President is not a member of the PolyU Council to avoid any conflict of interest. PolyU has confirmed that the same principle also applies to other members of the Council. A Council member who is proposed for appointment as President or Deputy President is not a member for the purpose of the appointment. Having considered members' view, Dr LAM Tai-fai will move a CSA to clause 6 of the Bill to add an express provision in this regard to make the University's intention clear.

Members have sought clarification on whether a person appointed as acting President is a Council member. According to PolyU, the acting President shall have full authority to act on behalf of the President including the right to vote on all Council matters unless there is conflict of interest. In this regard, Dr LAM Tai-fai will move a CSA to add a new section 10(7A) to specify categorically that the acting President and acting Deputy President have the right to vote under sections 8(2), 8(4) and 10(7).

Members noted that the Bill proposed technical amendments to clauses 6(b) and 6(m), which are about the powers of PolyU to enter into partnership or other forms of joint venture with other persons. With the expansion in the scale of partnership or joint venture activities undertaken by the University Grants Committee (UGC)-funded institutions in recent years, members are concerned that substantial financial losses may arise from such activities which may adversely affect the financial viability of the institution proper and disrupt the operation of its publicly-funded programmes. A member

has suggested that the phrase (I quote) "in such manner and to such extent as it thinks necessary or expedient" (end of quote) be added to the provision about partnership and joint venture with a view to alerting the University to the importance of exercising reasonable care, particularly in respect of projects involving substantial financial resources.

PolyU has explained to Members that the leading paragraph of the proposed section 6 has already made it clear that all powers exercised by the Council under the provision must be for "the better carrying out of the objects and policies of the University" and, as such, it is not necessary to add specific conditions to any of the paragraphs of the section. Both the Administration and UGC have assured members that they will continue to closely monitor the self-financing operation of the UGC-funded institutions to ensure that such operation would not impact on the operation of their publicly-funded programmes.

Deputy President, apart from the CSAs mentioned by me just now, Dr LAM Tai-fai will also move CSAs in relation to the drafting of provisions. The Bills Committee agrees to the proposed CSAs to be moved by Dr LAM Tai-fai. The Bills Committee has not proposed any CSA to the Bill.

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

In view of my experience in scrutinizing similar amendment bills in relation to two other universities, the scrutiny this time around can be considered relatively smooth. I feel that PolyU has adopted a very open attitude and in many areas, in particular, on whether or not the demands of staff and students were feasible, it tried to accommodate them and take them on board as far as possible, and in this process, it also managed to take into account, among other things, the need to balance them with the operation of the University. To give a simple example, even part-time students can have the opportunity to become a Council member and as I said just now, the President and Deputy President are not members of the Council. I believe the open attitude adopted by PolyU in various areas will surely benefit greatly the future operation and development of the University.

Deputy President, I so submit.

MS AUDREY EU (in Cantonese): Deputy President, on behalf of the Civic Party, I express our support for this Bill.

The legislative amendment this time around is proposed in response to the reorganization proposals made in the "Sutherland Report" published in March 2002. Since the Report of the Director of Audit released in March 2003 also mentioned the issue of the composition of university Councils, various universities have introduced legislative amendments into the Legislative Council one after another. This Bill is proposed by The Hong Kong Polytechnic University (PolyU). We hope that the governance of institutions can be improved under the principle of not compromising their independence. In fact, the amendments proposed under the Bill are not controversial and there was no need for us to hold many meetings to discuss it. Nevertheless, since a motion debate on defending academic freedom and institutional autonomy will be conducted later on, I wish to talk about the major principles involved with regard to the Bill under examination today.

In fact, Article 137 of the Basic Law states that, "Educational institutions of all kinds may retain their autonomy and enjoy academic freedom.". The manifestation of this provision is: The eight subsidized universities offer various courses having regard to the needs and requirements of various pieces of legislation, co-operate with various organizations in their development and encourage the academics in these institutions to voice their views on various areas and discuss and play a part in public affairs, all for the benefit of society. Therefore, in endorsing the Bill, the Legislative Council should also consider how the independence and autonomy of PolyU could be strengthened to assure academic freedom and institutional autonomy.

(THE PRESIDENT resumed the Chair)

Since the Council is the highest governing body of the institution, its composition is vitally important to its development. The Bill reduces the size of the PolyU Council from 29 members to 25 members. This reduction is also made in response to the "Sutherland Report" mentioned by me just now, with a view to enhancing the efficiency of the Council. In addition, the amendments to section 10(1)(d) reduce the total number of lay members appointed by the Chief

Executive from 20 to nine. Eight other lay members will be appointed by the Council instead and the number of student members will also be increased by one. After this amendment, PolyU can make appropriate appointments according to its needs and the number of student and staff representatives will also be increased, so all these measures are conducive to the independence and autonomy of PolyU.

According to the figures mentioned just now, since the number of lay members that can be appointed by the Chief Executive is reduced drastically from 20 to nine, it seems a lot of progress has been made. However, I wish to point out that the number of such members still accounts for more than one third of the total number of members. These lay members can exercise their veto power over important decisions which require two thirds of the votes of all Council members, since they account for more than one third of the total number of members. This means the Council members appointed by the Chief Executive can override the important decisions of other members, so apparently, this would affect institutional autonomy.

In fact, the purpose of academic freedom is to protect the freedom of intellectuals to publish articles or disseminate knowledge, and use knowledge to benefit society, in particular, help students. Since most intellectuals work in educational institutions, whether or not their views can be conveyed to such governing bodies as the Council is crucial to whether or not their views can be realized. If the highest governing body or structure of these institutions — the Council — only listens to the Government in making decisions but does not listen to the views of intellectuals in these institutions, of course, there will be problems. For example, earlier on, Members were very concerned about the 18 August incident that happened in the University of Hong Kong. If a similar incident happens in PolyU, should an independent investigation committee be established to make the decisions? What we can see is: If the Council is the one that makes the decisions, will this indirectly enable lay or government-appointed members to have control over such matters and even exercise their veto power on important decisions? Members can see that universities may have to make this kind of sensitive decisions at any time.

Therefore, when scrutinizing this Bill, we requested that the number of lay members that may be appointed by the Chief Executive be reduced from the proposed nine to eight. In this way, the proportion will be just less than one

third. At the same time, we requested that the number of lay members to be appointed by the PolyU Council be increased from eight to nine. The overall number of members will remain unchanged, but the composition of members will be very different. This can also manifest the autonomy within the institution, or institutional autonomy. Unfortunately, this proposal was not accepted by the Government, to our great regret.

President, I believe that the integrity and ethics of individuals are much less important than a system established. However, the Government often insists that there is no need to look at the percentages in the overall composition and that the people appointed by the Government always have credibility, that all of us have to believe that in exercising the powers of the Council, these people would uphold the important core value or principle of institutional autonomy. However, in proposing these amendments to the Bill, it is often our intention to approach this matter from the angle of the organization or the composition, so as to live up to these principles, rather than simply believing in the credibility of the people appointed by the Chief Executive.

I also wish to point out that the Civic Party supports the amendment to section 10(1)(d) to be proposed by Dr LAM Tai-fai later on. This amendment provides expressly that appointed members cannot be public officers. Although the Government told us frequently that it would not do so, we think that it is always more preferable to lay down express provisions, so we support this amendment to be proposed by Dr LAM later on.

We can take some consolation in the fact that we found that since 2005, generally speaking, the Government and PolyU have managed to comply with the "the six-six rules", that is, the "six-year rule" and the "six-board rule". However, it is true that PolyU has also failed to follow the six-year rule before. That was an exceptional case because at that time, the transition from one President to another was taking place, so some people had to stay on and therefore, the six-year rule was violated. We accept the explanation but also hope that such exceptions can be reduced to a minimum.

In addition, the Civic Party also supports another amendment to be proposed by Dr LAM Tai-fai, that is, to add new section 10(7A) to specify categorically whether or not members appointed as acting President under

sections 8(2), 8(4) and 10(7) have the veto power. We hope that this can be stated clearly, so as to pre-empt unnecessary grey areas.

Both institutional autonomy and academic freedom are the core values of Hong Kong. The Civic Party hopes that the Government can strive to impart such principles as institutional autonomy and academic freedom to the structures of universities. Therefore, even though we think that there is still room for improvement in the amendment proposals under the Bill — that is, government-appointed members are somewhat too many, although this is already an improvement over the number specified by the existing legislation — we hope that this is the beginning of change and that the number of members appointed by the Chief Executive will decrease gradually, so as to avoid giving the impression that, in the final analysis, universities are actually controlled by the Chief Executive or the Government invariably. Of course, we understand that the use of public funds by universities has to be monitored, but we also hope that the Legislative Council or the public will be the one to do so, rather than Council members appointed by the Government.

With these remarks, President, I support this Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon Dr LAM Tai-fai to speak in reply.

DR LAM TAI-FAI (in Cantonese): President, first of all, I would like to thank Dr Raymond HO, Chairman of the Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011 (the Bills Committee), and all members of the Bills Committee for the time and effort they have expended on scrutinizing The Hong Kong Polytechnic University (Amendment) Bill 2011 (the Bill), as well as their support for the Bill. During the scrutiny, the Bills Committee has made several recommendations on improving the Bill further. At the same time, the Legal Adviser to the Bills Committee has also made some

observations on the drafting of the provisions. I have drafted amendments to the Bill on the basis of such observations. I shall move the relevant amendments at the Committee stage.

The proposals in the Bill were made after in-depth discussions and supported by various stakeholders of the University. I have served on the Hong Kong Polytechnic University (PolyU) Council for six years and just vacated the office at the end of March this year. As a former member of the PolyU Council, I am very confident that the proposed amendments to the Bill will further enhance the transparency and effectiveness in the governance of PolyU.

I urge Members to support the passage of the Bill and the Committee stage amendments to be proposed by me later on.

PRESIDENT (in Cantonese): I now put the question to you and that is: That The Hong Kong Polytechnic University (Amendment) Bill 2011 be read the Second time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): The Hong Kong Polytechnic University (Amendment) Bill 2011.

Council went into Committee.

Committee Stage

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

**THE HONG KONG POLYTECHNIC UNIVERSITY (AMENDMENT)
BILL 2011**

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of The Hong Kong Polytechnic University (Amendment) Bill 2011.

CLERK (in Cantonese): Clauses 1 to 4, 7, 8, 10 and 11.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority 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.

CLERK (in Cantonese): Clauses 5, 6, 9, 12 and 13.

DR LAM TAI-FAI (in Cantonese): Chairman, I move the amendments to clauses 5, 6, 9, 12 and 13, as set out in the paper circularized to Members.

The amendment to clause 5 is proposed in response to the observations of the Legal Adviser to the Bills Committee. The original proposal was to merge the existing sections 6(b) and 6(m) to remove the duplication in respect of the PolyU Council's power to enter into contracts and there was no intent to change the meaning of the original provisions. In the light of the advice tendered by the Legal Adviser to the Bills Committee on the effect of merging the two subsections, it is now decided that CSAs be moved to the effect of retaining the original section 6(b) and amending the proposed section 6(m) to "enter into a partnership or any other form of joint venture with any person".

The amendment to clause 6(6) seeks, on the recommendation of the Bills Committee, to make the University's intention clear, that is, a Council member who is proposed for appointment as President or Deputy President is not a member for the purpose of the appointment and does not have the right to vote.

The amendment to clause 9 is proposed on the recommendation of the Bills Committee to provide expressly in section 10(1)(d) of The Hong Kong Polytechnic University Ordinance that both the Administration and PolyU will not appoint any public officer to the PolyU Council, and to add new section 10(7A) to specify categorically that the acting President and acting Deputy President have the right to vote in the Council. The other amendments are moved in response to the views expressed by the Legal Adviser in respect of the drafting of the proposed section 6(4); the Chinese text of the proposed sections 9(2) and (4); the English text of the proposed section 12; and section 13.

Chairman, I implore Members to support the relevant amendments.

Proposed amendments

Clause 5 (See Annex II)

Clause 6 (See Annex II)

Clause 9 (See Annex II)

Clause 12 (See Annex II)

Clause 13 (See Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by Dr LAM Tai-fai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 5, 6, 9, 12 and 13 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 5, 6, 9, 12 and 13 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Members' Bills

PRESIDENT (in Cantonese): Member's Bill: Third reading.

THE HONG KONG POLYTECHNIC UNIVERSITY (AMENDMENT) BILL 2011

DR LAM TAI-FAI (in Cantonese): President,

The Hong Kong Polytechnic University (Amendment) Bill 2011

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That The Hong Kong Polytechnic University (Amendment) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(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.

CLERK (in Cantonese): The Hong Kong Polytechnic University (Amendment) Bill 2011.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First Member's motion: Making recommendations to the fourth term Chief Executive.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHIM Pui-chung to speak and move the motion.

MAKING RECOMMENDATIONS TO THE FOURTH TERM CHIEF EXECUTIVE

MR CHIM PUI-CHUNG (in Cantonese): President, this motion today is the first motion moved by me since I returned to the Legislative Council in 2004. This motion was actually submitted more than two months ago, but it was not given a debate time slot whether by drawing lots or other means.

In the Chief Executive Election held exactly a month ago on 25 March, Mr LEUNG Chun-ying was formally elected as the fourth term Chief Executive of the Hong Kong Special Administrative Region (SAR) and has now been appointed by the Central Authorities. Hence, our question today is to make recommendations to him. Although no one is present on the other side of the Chamber today, I am convinced that Mr LEUNG Chun-ying and people interested in becoming Secretaries of Departments and Directors of Bureaux will listen surreptitiously.

President, Mr LEUNG Chun-ying's victory in the Chief Executive Election is significant in the sense that Hong Kong people facing whatever circumstances are encouraged to campaign hard and they do stand a chance however slim the chances are. I recall that Mr LEUNG Chun-ying invited me to meet him on the 8/F of Conrad Hong Kong at 3 pm on 4 June 2009. When he sought my advice or chatted casually with me, we both talked about how to run in the Chief Executive Election. Being a "big mouth", I told him everything I knew for his reference. I am not saying this was the reason for his success. It is worthwhile for Hong Kong people to learn from his success, that is, neither to lose heart nor feel conceited under whatever circumstances, as I said just now. Certainly, President, Mr LEUNG Chun-ying's success in being elected as the Chief Executive is attributed to many factors.

On the other hand, with 66 more days to go, Hong Kong will mark the 15th anniversary of its reunification. Whether the previous two Chief Executives have managed to lead Hong Kong to a genuine reunification is evident to the public. Whether they really love China and Hong Kong or have a sudden affection for the country and Hong Kong, or there is a contradiction between their words and deeds when it comes to loving the country and Hong Kong, the truth remains the truth. Unfortunately, with the passage of 15 years, most Hong Kong people still find that the reunification is not genuine. Who is to be blamed for this? We should not make sweeping generalizations. Let me be so bold as to say that even Mr DENG Xiaoping, held in high esteem by Hong Kong people, was at fault in saying that Hong Kong's reunification was nothing but a change in the national flag and everything would remain unchanged for 50 years.

President, what remains unchanged includes all interests. In the past, it was perfectly normal for all interests of the British Hong Kong colonial government to belong to it. Given that the sovereign state has such an idea and order, who dares to challenge it? Hence, the variable in the unseen world this time around is that the majority of the people hope to see genuine reform and change as a result of this variable. President, I have once said that any reform and change must begin with self-interest. In other words, we must begin with the interest of China and Hong Kong people rather than personal interest. Can this be achieved? We have to wait and see. Certainly, it is better to have something rather than nothing to follow.

President, my motion today has made 10 recommendations to Mr LEUNG Chun-ying. In fact, this motion was not targeted at him when it was proposed. Had the election been aborted, I might have proposed this motion to you, President. Nevertheless, the die is cast. I was only joking.

President, we understand that there is a disparity between the rich and the poor in society, as the real estate was formerly considered to be the most important sector in Hong Kong. Under such circumstances, many people naturally have great grievances. Many people have also unknowingly been made world-class billionaires. Was Hong Kong definitely at fault? We dare not answer this question, for history might be at fault. Anyhow, the first problem we must address is how to alleviate the disparity between the rich and the poor.

We have also seen that the Communist Party of China had attempted to reform society by means of liberalization. Nevertheless, since the implementation of the open-door policy in China more than three decades ago, many rich people who were formerly "landlords" have returned — we dare not call them bullies — landlords were criticized and denounced in the 50s of the last century, but many of them have now returned. This is a mockery to society.

President, we understand that the elderly problem will pose a serious challenge to society in the future. Thanks to medical and scientific advancements, the life expectancy of males in Hong Kong, exceeding 80 years on average, ranks number one in the world, whereas the average life expectancy of females is 83 years, compared to the previous average life expectancy of 60 years. Though the life expectancy of females in Hong Kong is not the world's number one, it is worthwhile for the Chief Executive to pay special attention to the elderly problem, including their travelling expenses, Old Age Allowance and, as proposed in my motion, even the construction of towns for the elderly, not villages for the elderly, in suitable places in Mainland China when such opportunities arise.

Next I will discuss three issues together. As I mentioned just now, given the gravity of the employment problem in society as a result of a period of manpower mismatch, it is absolutely worthwhile for the SAR Government to encourage cross-district employment. Under such circumstances, I am convinced that, after gaining experience, the SAR Government will continue to address this issue in the near future despite the change of government.

President, land is a most important component of Hong Kong as a whole. I encourage the SAR Government to make planning for land reserves. In the Chief Executive Election, Mr LEUNG Chun-ying once said that used land in Hong Kong merely represents 13% to 15% of the total area of land in the territory, and we still have abundant land. But, as I said earlier, where is the land? The Government must make preparations rather than jumping to this conclusion by merely looking at some figures. Anyhow, we hope the SAR Government can examine the feasibility of constructing several underground cities under the Victoria Park, West Kowloon or even the old Kai Tak Airport. Generally speaking, Hong Kong has in the past relied primarily on reclaimed land. Under such circumstances, it is necessary to examine the creation of a new Hong Kong in the future and the creation of the new Hong Kong should rely not

only on reclamation. Instead, there must be long-term planning to promote capital flow among various sectors of the territory.

President, it has been said that candidates standing in Hong Kong's elections are not handpicked, for every vote is gained painstakingly. Nevertheless, we must understand that Hong Kong's election culture is closely associated with the Central Government. Hence, I have once been so bold as to say that two candidates, rather than one, have been handpicked here. We do not mean to "tarnish the image" of the Central Government, but this is the election culture. As the election cultures in various places are different, we can only capitalize on this culture to enable Hong Kong to do better on various fronts. This is our hope.

President, we also appreciate the four major issues confronting Hong Kong. First of all, in the past seven years, inflation, property prices and rents have surged most drastically. The second issue, as I mentioned specifically just now, is the disparity between the rich and the poor. The third one is that the SAR Government must pay attention to the economic transformation. In contrast to the past when all trades and industries were flourishing, the economy is currently confined to the service industries. According to an international survey, Hong Kong is one of the places on earth where people smile the least. It is worthwhile for the SAR Government to study why people here do not smile even though they are supposed to provide services. The fourth issue is to promote democracy. Although democracy (民主) can always be found in Hong Kong, the point is what "主" (master) and "民" (people) really mean. If democracy is over emphasized so that Hong Kong is turned into a socialist or populist society, this is definitely not good for our future.

As I have spoken for 12 minutes out of my speaking time limit of 15 minutes, I will use the remaining three minutes for my response later.

President, I beg to move.

Mr CHIM Pui-chung moved the following motion: (Translation)

"That, as the fourth term Chief Executive has been smoothly elected under the Chief Executive Election Ordinance, this Council urges all sides to

make recommendations to the fourth term Chief Executive; the relevant recommendations should include:

- (a) to care about the disparity between the rich and the poor, especially paying regard to the aspirations of the middle and lower strata;
- (b) to address the issue of travelling expenses of the elderly;
- (c) to review the Work Incentive Transport Subsidy Scheme;
- (d) to address the issue of Old Age Allowance;
- (e) to plan for the construction of an additional cross-harbour tunnel in the vicinity of Tsim Sha Tsui connecting directly to the Central District on Hong Kong Island;
- (f) to construct large-scale underground cities in various districts;
- (g) to study the construction of towns for the elderly in Mainland China;
- (h) to plan for massive reclamation projects;
- (i) to review the country park policy; and
- (j) to nurture talents."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHIM Pui-chung be passed.

PRESIDENT (in Cantonese): Seven Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the seven amendments.

I will first call upon Mr Albert HO to speak, to be followed by Mr Frederick FUNG, Dr PAN Pey-chyou, Mrs Miriam LAU, Mr IP Wai-ming, Mr

Ronny TONG and Mr CHEUNG Hok-ming respectively; but they may not move the amendments at this stage.

MR ALBERT HO (in Cantonese): President, through this motion debate today, Mr CHIM Pui-chung has relayed to the Chief Executive elect some of the fundamental aspirations or expectations for his future administration. Certainly, the question proposed will allow Members to speak freely. This question proposed by Mr CHIM is certainly important. But for various parties and groupings, other issues are also considered to be important and must be faced and addressed by the Chief Executive elect. In particular, Mr CHIM has obviously failed to mention the most sensitive issues ranging from constitutional development to the enactment of legislation on Article 23 of the Basic Law and even the relationship between the Central Authorities and the SAR.

Today, I will express our views through making substantial amendments to the original motion. I think Mr CHIM should have expected that this kind of motions will certainly become very much like a Christmas tree. I may perhaps take the lead to propose many of the fundamental policies outlined in the election manifesto announced by me on behalf of the Democratic Party for the record and to arouse the attention of the Chief Executive elect. Certainly, there is no way for me to discuss in an in-depth or comprehensive manner each and every issue in my political platform during this 10-odd minute speech, so I will focus on several most important and sensitive issues I have repeatedly mentioned and asked Mr LEUNG Chun-ying during the Chief Executive Election campaign but eventually evaded by him. As for other questions, I will leave them to my colleagues in the Democratic Party.

First of all, I would like to discuss the relationship between the Central Government and the SAR. To put it more directly, there has been grave public concern in recent years about the repeated attempts by central officials to make unreasonable interference in the SAR's affairs in violation of the principles of "one country, two systems" and "a high degree of autonomy". In fact, after the march on 1 July 2003, Hong Kong people have apparently noticed the significant expansion in the establishment and scale of the Liaison Office of the Central People's Government (LOCPG). Moreover, the LOCPG has continued to boost its influence in many community activities and, as a result, many political, social and economic ties have been forged. Despite having noticed all this, we have no

sufficient evidence to demonstrate the extent of the impact of the activities engaged by the LOCPG on Hong Kong's internal affairs. We can only pay more attention to this.

In recent years, however, it has become increasingly apparent from many of their words and deeds that central officials are interfering in the SAR's affairs. As the Hong Kong Chief Executive Election progressed in full swing over the past nine months, we had regrettably seen the LOCPG officials' blatant and reckless appearance on several occasions and even actions to interfere in Hong Kong's affairs.

First of all, Members should remember very clearly that during the inquiry conducted earlier by the Legislative Council into the incident involving Mr LEUNG Chun-ying's failure to declare a conflict of interest in the West Kowloon project, it was widely reported and believed to be founded that a central official had made a telephone call to the Chief Executive's Office and even scolded its Director, Mr Gabriel LEUNG. Later, he also met with a number of Legislative Council Members and pressurized them not to support the inquiry. Secondly, it was also reported some time before the poll (actually, it was not a report, for I had heard very clearly the words from the mouth of the person in charge of a news agency) that his office had received a telephone call from some LOCPG official expressing great dissatisfaction with and condemning some of their press reports about the LOCPG.

Thirdly, with almost a week to go before the poll, LOCPG officials had continued to meet with Election Committee (EC) members to lobby and even coerce them to, hopefully, support Mr LEUNG Chun-ying. Meanwhile, it was reported that LIU Yandong, a member of the State Council, summoned Hong Kong EC members to meet her in Zijing Shanzhuang in Shenzhen, so that Mr LEUNG Chun-ying immediately visited the LOCPG the following day after his election victory to thank it for its vote canvassing.

Furthermore, Mr HAO Tiechuan, head of the Department of Publicity, Culture and Sports of the LOCPG, had openly attacked Dr Robert CHUNG, the person in charge of the public opinion programme at the University of Hong Kong, for the findings of his survey on national identity, which had been conducted for years, for being not objective and "unscientific". As a result, a series of cultural revolution-style attacks were launched by some leftist

newspapers to curse some of the so-called pro-democracy people in the academic circle, including professors such as CHOY Chi Keung and Ming SING, and criticize them for "going against China and disrupting Hong Kong".

Honourable Members, we must take this seriously. However, despite my repeated attempts to put questions to him during the election campaign, Mr LEUNG Chun-ying evaded my questions. I think he ought to show that he is constitutionally obliged to uphold the principles of "one country, two systems" and "a high degree of autonomy" by saying "no" clearly and boldly to all the unreasonable interference made by the LOCPG and the Central Government in violation of the spirit of Article 22 of the Basic Law. This is the first point. Should he fail to do so, I wonder how he can command the trust of Hong Kong people in governing Hong Kong.

The second issue concerns the enactment of legislation to implement Article 23 of the Basic Law. Despite my repeated attempts to question him on his views on this matter, he had only stated that Hong Kong had the responsibility to do so, though a timetable had yet been drawn up for the time being. Nevertheless, as Members are aware, it has been widely rumoured that he has seemingly pledged to the Central Government that the enactment of legislation to implement Article 23 will be completed during his first term of office, though there has been no confirmation from him.

Anyhow, here I must emphasize again that the SAR Government is empowered by Article 23 of the Basic Law to enact laws to safeguard national safety. Although it is stated in the provision that laws should be enacted to achieve the goal of safeguarding national safety, it is also clearly stated that the SAR Government has the power to enact laws on its own. In other words, the SAR Government should examine whether there is a need to enact laws having regard to our actual circumstances before deciding whether the time is right to do so and, certainly, we will have to decide on our own the manner of enacting such legislation.

There is no stipulation in Article 23 of the Basic Law that legislation must be enacted within a certain time frame. In particular, there is no evidence in the reality that our national safety will be at risk if no legislation is enacted. In fact, no legislation has been enacted to implement Article 23 despite Hong Kong's reunification a long time ago. Neither do we feel or hear anyone accusing the

SAR Government of acting unconstitutionally. Hence, I hope Mr LEUNG Chun-ying can realize that Hong Kong should decide on its own whether legislation should be enacted on this issue.

The last point is dual universal suffrage. With regard to electing the Chief Executive by universal suffrage, Mr LEUNG Chun-ying has repeatedly refused though he thinks that this can be achieved. But insofar as the nomination mechanism is concerned, he has not made any pledge regarding a low threshold and absence of screening. He has even indicated in his political manifesto that the number and rights of candidates have to be balanced. This has made us worry that he will propose screening. Should that be the case, I believe political dissidents, especially candidates from the pan-democratic camp, will see the doors of the Chief Executive Election shut on them.

We also hope he can make it very clear that functional constituencies must be abolished no later than 2020. These are our basic aspirations for him.

MR FREDERICK FUNG (in Cantonese): President, the Chief Executive battle is not only a small-circle election, but also internal struggles among the establishment. Even though members of the public are thus thrown in a state of panic and plagued by imaginary fears, they have never had any say. While their wishes can only be reflected passively by opinion polls and even distorted choices, the outcome of opinion polls can also be interpreted as evidence showing that the elect is supported by the majority public. Nevertheless, in the "Project Civil Referendum" on the Chief Executive Election in which members of the public were required to take concrete actions by making a personal visit to polling stations to cast their sacred votes, the first choice of 54% of them was casting a blank ballot. As a result, the numbers of votes secured by the two candidates from the establishment were similar, meaning they each had the support of 17% of the voters. Apparently, public opinion was not given due respect.

Not only was the polling result fiercely criticized by leftists for being "unscientific", the poll was attacked by "hackers" right from the beginning with several twists and turns. President, we must take our hats off to these people who took concrete actions to express their views. Not only did they triumph against the odds and come forward with concrete actions to triumph over the darkness of the small-circle election, they also broke through and reversed an

established fact with the ballots in their hands, counteracted the sense of helplessness and powerlessness with reason and perseverance, and took the first clear step for Hong Kong's future democratic development. Despite being made the target of sarcasm and mockery as well as cyber attack, they have never backed down. From the endless queues of voters, we saw hope. Should freedom and human rights in Hong Kong be shaken for one moment in the future, we believe Hong Kong people will come forward and preserve, fight for and defend these core values without any hesitation.

President, members of the public were not only fed up with the Chief Executive Election, many of their eyebrows were raised because of its bloodiness. It can be said that such practices as mudslinging, muckraking, "manure splashing", "under-the-counter deals" and "secret manipulation" were employed to the extreme. The deadly fights between groups with vested interests and kingmakers behind the scene appeared to aim at killing people, too. The harmony and solidarity mentioned by the establishment and the leaders' call for "unity among brothers for the greatest strength" are deceitful in appearance. In reality, only brutality and cruelty can be found inside. Eventually, the public's cumulated grievances and desire for change, coupled with the LOCPG's blatant interference, have created the right opportunity for the candidate handpicked by the LOCPG to be formally elected as the Chief Executive.

After the Election, there came a strong wind of reconciliation. In fact, the so-called solidarity, reconciliation and ties are just normal parameters. Human relations are supposed to embrace all these elements, for they are all normal social ethics or universally applicable principles governing human conduct. Nevertheless, after such a small-scale SAR election, especially the election of the head of the SAR, the word has surprisingly become a popular political jargon on everyone's lips. Even central leaders, officials of the Hong Kong and Macao Affairs Office, various pro-establishment groups involved in the Election, lobbyists and "concerned onlookers" keep repeating this word. Obviously, "reconciliation" and "solidarity" merely reflect internal revolts and serious internal discord among members of the establishment. To put it directly, the Chief Executive has to regain his prestige in governance and ensure a smooth transition of power.

However, the winner's political platform is propped up by the livelihood issues which he has expressed great concern in his articles. From the minimum

wage to unitary development of the economy and even the population policy, they are the major livelihood initiatives proposed by the opposition in the past. Now, he is relying on his words against the Government. But, during his political career in the past, especially amid the political whirlpool and crisis, he had always retreated to a safe and favourable place. How can a Chief Executive who is particularly fond of taking short cuts lead Hong Kong people to face real challenges?

During the latter part of the Election when the Chief Executive elect was getting closer and closer to taking the helm and the chance of him being elected was getting higher and higher, his livelihood initiatives, ranging from the production of public rental housing flats to the protection of labour rights, became more and more conservative and followed closely the steps of his predecessor. It transpires that all the bold livelihood initiatives proposed by him at the initial stage of the Election as well as his tendency to counteract people with vested interests merely serve to attract the people's attention and turn their dissatisfaction with the incumbent Government into a force in his favour. Now that the Chief Executive throne is already in his hand, reconciliation and solidarity have suddenly become the main theme in order to ensure a stable transition of power. All of a sudden, the domination and monopolization by people with vested interests can be tolerated and protected, and social conflicts that really need to be rationalized are completely forgotten. Perhaps this is the real reason why members of the public loathe politicians.

Perhaps the call for the Chief Executive elect to rectify the mistakes is making life difficult for him. After being elected, he could even behave as if he did not have the slightest idea of the blatant interference by the LOCPG. How can we expect him to undo everything and start afresh given that his power is built on the Central Government's blessing and the exchange of interests in the small circle? Consequently, fundamental political principles such as winning people with reason and virtue cannot be established as a result of the Chief Executive Election. On the contrary, the fact that the LOCPG has acted behind the scene in exchange for the EC members' U-turn support is a recipe for disaster, for a new privileged class will thus come into being and they will wait for a harvest and profits in return. The decision of the Heung Yee Kuk to act wisely by suiting their actions to the times as well as the call of his loyal supporters after the Election for granting an amnesty to illegal structures in the New Territories precisely reflects that he is in essence shaking the administration of the SAR

Government. It can be said that harm has already been done even before he takes office.

President, we must still speak up even though we are facing such a predicament and the inherent weaknesses of the future Government. We hope we can persist in defending Hong Kong's core values. As I pointed out earlier, we will definitely come forward without hesitation should our freedom and human rights be shaken for one moment in the future, for Hong Kong's overall interest will thus be sacrificed. Members of the public will resolutely uphold "one country, two systems" as well as "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". We would not allow the LOCPG to issue orders explicit or implicitly.

Furthermore, regardless of its new officials and facade and window dressing, so long as the Central Authorities do not change their substance and mindset, the difficulties facing Hong Kong will remain, for its people will still be struggling in deep water. President, we do not want the Chief Executive elect to follow his predecessor or impose his will as the superior. What is more, we do not want any "grand, big and empty" lies told in the Election and bulldoze through new policies without public mandate in order to accomplish tremendous achievements and make a name for himself in the world. I believe a genuinely sincere politician must be able to grasp the people's thinking, achieve social cohesion, arouse public attention to social issues, pinpoint the crux of the problems, engage the public in discussions, remove obstacles and paint a vision with a view to identifying solutions.

For these reasons, I emphasize in my amendment that the new Government must rectify the past policy blunders of the Government and the distortion of the political system, alter the past governance philosophy of non-intervention, reposition the roles and functions of the new government in the future, build on a set of principles of development for all people, formulate fair social and economic policies, promote genuine universal suffrage, set up a democratic and open political system, and proactively address deep-rooted social conflicts such as the disparity between the rich and the poor, housing difficulties, the lack of social mobility opportunities and unitary development of the economy.

President, I must emphasize that the reconciliation genuinely needed by Hong Kong society is absolutely not confined to some minor bickering among

members of the establishment. As the future Chief Executive, he must gain a profound understanding of the cumulative grievances and conflicts between the rich and the poor in society nowadays being closely associated with the long-held governance philosophy of "big market, small government" and "*laissez-faire* market", as a result of which social and economic policies thus formulated are biased and unfair. Currently, most of the major livelihood issues which should originally be adjusted and improved by the Government, such as transport, housing and grass-roots employment, are tackled by the market instead. They have all contributed to many unjust and profiteering habits. With the distortion of the free market and political system, the business sector has become wayward and aggressive because it was already badly spoiled a long time ago. Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): First of all, President, I would like to thank Mr CHIM Pui-chung for proposing this timely motion.

From the data on various quarters, we can see that Hong Kong's current population is ageing rapidly, with the number of people aged 65 or above expected to rise by 23.5% from 12.6% of the total population in 2008 to 23.5%, or nearly a quarter, in 2028. The problem of ageing population can be described as extremely urgent. Hence, the three amendment items in my proposed amendment today are all targeted at population ageing and the needs of the elderly.

Population ageing will bring about a lot of challenges. Firstly, the overall productivity will drop, and the total population of people capable of work in society will inevitably decrease; secondly, the consumption pattern will change, because the elderly normally lead a simpler material life than young people but have a great demand for healthcare services and personal care; and thirdly, regarding their demand for public services, the elderly will use public services by all means as they do not have a job and have to cut down on living expenses. Having regard to the ageing trend of the population, all these factors will reshape our social landscape.

Given the urgency and gravity of the problem, we can no longer "take one step at a time", and we have to adopt a holistic strategy. In fact, we even need to

conduct in-depth topical studies and planning for certain particular elderly problems, such as strategies to address such diseases as cognitive handicap.

Currently, the majority of elderly persons still prefer to spend their twilight years in Hong Kong. Hence, a responsible government is duty-bound to pursue sustained development and improvement of the care and attention services for the elderly in Hong Kong, and address the various needs of the elderly in their daily life. The two greatest problems currently confronting the elderly in Hong Kong are the two "long queues", one for subsidized residential care homes for the elderly (RCHEs) and the other for specialist services at public hospitals.

Let me begin with the demand for places in subvented institutions. The demand of the elderly is attributed to two reasons: Firstly, there are inadequate elderly community services in terms of facilities, variety, quality and quantity. As a result, many elderly persons are denied proper care in the community and so they cannot enjoy their retirement life at home. Secondly, there is a considerable gap between private RCHEs and subvented RCHEs. This is why even though the waiting time for bought place RCHEs is not too long, most elderly persons would rather wait for places in subvented RCHEs than go to private institutions.

The operators of private RCHEs are facing many problems, too. Of the two major problems, the first one is that it is difficult to find suitable premises to operate RCHEs, as the premises must be large enough and the rent must be relatively low. However, it is very difficult to find such premises on the market. Moreover, the surge in rent in recent years has adversely affected their operation. As the Government has given no assistance at all to address these problems and allowed the market to determine everything, private RCHEs are therefore facing enormous problems. Their second problem is that it is difficult to recruit care workers because of, as pointed out just now, high operating costs and the Government's low offer for bought places, thus making it difficult for private RCHEs to offer reasonable pay to attract new comers to join the industry.

Hence, in order to resolve the problem of long queues waiting for places in subvented institutions, targeted measures should be adopted to enhance elderly community services in terms of quantity and quality as well as removing some of the obstacles hindering the operation of private RCHEs, thereby upgrading the quality of private institutions to give the elderly a real choice.

The reason for the long queue for healthcare services is quite baffling. During the seven years between 2003 and 2010, the number of doctors in the Hospital Authority (HA) and the total expenditure (that is, recurrent expenditure) have increased by 14.3% and 17.9% respectively, whereas Hong Kong's population has increased by 4.4% only during the same period. Nevertheless, the waiting time for many urgently needed services, such as specialist out-patient services and non-urgent surgeries, are getting longer and longer. What does it imply? The only answer is that resources have not been used on services most urgently needed by the public.

In order to tackle the second long queue facing the elderly, the HA should begin with comprehensively reviewing the nature of services, allocating resources properly and rationalizing its services before examining the inadequacies of the HA.

Quite a number of elderly people in Hong Kong prefer to return to their hometown for settlement. As the saying goes, "A tree may grow a thousand feet tall, but its leaves will return to its roots." According to statistics, around 76 700 Hong Kong elderly aged 65 or above are currently living in the Mainland, with approximately 60% of them in Guangdong Province. With the implementation of measures allowing elderly persons to live in the Mainland for a long period to receive Comprehensive Social Security Assistance and the Old Age Allowance, the number of elderly persons living out their retirement life in the Mainland is expected to continue to rise.

Besides emotional factors, there are actually many practical considerations for the elderly to choose to return to their hometown for settlement. First of all, as prices and wages are lower in the Mainland than in Hong Kong, it is easier for the elderly to live out their retirement life in the Mainland than in Hong Kong with the same amount of money. Secondly, the Mainland offers better quality of life, larger space and more comfortable living conditions.

The towns for the elderly, as proposed by Mr CHIM, have existed in the Mainland and even overseas countries for a long time. There is nothing one can do when he grows old with deteriorating physical conditions. He will find his self-care ability disappear gradually, too. Hence, elderly persons will have different demands for care at different stages. We can find in many places elderly communities where elderly people of the same age groups live together.

As a result, there are more people sharing the same topics and interests. Having regard to the demand for care of the elderly living in these communities, different forms of accommodation can be arranged there. Although it is worthwhile to develop this model, Hong Kong has little land but a large population. In Hong Kong, this concept of constructing towns for the elderly can be described as just a mirage. In contrast, this development model is feasible on the Mainland, where there is more abundant land.

The return of the elderly to the Mainland to live out their retirement life, if handled properly, will benefit Hong Kong society to a certain extent, including alleviating the housing demand, expediting the turnover of subsidized housing, and easing the stress on the manpower market so that adequate manpower can be redirected to other industries. Lastly, after the relocation of some elderly persons to the North, their demand for various public services in Hong Kong will be reduced, too.

For these reasons, we think the Government should look at various measures to facilitate elderly persons in living out their retirement life in their hometown with a more flexible attitude by, for instance, participating in the construction and operation of the said towns for the elderly through subvented statutory organizations and providing primary medical service for Hong Kong elderly people living in the Mainland.

Lastly, I must say a few words about travelling expenses here. It is an extremely beneficent measure for the Government to introduce \$2 concessionary transport fare for the elderly and people with disabilities later this year. However, the concessionary fare schemes fall short of being perfect, for trams and public light buses are excluded. Both my partner, Mr WONG Kwok-hing, and I have repeatedly proposed that trams, which are very popular among the elderly, should be included in the concessionary fare schemes to offer the elderly free tram rides. Nowadays, green minibuses, as a major mode of connecting transport, should also be included in the schemes, but I do not intend to repeat the detail arguments here.

As for taxis, we agree that taxi fares are high, and less expensive alternatives are available on most occasions. Therefore, there is no reason to subsidize taxi rides with public money. However, some mobility-handicapped elderly persons cannot move freely because of their disabilities. When they

need to go out to, for instance, attend follow-up consultations in hospitals or receive rehabilitation services, it is often impossible for them to use other modes of transport. Under such circumstances, taxis have become a necessity for them. We hope the Government can study the provision of allowances to subsidize mobility-handicapped elderly persons to take taxis when required.

Lastly, I would like to quote a few lines from *Datong, Li Yun*, to conclude my speech, "When the Grand course was pursued, a public and common spirit ruled all under the sky; they chose men of talents, virtue, and ability; their words were sincere, and what they cultivated was harmony. Thus men did not love their parents only, nor treat as children only their own sons. A competent provision was secured for the aged till their death, employment for the able-bodied, and the means of growing up to the young. They showed kindness and compassion to widows, orphans, childless men, and those who were disabled by disease, so that they were all sufficiently maintained.¹" I would like to express my aspirations for the new term Government with these few lines.

I so submit.

MS MIRIAM LAU (in Cantonese): President, although the Chief Executive elect, Mr LEUNG Chun-ying, was elected the fourth term Chief Executive against a "three-low" background with "low ballots, low popularity ratings and low credibility", he has continued with his efforts, even after he was elected, to strive to foster an atmosphere of solidarity as well as addressing people's pressing needs. I consider this a good beginning. In fact, the public has great expectations for the new Chief Executive after taking office. Hence, I will talk about the views of the Liberal Party on this issue.

In our opinion, one of the major problems the new Chief Executive must strive to resolve is the deep-rooted conflicts. Admittedly, being a developed economy, Hong Kong is now at a platform stage of growth. In fact, Hong Kong is stagnant in dealing with a lot of things, and its economy is confined to finance and real estate. Despite the consensus in the community that economic transformation must go ahead, the community is still divided on the goal and ways of the change in direction. Such being the case, the immediate task for the

¹ <<http://ctext.org/liji/li-yun/zh?en=on>>

new Chief Executive after taking office is to formulate long-term and sustainable economic policies, avert the imbalance, explore new points of growth and redistribute social resources, in order to eliminate the various kinds of conflicts arising from economic imbalance. That said, what will the new Government do to make itself suitably promising at the economic level? Will there be a U-turn on free economy and will the policy objective of "big market, small government" be scrapped? I do not mean that this long-established policy cannot be amended, but whether it will be significantly changed is still worrying.

In my opinion, the failure of the incumbent Government to resolve the deep-rooted conflicts is largely because it has no idea of the right way to go about it and does not understand that the source of conflicts lies in the imbalance in economic development, thereby resulting in uneven distribution of the fruit of development. For instance, it is revealed in the 2011 Population Census published earlier that the ratio of households with a monthly income of over \$100,000 has risen from 3.3% in 2001 to 4.7%, whereas the ratio of households with a monthly income between \$2,000 and \$4,000 has risen from 4.8% to 5.5%. This reflects that the disparity between the rich and the poor has continued to worsen.

According to a survey conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong, 68% of the respondents, an increase of 11% over 2010, believe there are serious conflicts between the public and major consortia, and up to 67% of the respondents, an increase of 11% over the previous year, believe there are conflicts between the Government and the public. The fact that the ratios and rates of increase of the two are very close does reflect that members of the public already treat their confrontations with the Government and businessmen to be the same. This indirectly demonstrates that the collusion between business and the Government is deeply rooted in people's minds.

It is indeed worthwhile for us to reflect on why such problems would have arisen in Hong Kong, an enviable city with abundant foreign currency reserves of \$2,200 billion. Hence, we must think hard to work out solutions to developing land. Although it is a fact that land resources in Hong Kong are inadequate, land supply has not yet been depleted. Despite its frequent complaints of "a lack of land" or "having difficulties in identifying sites", the Government can hardly

shirk its responsibility because it is reluctant to face the limitations on industrial development.

In fact, a lot of land in Hong Kong, even land in the urban areas, has not yet been properly utilized. For instance, up to 1.04 million sq m of space in private multi-storey industrial buildings in Hong Kong were left vacant last year after the implementation of the revitalization policy. Furthermore, only about 24% of the land in Hong Kong has actually been developed, with the remaining 40% and 30% of the land designated as country parks and rural land waiting for development respectively. As such, the new Chief Executive should begin with rural land or green belts with relatively low ecological value and refrain from choosing the easier option of taking forward large-scale reclamation projects beyond the Victoria Harbour. To avoid damaging the ecological system of the sea and the environment, such projects can only be carried out in an appropriate manner when special needs arise.

As regards further improving the system of education and manpower training, the ratio of local students of the appropriate age group enrolling on publicly-funded bachelor's degree programmes, which currently stands at only 18%, is far lower than those in advanced countries such as Australia, the United Kingdom, and so on, and equally hard to satisfy the demand arising from economic development. As such, the Chief Executive should strive to increase the number of places in both the public and private sectors and review the design of the existing curriculum to examine if it is capable of creating conditions for Hong Kong economy to take off again.

Should the Chief Executive be able to break through the bottleneck restricting economic transformation, not only will the middle class be benefited, even the disadvantaged groups will regain its upward mobility. As the Legislative Council is going to discuss my proposed motion on "Actively studying the establishment of a middle class commission" next week, I will wait until next week to discuss in detail the measures for the middle class. Next I will first say a few words about assisting the disadvantaged groups in society.

The Liberal Party has been advocating that the Government should at least provide an additional \$500 living supplement as extra financial support for impoverished elderly people merely relying on the "fruit grant" for living. What is more, we hope that the new Chief Executive can promote the concept of

"providing labour for relief" in order to provide low-income people who are employed or willing to work with more support. In this connection, initiatives can include reviewing the existing Work Incentive Transport Subsidy Scheme, streamlining the application procedures, implementing a dual-track system, relaxing the income and asset ceilings on applicants, and raising the amount of subsidy to \$650 to achieve the original function of encouraging employment. As for some low-income families which are self-reliant or reluctant to apply for Comprehensive Social Security Assistance (CSSA), the Government should similarly give them a helping hand by, for instance, removing the labelling effect of the CSSA system on low-income people to enable low-income families to enjoy the living supplement or subsidy without being labelled as the neglected "N have-not families".

Certainly, the Government should adopt more measures to provide convenience for elderly persons who have made lifelong contribution to society. The \$2 concessionary transport fares proposed for the elderly by the incumbent Chief Executive last year is supposed to be a very popular beneficent measure. But unfortunately, it has yet to be implemented. We hope the new Government can adopt a non-discriminatory attitude and make the concession applicable to all modes of transport. In fact, I have proposed numerous times in this Council that the concessionary scheme should cover public light buses as well. Furthermore, the Government must strive to promote the implementation of this concessionary measure expeditiously.

President, economic and livelihood issues aside, we have to come back to some fundamental principles concerning governance. For instance, the high-profile visit made by Mr LEUNG to the LOCPG the following day after he was elected was described as an act of thanking the LOCPG for its vote canvassing. This has inevitably raised doubts in the community and among members of the public as to whether such principles as "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" are going to change. Similarly, the recent "red" incident involving the recruitment by the Chief Executive's Office of a non-Hong Kong resident with a Communist Youth League background has aroused public concern, too.

According to a survey conducted by the public opinion programme of the University of Hong Kong and published last month, Hong Kong people's confidence in the "one country, two systems" has fallen to 55%, the second

lowest level in the past seven years. Such being the case, the new Chief Executive must steadfastly maintained the governance principle of "one country, two systems" and restore public confidence. The Liberal Party will also play the role of a watchdog to "listen to his words and monitor his acts" to ensure that he will not deviate from the core values of Hong Kong people in his work.

As some good proposals are found in the amendments proposed by Mr Albert HO, Mr Frederick FUNG, Mr IP Wai-ming, Mr WONG Yuk-man and Mr Ronny TONG, we will support their amendments. Nevertheless, we can hardly support some of the proposals and views therein because a consensus has not yet been reached on them, or they are alleged to be too vague. As the amendments proposed by other Members, including Mr CHIM Pui-chung's original motion, involve mainly proposals on supporting the disadvantaged and developing Hong Kong economy, which are similar to the views of the Liberal Party, we will give them support, too.

Thank you, President.

MR IP WAI-MING (in Cantonese): President, the inauguration of the fourth term Chief Executive will take place on 1 July, when he will formally shoulder the major responsibility of leading the people of Hong Kong to rise to future challenges. Having a bearing on the livelihood and well-being of Hong Kong, this responsibility can be described as an arduous task. This motion moved by Mr CHIM Pui-chung has given me the opportunity to propose an amendment. My colleague, Dr PAN Pey-chyou, has also proposed an amendment to prevent our amendments from being negated altogether.

I have put forward many proposals in my proposed amendment in the hope that the new Chief Executive and the SAR Government under his leadership can address them squarely. Although some of these proposals have been raised on various previous occasions, we are going to mention them again this time in the hope that the new Chief Executive can address the issues of the grassroots squarely and expeditiously put the proposals into implementation to improve the livelihood of the grassroots.

Because of the time constraint, I will focus on several proposals.

First, the Work Incentive Transport Subsidy Scheme (WITSS) should be reviewed. Exorbitant travelling expenses are commonplace in Hong Kong. According to some surveys conducted a couple of years ago, residents of North District had to spend up to 30% of their income on travelling expenses. Despite an increase in the income earned by some grass-roots wage earners owing to the implementation of the minimum wage last year, the effect of the rise in income has partly been offset as a result of escalating inflation and the endless upward adjustment in travelling expenses by transport operators. As a result, the burden of wage earners has increased further.

Hence, we welcome the current-term Government taking on board our views and expanding the WITSS to every district. Nevertheless, while launching the new scheme, the current-term Government has imposed an unreasonable and stringent threshold and complicated formality, thus directly stifling the making of applications by people in need. As a result, the number of WITSS applicants is less than 30 000, far lower than the originally estimated 210 000.

Among others, using the family as the unit of calculating income and assets has been the greatest cause of criticism. Since the objective of the WITSS is to relieve the burden of travelling expenses on low-income people and encourage them to stay in employment, coupled with the fact that job-related transport is a personal matter, why should the family be used as the unit for calculation of income? Applications for transport subsidy by individuals are simply unrelated to family income, but the current-term Government insists that the family be used as the unit. No matter how hard we try, we do not understand this at all. Neither do we consider the Government's argument sensible. In our opinion, requiring family members to disclose each other's assets and income indirectly makes life difficult for both the relevant families and applicants.

In February this year, the HKFTU New Territories East Community Update conducted a survey, and it was found that only 10% of the respondents who were formerly eligible under the previous transport subsidy scheme could submit applications under the new scheme. Moreover, over 50% of the respondents were even not given a chance to submit applications, because their family income had exceeded the limit. Despite the relaxation last year of the income and asset limits due to public pressure, the WITSS will still not be able to

perform its desired function should the Government insist on using the family as the unit for calculation of income and assets.

Such being the case, I hope the new Chief Executive can expeditiously review the effectiveness of the WITSS and implement a dual-track system upon taking office. Furthermore, should the new Chief Executive genuinely wish to provide support for families in financial hardship, we propose that he should provide a family subsidy for low-income families rather than making the WITSS neither fish nor fowl.

Secondly, over the past decade or so, the labour sector has been calling for the abolition of the mechanism whereby contributions made under the Mandatory Provident Fund (MPF) scheme are offset by severance payments and long service payments and the establishment of a comprehensive retirement protection scheme. President, the MPF scheme, which has been implemented for over a decade, has been criticized for its loopholes not being plugged, despite our numerous discussions in this Chamber, especially on the offsetting mechanism. The labour sector has all along called for the abolition of the arrangement whereby MPF contributions are offset by severance payments and long service payments.

Under the existing policy, employers may use their accrued benefits under the MPF scheme to offset severance payments and long service payments for employees. Let me cite an example closely related to colleagues who have hired a number of assistants. Owing to the Legislative Council's change of term every four years, our assistants might be made redundant every four years and their MPF accounts might thus be offset every four years, too. Should the assistants of yours, President or other colleagues, including our assistants, have served certain colleagues, political parties or groups for two or three terms, their MPF benefits should have been offset two or three times. How much will remain in their MPF accounts? We hope this mechanism can be reviewed by the Secretariat in future.

While MPF benefits are supposed to be used by employees upon retirement, severance payments are financial compensation for employees upon being made redundant. The two are fundamentally poles apart. Neither should MPF contributions be used for offsetting purposes. In this connection, we hope the fourth term Chief Executive can fulfil his electoral platform, for he has

categorically undertaken to abolish the mechanism whereby MPF contributions are offset by severance payments and long service payments. I hope he can expeditiously honour his electoral pledge after taking office to give protection to our wage earners.

It is not enough to enhance the MPF scheme only. Strictly speaking, we consider the MPF scheme just a stepping stone to providing universal retirement protection. In the long run, the FTU considers that the new Government should grasp the last gold opportunity in the coming five years to resolve the retirement problem facing the elderly in Hong Kong, because the ageing problem is pressing. As this point was raised by Dr PAN just now, I will not elaborate on it in detail. Through the establishment of a comprehensive retirement protection scheme, we hope the Government can provide full retirement protection for all people in Hong Kong, including the non-employed population.

Lastly, concerning the standardization of the number of holidays, the duration of overtime work performed by employees in Hong Kong is Number One in the world, with the median weekly working hours of people in the catering and security industries reaching 60, far higher than the 40 hours recommended by international labour groups. Many colleagues have already spoken at length about the impacts of long working hours, including the impact on the quality of life and health of employees. But ironically, the current-term Government has, on the one hand, encouraged all trades and industries to foster a "family friendly" working environment but, on the other, allowed some employees to work overtime without compensation. It is particularly unfair to employees who are allowed to take only 12 statutory holidays per annum.

In fact, with the implementation of the statutory minimum wage (SMW), Hong Kong employees' demand for standard working hours has become increasingly keen, because many disputes arising after the implementation of the SMW, such as how wages of meal breaks and rest days should be calculated, simply stemmed not from the Minimum Wage Ordinance itself. It is rather because of the fragmented laws in Hong Kong as well as the Government's attitude of evading the enactment of legislation on standard working hours while implementing the SMW that wage earners fail to enjoy full employment protection.

For this reason, I call on the next term Chief Executive to treat employees in different trades and industries in an equitable manner and standardize the number of statutory holidays and public holidays. Meanwhile, we would like to solemnly call on the new Chief Executive again to honour his electoral pledge to follow up on the study being conducted by the current-term Government on standard working hours and establish a select committee comprising the Government, representatives of employers and employees, academics and members of the community to jointly study how to promote the enactment of legislation on standard working hours and the scope of such enactment with a view to legislating on standard working hours expeditiously. Meanwhile, attention should be paid to the overtime work performed by employees, too. In particular, overtime work without compensation should not be allowed to continue.

President, I so submit.

MR RONNY TONG (in Cantonese): President, I found this motion very strange when I first saw it. Why did I find it strange? If, during the governance of an incumbent Chief Executive, this Council has some expectations of him and hopes to express views on improvement of his governance, I would consider it quite normal and perhaps it is what we are duty-bound to do. However, I find it rather strange when so many colleagues have put forward so many demands to a Chief Executive elect when he has yet taken up his office.

It is strange because if the Chief Executive Election were a true election, should the candidate not have made clear his position or situation of governance in relation to many aspects after he has taken up office? Should he not have conducted studies and made pledges in various aspects and provided an outline of his future governance before he was elected? Why is it that when we go over these 10-odd to 20 proposals in the motion and the many amendments which are set out like a Christmas tree, it seems that this Chief Executive elect has not touched on any one of them?

What is even more baffling is that — President, just look over there — there is not even one government official. Of course, they would think that this motion has nothing to do with them because what we are talking about concerns the next term Government, so why should they be sitting here listening? But we

cannot be sure about whether the Chief Executive elect, Mr LEUNG Chun-ying, is listening to our debate or not. We have made so many proposals when he has not even completed putting together his ruling team, and even after his ruling team is formed, there is no way for us to find out what those Directors of Bureau and Secretaries of Department would think.

Another paradox is that if we put forward only our aspirations and make clear what we would like the Chief Executive elect to do, why do we need to hold a debate and vote in this Council? Does it mean that the aspirations of the minority are not worthy of any audience and should be ignored by the Chief Executive? Simply enough, many proposals or policies will certainly be negated under the separate voting system and after they are negated, does it mean that our Chief Executive elect would consider these issues negligible? Should he take this attitude?

I think that when we hold discussions in this Council and when each one of us puts forward to the Chief Executive elect our own or our party's concerns or expectations in respect of certain policies, we should not put them to a vote to decide which amendments or which proposals should be endorsed. It is because we are just expressing our own views and even if the proposals are negated, this Chief Executive elect should still consider these proposals in detail if these views are correct or have a bearing on society. He should come to this Council and sit opposite us to listen carefully to what Members have got to say, rather than focusing on which proposals in the motion will be or will not be passed. President, what is even more paradoxical is that nobody will give a response to our speeches later on, because no government official is here and so, nobody is going to respond to Members' remarks. No matter whether Members are right or wrong in what they said, or whether it is pleasing to the ear or not, or whether what they said is untrue or illogical, nobody is going to give a response.

President, sometimes when I stand here giving a speech, I feel puzzled as to why the situation is like this. Let me now do a headcount — President, I am not calling for a headcount — but how many people are in the Chamber now? With four from the democratic camp and three from the pro-establishment camp, and together with you, President, there are eight of us altogether. For what purpose are we holding a discussion here? That said, President, sometimes, even Members will do outrageous things and so, I will continue to act outrageously.

What I wish to say today is that our Chief Executive elect has never touched on or discussed a number of issues. I mean constitutional reform, the enactment of legislation on Article 23 of the Basic Law, issues involving the Mainland and Hong Kong, and so on. Is it that these issues should not be proposed for discussion in the first place? No, because they can have a great impact on society. Take constitutional reform as an example. The next term Government will have to take up some unprecedentedly important tasks since the reunification, which include planning and implementing the arrangements for the election of the Chief Executive by universal suffrage in 2017, improving the arrangements for the Legislative Council Election in 2016, and providing a roadmap for the election of the Legislative Council by universal suffrage in 2020. These will have to be carried out by the next term Government. As such, why is it that the person who is most capable of exerting an influence on constitutional development has never expressed his views on this issue? We simply have no idea about his position, and I believe his position is ultimately the most decisive factor. Will there be true universal suffrage without any screening or just a window-dressing kind of universal suffrage in 2017? There is no way for us to tell. So, I very much hope that the Chief Executive elect can sit here facing us and responding to the views that we put forward today.

Another issue of concern to many people is Article 23 of the Basic Law. Coincidentally, members of the public and the media have been discussing "Article 23 of the cyber world" and the discussions have become very emotive. What are the people discussing? It is only about restrictions in respect of copyright, and national security has yet become a topic of discussion. Imagine: What is at issue now is only a Copyright Ordinance which is already dubbed "Article 23 of the cyber world" and has aroused such heated debates in society. If consideration would really be given to legislating on Article 23 of the Basic law for the protection of national security, the intensity of the controversy to be aroused would be imaginable.

I believe Members will recall what happened back in 2003 when Hong Kong people had most enthusiastically taken part in the discussion on the relevant bill and when the Government threatened to pass the bill. We all remember how we spent the day on 1 July that year. I believe several decades afterwards, whenever 1 July approaches, and even for people who did not take to the streets back then, they will remember how shocked they were when they watched the television on that day and the admiration commanded by Hong Kong people.

For people who did take to the streets on that day, they will surely remember how much sweat they lost and for how long they had waited on that day. In the face of such an important issue, an issue that has touched a chord in the 7 million Hong Kong people, our Chief Executive elect has nevertheless brushed it away lightly while creating a lot of ambiguities.

Therefore, we very much hope that the Chief Executive elect can more clearly state his position on this issue, in order to put the minds of Hong Kong people at ease. The biggest problem now is a lack of trust between the Government and the people, or from a broader perspective, it is a lack of trust between Beijing and Hong Kong people. Forcing the legislation through before bridging this huge gap in mutual trust definitely will not have a good ending. In fact, what is also involved is the views of the Chief Executive elect on some core values in which we have always taken pride, such as the freedom of speech, freedom of expression, freedom of thoughts and freedom of the press. He has said that freedoms in Hong Kong will be no less than before. If that is the case, why does he not say openly that he will not legislate on Article 23 of the Basic Law before there is a government returned by the people? President, I very much hope that the Chief Executive elect can openly explain his position on these issues to the 7 million Hong Kong people.

Thank you, President.

MR CHEUNG HOK-MING (in Cantonese): President, over the past few months, the SAR has experienced an unprecedentedly fierce Chief Executive Election. During the Election, members of the general public, different organizations and different camps might hold entirely different views and stances on the developments of the Election and even on various rumours and news. But amidst these diverse views and stances, the voices calling for changes and improvements are all the same. Now that there is already a result of the Election, society must spend time and efforts focusing on ways to strive for changes and improvements. Mr CHIM Pui-chung's motion today has provided a very good platform for colleagues to express their concerns and proposals to the next Chief Executive.

While the community aspires to changes, what are the issues that the public considers most pressing and hopes that the next Chief Executive will tackle with

priority? In order to understand the aspirations of Hong Kong people for the governance of the new Chief Executive, the DAB conducted an opinion poll after the Chief Executive Election and interviewed 1 143 people successfully. Poll results show that the respondents generally hope that the new Chief Executive will deal with three problems with priority: First, resolving the problem of pregnant Mainland women whose spouses are not permanent residents of Hong Kong (doubly non-permanent resident pregnant women) giving birth in Hong Kong; second, improving the quality of public hospitals and shortening the waiting time; and third, addressing the problem of high property prices, expensive rentals and poor living conditions of the people.

Some time ago, Chief Executive elect, Mr LEUNG Chun-ying, already called on private hospitals to stop admitting "doubly non-permanent resident pregnant women" in 2013 and announced in advance that he would implement measures to this end after he has taken up office. The DAB is supportive of Mr LEUNG's effort in expeditiously responding to the problem of "doubly non-permanent resident pregnant women". We hope that Mr LEUNG, after taking up office, will announce the details of the measures to thoroughly resolve the problem of "doubly non-permanent resident pregnant women" giving birth in Hong Kong.

In fact, apart from the problems of "doubly non-permanent resident pregnant women", healthcare quality and housing, the public has also felt utterly helpless and discontented in the face of incessant fare increases by public transport operators in recent years which have pushed up inflation. The public has even felt more suffocated and more enraged by the MTR Corporation Limited increasing its fares continuously to the neglect of the pressure of living on the general public despite the company having reaped huge profits annually. Therefore, we believe that apart from the three problems as reflected in the opinion poll, the public would also like the next Chief Executive to tackle as a matter of priority the problem of incessant fare increases by public utilities. The DAB hopes that the next Chief Executive can put forward practical measures accordingly to respond to the above four issues relating to the people's livelihood which are concerns to the public when he delivers the policy address in October or after he has taken up office in July.

President, the DAB has been strongly urging the current Government and the next Chief Executive to proactively develop land. In this connection, I

proposed a motion on "Expanding land resources" in February. The DAB supports that studies be conducted on increasing land supply by reclamation beyond the Victoria Harbour, but as reclamation is a controversial issue, it is necessary to conduct studies thoroughly before taking forward the reclamation works. Public views have to be consulted and the relevant works should commence only after a consensus is reached among members of the general public. The initial studies and public consultation on the reclamation works are now underway, but a decision has yet been taken on the reclamation sites, let alone the scale of reclamation. However, the original motion proposes that the next Chief Executive should "plan for massive reclamation projects". Although there can be different interpretations of "plan", the wording can easily lead to misunderstanding. If this Council calls on the next Chief Executive to immediately implement massive reclamation works without conducting further studies and consultation, I think the public would not consider this acceptable. In order not to cause misunderstanding, I have proposed an amendment accordingly.

Similarly, as the Government has not carried out detailed studies on the construction of a fourth cross-harbour road tunnel and there has not been detailed discussion in the community on the need to construct one, it seems to be premature to propose at this stage that the next Chief Executive should plan for the relevant work. In fact, the construction of a fourth cross-harbour tunnel involves not only huge construction costs, but also complicated technical and legal issues. On this premise, we consider that studies should first be conducted before a decision is taken on this proposal made in the original motion.

Although the wording of the proposals on reclamation works and a fourth cross-harbour tunnel in the motion may be too aggressive, the other proposals in the original motion have touched on a number of social issues that need to be addressed as a matter of urgency. I would like to give a brief response in respect of the country park policy and underground cities.

President, the objective of the Government in developing country parks is to protect the natural ecology. However, the Government's approach of drawing an equal sign between restricting or freezing land development and conservation is open to question. The Administration has incorporated 23 country park enclaves into country parks or Outline Zoning Plans but apart from freezing these sites, the Administration has taken no follow-up actions. It has neither provided

support to the affected villages nor made compensation to the land owners. As a result, the villages have gradually withered away and land has become deserted, which is entirely contrary to the original intention of conservation.

In this connection, I hope that the next Chief Executive will review the existing country park policy and seriously consider the proposal made by the DAB of establishing a nature conservation fund for buying or renting private land with conservation value inside or surrounding country parks, so that the conservation work can truly serve its purpose.

President, in respect of underground cities, Hong Kong is very suitable for developing underground space whether in terms of geographical conditions or skills and experience. However, the public consultation on "Enhancing Land Supply Strategy" launched by the Administration has overly stressed the development of underground space for reprovisioning obnoxious facilities, such as sewage treatment plants, dangerous goods storage, and so on, while relatively less studies have been conducted on the development of underground cities to provide living or commercial space. But in Finland, Norway and Japan, underground living and commercial space is very common, and they are good examples for Hong Kong to follow.

In our focused studies on the Kai Tak Development Area entitled "啟德新天地 • 你我齊共建", the DAB has proposed to build a 36 metre-wide underground shopping and entertainment city in the green area of Kai Tak Metro Park to develop a new entertainment and leisure venue for visitors and provide visitors travelling between the Kai Tak area and the cruise terminal an all-weather connection zone. In this connection, we hope that the next Chief Executive can look into the concept of underground cities in formulating its land policy.

President, in this debate today the discussions are definitely wide-ranging. A total of seven amendments have been proposed, which is within our expectation. The motion has provided a platform for proposals to be put forward, and the DAB supports many of the proposals relating to the people's livelihood, such as building more public rental housing flats, relaunching the Tenants Purchase Scheme, expeditiously implementing the \$2 transport fare concession for the elderly, and so on. However, the DAB considers that the enactment of legislation on Article 23 of the Basic Law involves the constitutional duty of the SAR and while there is no pressing need for such enactment, we should not restrain the next Chief Executive from making such

enactment within his term of office. We also consider it inappropriate to bundle up the enactment of legislation on Article 23 of the Basic Law and universal suffrage. As regards prescribing the number of standard working hours, the DAB holds an open attitude. But as this issue is still under study and discussion, it is indeed not timely to ask the next Chief Executive to "expeditiously enact legislation" before a consensus is reached in the community.

President, I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): President, it has been exactly one month since the Chief Executive Election. A month ago, the pro-establishment camp and major businessmen were all ferociously poised to kill, fighting tooth and nail against each other. But just a few weeks later, the Chief Executive elect was joined by the pro-establishment camp and major businessmen in making an appeal for "great conciliation", so to speak. From then on, dinners have been held frequently; people have been paying visits to one another, and the pro-establishment camp is immersed in an aura of peace and bliss. How true it is that life is like a drama and drama is like life.

I have never believed that a Chief Executive of Hong Kong returned by a small-circle election can walk out of the coterie's territory of interests or walk out of the setup of consortiums' interests overriding the well-being of all Hong Kong people. I am afraid that this motion on "Making recommendations to the fourth term Chief Executive" actually cannot serve any purpose, because the public believes that this Chief Executive who does not have the people's mandate will do no more than two things after he has come to power: First, he will give rewards to people according to their contribution, and the recruitment of Fanny LAW and CHEN Ran into the Chief Executive-elect's Office are cases in point; and second, he will continue to "share the pie out". In last month's election, the pro-establishment camp, major businessmen, different "stables", and members of different factions naturally made gains and losses, but this is just a question of who gets more and who gets less, and this has nothing to do with the general public. In Hong Kong, the poor will only become poorer, while the rich will only become richer. President, I do hope that I am wrong, but I harbour no hope in a Chief Executive returned by such a system. If I really must make proposals to the fourth term Chief Executive, the most important proposal is certainly the implementation of true universal suffrage immediately, or putting it more precisely, the election of the Chief Executive by universal suffrage and the

election of all Members of the Legislative Council by universal suffrage immediately. Only in this way can the community of Hong Kong walk out of the predicaments and move towards fairness, and only in this way will the general public support the administration by the Chief Executive in a way as expected by the Central Authorities.

Making recommendations to the Chief Executive is what we have been doing all the time. Some long-standing problems still remain not addressed squarely and this is so discouraging. Some social workers have said to me, "Ah Che, try treating the dead horse as if it is alive; perhaps we may see light at the end of the tunnel after the new Chief Executive has taken over." Such being the case, let me put forward some proposals which are not at all novel. First, I call on the Chief Executive not to put in something here and add something there, because comprehensive planning is very important to the future of Hong Kong. It is certainly irresponsible to turn a deaf ear to public opinions and act arbitrarily, but it is actually also a sin if the Government does nothing. I sang a song on behalf of the "N have-nots" during the Budget debate last month and today, I must mention them first. They are the most neglected group of people who are also most victimized by the ineffective administration by the Government. I hope that the Chief Executive can truly attach importance to the "N have-nots", rather than relying solely on the Community Care Fund (CCF) and using it as a shield. In fact, the CCF must sum up its experience expeditiously and turn the short-term "painkiller" measures into long-term policies, for this is the correct direction.

President, inflation has been escalating in Hong Kong. Public utilities including the CLP Power Hong Kong Limited, the Hong Kong Electric Company Limited and the MTR Corporation Limited have increased their tariffs or fares substantially. Rentals are surging at an astonishing rate, and inflation has outrun the economic growth. On the contrary, the real-term income of wage earners has been decreasing. In the meantime, money keeps rolling into the Treasury as last year's fiscal surplus stood at close to \$40 billion. The Government should indeed share the fruits of economic prosperity with the people and improve the quality of living of the grassroots. I think adjusting the minimum wage upwards and setting the number of standard working hours are two practical improvement measures to alleviate the plights of the grassroots. In view of intensifying inflation and food prices remaining on the high side, the Chief Executive should consider granting a short-term basic living subsidy to the grassroots and relaxing the time limits and eligibility criteria for making applications with the food banks.

In the long term, it is certainly necessary to introduce the universal retirement protection system. We propose that the Government can first earmark a certain sum of money for setting up a seed fund to make preparations for universal retirement protection.

In respect of social welfare, the social welfare sector is most urgently in need of long-term planning on social welfare by the Government. A decade has passed, and what is happening now in the social welfare sector is that while there is money, there is no space and while there is money, no staff can be recruited. This is precisely the result of the lack of long-term planning on the development of social welfare. The Government just puts in something here and puts in something there every year, and this cannot in the least resolve the problem. With regard to the various types of services, a few months ago, I submitted to the incumbent Financial Secretary 29 proposals on the development and improvement of major services, targeting the critical problems relating to social welfare. I will further collate these proposals and submit them to the Chief Executive elect. Particularly, the ageing of people with intellectual disabilities, shortage of allied healthcare professionals, psychiatric outreaching teams not being able to identify premises for service delivery, and acute shortage of places in elderly homes and hostels for people with disabilities are problems that need to be addressed urgently and seriously. The posts of Programme Workers, which will lapse in March next year, should be regularized and the original scheme should be incorporated into schemes on youth development and employment with social workers' supervision, so as to better meet the needs of young people in Hong Kong.

President, there may be many proposals to be made to the Chief Executive. The social welfare sector has consistently put forward proposals, and I do not believe the Government cannot hear them. When social welfare services are lagging far behind the needs of society, social problems are set to worsen continually, and the grassroots will remain to be the first to bear the brunt. I reiterate that resolving the poverty and housing problems, introducing a universal retirement protection system and formulating a mechanism for making long-term social welfare planning are ways to improve the people's livelihood in the long run.

President, I so submit.

MS LI FUNG-YING (in Cantonese): President, this motion on "Making recommendations to the fourth term Chief Executive" today has set this Council buzzing with proposals, with a total of seven Members proposing respective amendments. From the improvement of the people's livelihood to the promotion of democratization, Members have made at least some 20 proposals on a great variety of issues, which have dazzled our eyes. With regard to the vision for the future of Hong Kong and the priorities of policy implementation, it is only natural for different political parties and groupings to have different views. But today, I would like to take a different angle by reviewing what the Chief Executive elect has once written in an article about his vision for the future of Hong Kong and then discussing whether or not we agree with his views on the future of Hong Kong.

On 20 March 2010, the then convenor of the Executive Council, Mr LEUNG Chun-ying, published an article in a commentary column of *Ming Pao Daily News*. In this article entitled "There is no conflict between policies taking care of the middle and lower classes and the established economic values of Hong Kong", he said that he had made three wishes for the coming Year of the Tiger: First, he wished that the grassroots will get rid of in-work poverty as soon as possible; second, he wished that people making a monthly income of \$10,000, which is half of Hong Kong's median income, could live the middle-class life as soon as possible; third, he wished that social harmony would be achieved as soon as possible and the community would work in unity to "make the pie bigger". In the article, Mr LEUNG further pointed out that if one should think that as long as the "cake" is continuously made bigger, various industries and social strata will be able to get a bigger share and people in the middle and lower classes will get benefits from the trickling down effect, these will be two major fallacies.

President, I agree with Mr LEUNG's analysis. I believe many of the proposals made in the motion and amendments today are related to the wishes made by Mr LEUNG back then. Two years ago, perhaps due to limitations of the circumstances at the time, Mr LEUNG might not be in a position to realize his ideals and ambitions. But things have changed today as Mr LEUNG has been elected the Chief Executive. How he will expeditiously rectify the fallacies in the administration of the current SAR Government and introduce new policies will be my greatest concern about Mr LEUNG after he has assumed office.

On the Monday just passed, when Mr LEUNG met with colleagues in this Council, including myself, to listen to our views, I put forward the following

views to him: Abolishing any form of means test for the Work Incentive Transport Subsidy Scheme and linking the grant of the subsidy purely with wages; introducing a Mandatory Provident Fund (MPF) scheme for people who are not at work, in order to make up for the inadequacy of family carers being completely neglected by the existing MPF scheme; providing a rental subsidy for applicants on the Waiting List for public rental housing, and setting up an unemployment loan fund to meet the pressing needs of unemployed workers.

I believe colleagues in this Council are all familiar with these views of mine, but I hold that these proposals can tackle the mistakes in the existing policies and rectify them more easily and also produce effects expeditiously. These views are similar to the wishes made by Mr LEUNG for the Year of the Tiger, as they can alleviate in-work poverty and are conducive to achieving social harmony.

President, as a Member from the labour sector, I certainly have expectations for the labour policies of Mr LEUNG, which should include reviewing the level of the minimum wage, enacting legislation on standard working hours, protecting the safety of workers at work in inclement weather, aligning the labour holidays with the general holidays, comprehensively reviewing the existing labour legislation, protecting the rights and interest of employees in the fragmentation of jobs, and so on. All these are issues on which the labour sector has reached a consensus and expressed great concern. I hope that the new Chief Executive will make improvements after he has taken up office.

President, I sincerely hope that Mr LEUNG's wishes for the Year of the Tiger can come true. I will take this as a yardstick for measuring Mr LEUNG's political integrity and performance in administration.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, on 25 March 2012, under the wings of the ruling faction of the Communist Party of China (CPC), the brazen manipulation by the Hong Kong and Macao Work Committee, and with the DAB, the FTU and other external organizations in the communist-Hong Kong system joining forces to serve the State, coupled with some supporters of Henry TANG's

camp "jumping ship", LEUNG Chun-ying, an underground member of the CPC, was "elected" with just a little edge over his rivals by obtaining only 689 votes and became the new puppet Chief Executive. "One country, two systems; Hong Kong people ruling Hong Kong; and a high degree of autonomy" have hitherto been officially declared bankrupt. The Government of the Hong Kong Special Administrative Region (SAR) has fallen to the Hong Kong communist rule.

On 23 March, the Public Opinion Programme of the University of Hong Kong held a "referendum" with participation from 220 000 citizens of Hong Kong. The percentage of blank votes was as high as 55% and LEUNG Chun-ying had a support rate of less than 18%. The small-circle election is shown to have gone against public opinions. Article 22 of the Basic Law expressly provides that no department of the Central People's Government may interfere in the affairs which the SAR administers on its own in accordance with the Basic Law, but the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) has manipulated the election and brazenly damaged "one country, two systems". The election of LEUNG Chun-ying is downright illegitimate and unconstitutional.

A Chief Executive returned by a small-circle election does not have the people's mandate. The People Power absolutely does not recognize him. Everybody can see that LEUNG Chun-ying is a member of the CPC. In 1988, LEUNG Chun-ying took over from MAO Junnian, former Deputy Director of Xinhua News Agency, as the Secretary General of the Basic Law Consultative Committee, a post that could be taken up only by a CPC member. In November 2010, LEUNG Chun-ying contradicted his past position as he forgot that he had strongly condemned the CPC for massacring the people after the 4 June tragedy in 1989 and said in reply to a question from the public one day in November 2010 that DENG Xiaoping should be awarded the Nobel Peace Prize. In the morning the next day after he was ordained as the new Chief Executive, LEUNG Chun-ying visited the LOCPG in a high profile for nearly two hours, not even caring to avoid suspicions.

Those people like LAU Nai-keung and LEW Mon-hung in LEUNG Chun-ying's camp have told Hong Kong people not to have blind faith in the Judges, alleging that the judicial review system is the epitome of "hidden independence of Hong Kong" and expressing concern that Hong Kong people

may lawfully resist the CPC. Their remarks and actions have laid bare their hostility towards the rule of law. LEUNG Chun-ying proposed in 2003 to shorten the licence renewal term for Commercial Radio in order to keep a tight rein on Commercial Radio and force the departure of Albert CHENG and WONG Yuk-man; a female reporter of *Sing Tao Daily* was accused by LEUNG Chun-ying without naming her; the Director General of the Publicity, Culture and Sports Department of the LOCPG, HAO Tiechuan, intimidated Richard LI of *Hong Kong Economic Journal* on the eve of the Chief Executive Election. The freedoms of the press and speech have been trampled on repeatedly.

LEUNG Chun-ying phoned Mr Jasper TSANG twice mentioning "black materials" after the latter had announced that he would consider contesting the election, which was *de facto* intimidation. He also demanded the Government's disclosure of the persons who released information on the West Kowloon Cultural District incident. Before rising to the throne, he has already procured a knife to kill people. LEUNG Chun-ying simply excels in attacking the judicial system, suppressing the freedoms of the press and speech and creating white terror. Now that he has successfully come to power, the core values of Hong Kong are set to face unprecedented challenges.

As soon as he was elected and following his comments on the housing policy, LEUNG Chun-ying further stated his position on the policy on "doubly non-permanent resident pregnant women", assuming the position of the commander. This has clearly shown that the Hong Kong communist rule simply cannot wait to usurp powers. Over the past couple of days, his trusted follower, CHEN Ran, was found to have affiliation with the Communist Youth League of China and appointed as a Project Officer in the Chief Executive-elect's Office before obtaining the right of abode in Hong Kong. Hence a precedent of "officials planting" and reddening the Hong Kong Government is set. That LEUNG Chun-ying can act wantonly precisely because this "black supporter", namely, the CPC, has thrown weight behind him.

On 8 March, LEUNG Chun-ying announced his revised election platform. There were obvious regressions in respect of the constitutional system as he completely made no mention of a previous proposal openly made by him of abolishing the "corporate votes" in the Functional Constituency (FC) Election of the Legislative Council and his undertaking that the nomination threshold for the Chief Executive Election in 2017 would not regress to a state which compares

less favourably with the existing arrangement. He even turned a deaf ear to the aspiration for the abolition of the FCs.

As the final curtain is drawn for the election, members of the community have become concerned about the arrangements for the Chief Executive Election in 2017. LEUNG Chun-ying nevertheless said that if the nomination threshold for the next Chief Executive Election is too low, many people will run in the election and in the end, even the winner may not be able to obtain more than half of the votes or many rounds of polling will have to be held, and so on, and so forth. All this is obviously sophistry. The purpose is certainly to probe public opinions on the implementation of an out-and-out "bogus universal suffrage" in 2017.

Upholding a hawk mindset, LEUNG Chun-ying's camp is hostile towards the rule of law. It tramples on the freedoms of the press and speech, creates white terror and categorically vows to enact legislation on Article 23 of the Basic Law. Human rights, freedoms and the rule of law in Hong Kong are in great peril.

The political parties of bogus democrats supported the constitutional reform package, which has consolidated the system of the small-circle election of the Chief Executive. They even took part in the scandalous small-circle election. While they said that their purpose was to reveal the injustice of the small-circle election, what they did has actually enhanced the acceptability of the small-circle election, and this is also how they have assisted this Hong Kong communist syndicate led by LEUNG Chun-ying to come to power in Hong Kong in the form of a puppet. Hong Kong has officially been taken over by the Hong Kong communist rule.

Recently, in his capacity as the Chief Executive elect, LEUNG Chun-ying has invited Members of the Legislative Council from various political parties to meet with him. Learning from the united front tactics of the CPC, his purpose is to create an illusion of "conciliation". The pan-democrats called on the public to join the 1 April rally and held banners which read "A wolf in power, Hong Kong people in fury", and during the election, they had repeatedly questioned the integrity of LEUNG Chun-ying. But then, they outrageously accepted the invitation on their own initiative and met with LEUNG Chun-ying behind closed doors. This has indirectly enhanced his acceptability and paralysed the people's

vigilance to the rule of Hong Kong by communists. The democratic camp curries favour with those in power, sides with those in power and dances with the wolf. What exactly do they think of Hong Kong people who support democracy?

The Legislative Council Election will be held on 9 September this year. If the Legislative Council were hijacked by the pro-establishment camp which supports LEUNG Chun-ying, it would be impossible to restrain the executive hegemony of the Hong Kong communist Government. Hong Kong people must make use of their votes to sanction these shameless political scoundrels of the DAB, FTU, Democratic Party, and Hong Kong Association for Democracy and People's Livelihood, and to strengthen the ability of the opposition camp in the Legislative Council to monitor the Government while saying "No" to the autocratic Hong Kong communist rule.

Let me warn LEUNG Chun-ying here. He must immediately and completely mend his way by making public his status as an underground member of the CPC, immediately stop the small-circle election, return political power to the people and undertake not to enact local legislation on Article 23 of the Basic Law.

I so submit. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, Mr Albert HO said earlier on that the motion proposed by Mr CHIM Pui-chung today is a Christmas tree that allows Members to keep on hanging things onto it. This is why he added his platform to it at the first opportunity, and other colleagues including Mr Ronny TONG have also proposed amendments to it.

I can understand this. Why? As we all know, the platform of the democratic camp is completely different from LEUNG Chun-ying's, and we therefore take this opportunity to add our aspirations in the hope that the future SAR Government can attach importance to some issues, including not enacting legislation on Article 23 of the Basic Law, implementing dual elections by universal suffrage, and even not allowing interference by the Central Government and the LOCPG in the affairs of Hong Kong. This, I understand.

However, what I find most baffling is that colleagues from the pro-establishment camp have kept on adding things to it, too. I really cannot understand why they did so. It is because during the election, they said that LEUNG Chun-ying's platform was all very good and so, they threw full weight behind him. Since they had such a high opinion of LEUNG Chun-ying's platform and expressed support for him, all they need to do now is simply to write that they support LEUNG Chun-ying's platform and call on him to put it into practice. Why do they have to add so many things to it? I really find this incomprehensible, and I find colleagues from the FTU particularly incomprehensible. Why? Because they have mentioned standard working hours, minimum wage, and so on. If they kept on saying during the election that his platform was very good and that he was supportive of the labour sector, why should they add these things today? President, to put it plainly, I have also read LEUNG Chun-ying's platform and I did not find in it any item relating to workers from the beginning to the end. There was just one word about workers and that is "employment", and nothing else was mentioned. While they kept on boasting how good his platform was and expressing support for his platform, it now turns out that they were just putting up a show as the labour issue was not mentioned at all and yet, the FTU said that they would definitely support him. So, it really beats me. This motion debate today is more like a mirror instead, in the sense that everything is reflected and revealed.

In any case, LEUNG Chun-ying has been elected now, and the new Government will take over on 1 July. What will happen in future? Many members of the public said that we should not be chiding him all the time and that we should give him a little bit of time as he has not yet taken up office and we do not know how his performance will be. They said that we should wait and see, and give him a little bit of time. This is what we can do, but since LEUNG Chun-ying was elected the Chief Executive, we have been shocked over many issues. Many people have been saying that the future is the "era of CY". But as I said in the Legislative Council before, this so-called "era of CY" has several characteristics. First, it is an era of "lies". Why do I say so? As we all know, Henry TANG had accused him, asking him to clarify whether or not he had made such remarks as deploying anti-riot squads and using tear gas. He lied that he had not make such remarks.

Second, it is a cunning era. We all know that in the West Kowloon Cultural District incident, he had outrageously exploited the loopholes in the

wording and juggled with words, asking about the meanings of "interest" and "conflict of interest" and alleging that the Government had failed to provide a clear definition. All these are sheer sophistry.

Besides, this will be an era when people deny what they have said. Even though they have said a lot of things, they deny having said them or argue that what they have said carries a different meaning. This is so puzzling. How will things be dealt with in this era? I said just now that people deny what they have said. A case in point is the development of public rental housing (PRH) which is a concern to us all. Insofar as this issue is concerned, he said back then that 30 000 PRH units would be developed, and this made many people waiting for PRH units very happy. The current Government has always said that 15 000 units would be provided, and it would certainly be good if 30 000 units will be provided in future. He said during the election that 30 000 PRH units would be developed but after the election, WU Moon-hoi (formerly a senior official in the Housing Department) who supported his electioneering campaign said that housing units could not be developed in one go and that it would take three or four years before they could be completed. What does it mean? It means that the 30 000 PRH units will come to nothing, that they will not come true and are meant to deceive people. He has gone back on his words. All this is going to happen in the "era of CY".

Many colleagues have kept on saying today that it is good in that we can put forward views to him before he assumes office in the hope that he will do better in future. But I really do not have much confidence, because how far can we have expectations for this era of lies, for this cunning era and for an era in which people eat their own words? This is particularly so because he was elected not by universal suffrage, his election was not supported by the people; and he has no acceptability or accountability to speak of. His acceptability and accountability only come from a mere 600-odd people, not from the 6 million or 7 million people of Hong Kong. So, today, if we expect him to address livelihood issues or honour his promises, I would consider this expectation a bit too extravagant.

But anyway, despite all the criticisms, the reality is, after all, the reality. He is still our next Chief Executive, and it is impossible for us not to discuss with him the problems relating to the people's livelihood in reality, including the public housing problem, the problem of "doubly non-permanent resident pregnant

women", and so on, which need to be addressed seriously. However, we really cannot harbour too much expectations for him; nor can we have too much confidence in him, because under such a regime, how can we harbour higher expectations? But most importantly, he must properly carry out constitutional reforms in the next five years. Without these constitutional reforms, it is impossible to return a regime which is accountable and acceptable to the people for the next term, and it will be difficult for the people's livelihood to be improved.

Meanwhile, just as Mr CHIM Pui-chung has said today, many problems relating to the gap between the rich and the poor must be addressed seriously. I wish to appeal to the community not to put too much emphasis on the vested interests of individuals, but to work for the benefit of the community as a whole. Collusion between business and the Government, real estate hegemony, and so on, must be eradicated, or else it will be difficult to make improvement to the people's livelihood in future.

With regard to this motion today, I think it does not really matter whether we support it or not, just that what we have said about this motion is a waste of effort because nobody is going to respond to us.

MR ALAN LEONG (in Cantonese): President, certainly, nobody is going to respond to us because on the side of government officials there are only rows and rows of empty seats now. This can hardly give cause for criticism, because this motion seeks to make recommendations to the fourth term Chief Executive. The team under the incumbent third term Chief Executive certainly thinks that this has nothing to do with it.

President, if I have to give advice to the Chief Executive elect, I think my first proposal is to call on him not to be a "lame duck". President, you may find it strange that I would remind him not to be a "lame duck" before he has actually taken up office, unlike Donald TSANG who is accused of being a "lame duck" when there are only two months left in his remaining term. Why would I advise LEUNG Chun-ying not to be a "lame duck"? President, what is the reason? It is because during the Chief Executive Election, we saw that the LOCPG had openly, brazenly and habitually wished that Hong Kong people would accept a *fait accompli* — It will dictate the Chief Executive Election, and it will, if it likes,

phone up members of the Election Committee telling them for whom they should vote; it will ask you to meet with State Councillor, LIU Yandong, at the Bauhinia Villa if it likes; and it will, through HAO Tiechuan hurling abuses at the academics, tell Robert CHUNG not to conduct opinion polls if it likes.

President, I am afraid that the role of a "lame duck" played by LEUNG Chun-ying will be of a different nature from Donald TSANG's kind of "lame duck". That said, they are both "lame". It is because Mr LEUNG Chun-ying may have his hands tied by the LOCPG over all issues and he may need to secure the approval of the LOCPG in order to implement his decisions. Let me remind Mr LEUNG here that Article 22 of the Basic Law provides that "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.". So, my first advice to him is that he definitely must not let the LOCPG rule Hong Kong, because this is unconstitutional.

President, there are rumours flying around everywhere that LEUNG Chun-ying could command the staunch support of the LOCPG because he had undertaken to complete four major political tasks within his term of office. President, you must be very familiar with this. These four major political tasks are legislating on Article 23 of the Basic law, fixing Radio Television Hong Kong, implementing national education, and handling constitutional development within his term of office.

President, if these things that people are saying in the community are true, obviously, after these four major tasks are completed, the Communist Party of China (CPC) would no longer have to worry about unpredictable election results in Hong Kong and they could also "silence" Hong Kong then. But this is not what Hong Kong people want. In order to accomplish a major political task, LEUNG Chun-ying may first hand out some "sweets" to us. He may give us bread and perhaps even pastries, too. But Hong Kong people must be vigilant. Can we give away our dignity after getting pastries and bread? I hope that Mr LEUNG will not just want to partner up with the LOCPG to echo each other's views, or play the role of an agent of the LOCPG, thinking that completing the four major tasks is tantamount to doing his job as the Chief Executive. This is my first piece of advice or suggestion to him.

President, the second piece of advice concerns a hot issue in town. I understand that Secretary Dr York CHOW had held a press conference announcing that the private hospitals had unanimously agreed to stop admitting pregnant Mainland women whose spouses are not permanent residents of Hong Kong (doubly non-permanent resident pregnant women) next year. President, Mr LEUNG invited a group of members of the legal profession to a meeting in early April to discuss the problem of "doubly non-permanent resident pregnant women". On the premise of respecting the current Government, I attended the meeting and discussed with him the problem of "doubly non-permanent resident pregnant women". I had certainly reiterated the policy advocated by the Civic Party since February this year of reducing the quota to zero for "doubly non-permanent resident pregnant women" in both public and private hospitals. Only the Civic Party made such a resolute and decisive proposal at that time. Regrettably, Donald TSANG and York CHOW did not give a response.

So, if LEUNG Chun-ying made a policy decision on this issue in consultation with the current Government, which was then announced by Secretary Dr York CHOW, this is certainly worthy of recognition and support. But I hope Mr LEUNG will understand that if it is his plan that, as also suggested by some people in the community, the Government should first breach the law by refusing to grant the right of abode to babies born in Hong Kong to "doubly non-permanent resident pregnant women", so that when these people seek judicial review and their cases are brought to the Court of Final Appeal, the problem can then be resolved, that would do injustice to the Court of Final Appeal. I hope that he is not going to do this. Rather, I hope that he can, in accordance with the fourth paragraph of Article 22 of the Basic Law, negotiate with the Central People's Government in the context of the population policy, such that the Central Authorities can take into consideration the aspirations of Hong Kong in this respect when processing and approving applications for One Way Permits and Two Way Permits.

I so submit.

MR JEFFREY LAM (in Cantonese): President, the election of the fourth term Chief Executive has been concluded, with everything settled now. All the arguments and disputes before the election had prevented the entire society from focusing on the policy agendas of the candidates for the next five years, and

members of the public had not been able to understand the visions of the candidates for the future of Hong Kong.

Therefore, as the Chief Executive elect, Mr LEUNG Chun-ying, will take up office in some two months, we hope that he will clearly explain to the public his policy objectives and philosophy of governance in future, such as the details of his recent proposal of reorganizing the existing government structure into five Secretaries of Department and 14 Directors of Bureau. He should continue to engage in in-depth communication with various sectors of the community to understand the aspirations of different people, while expeditiously announcing the composition of his ruling team, so that Hong Kong can better seize the opportunity of development in the next five years, consolidate our economic advantages and improve the quality of the people's living, thereby achieving social harmony and stability and enabling the public to live in peace and work with contentment and move towards the goal of universal suffrage steadily.

Hong Kong is a pluralistic, inclusive, rational and mature society, which is also the cornerstone for continuous economic development in Hong Kong. Members of the public can convey their views to the Government and monitor the Government through a diversity of channels. In recent years, however, there have been changes in the atmosphere in society in that some peaceful and rational ways of expression have been shaken, making it immensely difficult for the SAR Government to implement policies and resulting in the Government failing to reach decisions after discussions.

President, as early as before the three candidates for the Chief Executive Election announced their intention of contest last year, I had published articles in newspapers and publications, calling on the next Chief Executive to strive for changes amidst stability, rather than making sudden or drastic changes, and enhance exchanges with various sectors to understand their aspirations. I called on the next Chief Executive not to be inclined to generously offering welfare benefits as a means to boost popularity, or else the impetus of society would become stagnant and our competitiveness would be undermined. I also reiterated our views to Mr LEUNG Chun-ying when we met with him last week.

As I have said before, it is normal for candidates to have different philosophies and opinions during the election. After the election, the Chief Executive elect should implement policies which are beneficial to Hong Kong.

The Economic Synergy has all along upheld the principle that the community should make concerted efforts to upgrade the competitiveness of Hong Kong, ensure continuous economic growth, improve the people's livelihood and enhance stability and unity in society. To this end, we will continue to put forward to the SAR Government views that are beneficial to Hong Kong. We will support policies that can benefit Hong Kong, and if we see problems or find that some policies are hardly beneficial to Hong Kong, we will make feasible proposals in the hope that the Government can heed our suggestions and improve the policies.

Frankly speaking, President, some friends in the industrial and commercial sectors have told me that they do not know Mr LEUNG Chun-ying very well. The small and medium enterprises (SMEs) and the middle class are the backbone of our society. Particularly, given uncertainties in the external economic conditions and with local inflation standing on the high side, SMEs and the middle class are caught in difficulties externally and domestically and are, therefore, facing a lot of pressure and worse still, they are the first to bear the brunt. They expect Mr LEUNG to listen more to their views and not to treat their problems lightly. They also hope that the new policies of the new Government can give consideration to their commercial viability.

As representatives of the business sector, we propose that the new Government should step up effort to help SMEs in Hong Kong and upgrade the Small and Medium Enterprises Committee and place it under the leadership of a Secretary of Department, in order to further capitalize on the opportunities of the National 12th Five Year Plan and Guangdong-Hong Kong co-operation, and provide assistance to the upgrading and restructuring of Hong Kong companies in the Mainland by implementing policies to, among other things, provide tax concessions, enhance training of talents, promote innovation and exchange of talents, and so on.

On the domestic front, the recent implementation of the minimum wage and deliberations on the Competition Bill have really rendered SMEs affected. While the SMEs are operating with difficulties, they also have to make painstaking efforts to understand the law in order not to be caught by the law inadvertently. They also have to properly look into the enormous impact that may be brought about by standard working hours in future. These problems will not be resolved or resolved effectively by empty words. It is necessary to really listen carefully to the views and aspirations of the industries and build up a

long-term relationship with them. It is impossible to resolve all the problems faced by Hong Kong in the course of several meetings only.

President, the industrial and commercial sectors do not oppose welfare benefits; nor do we oppose social security. Most employers in the industrial and commercial sectors are scrupulous employers who show understanding for their employees and actively give back to society. Besides, we hope to see more prosperous development of the economy, so that more social resources can be provided to help people in need. We hope that the new Chief Executive can balance the interests of all sectors of the community, not showing favour to the industrial, commercial and financial services sectors and not showing favour to labour welfare either. We agree that there should be a welfare policy but if the Government only hands out welfare and does not strike a balance among the interests of all sectors of the community, the competitiveness of Hong Kong will be affected and regressions will be resulted. We do not wish to see too many populist and radical acts in society, which will take toll on the stability of Hong Kong. We hope that Mr LEUNG Chun-ying can encourage people from a wide spectrum of society to express their opinions.

President, I so submit.

MR LEE WING-TAT (in Cantonese): President, the uniqueness of today's motion is that there is no official listening to our debate at this meeting because it is a motion on our expectations for the administration by the future Government. I do not think that it is a case of the Government not giving face to Mr CHIM Pui-chung. Rather, it is because the accountability team to be set up by the Chief Executive elect in future has no constitutional powers. It has to wait until 1 July to have such powers. So, today I would like to discuss what to do during the transition period.

Two incidents occurring recently have caught my attention. First, through the media and the appointment of Mrs Fanny LAW, Mr LEUNG Chun-ying has pointed out that one of the more urgent tasks is the arrangement for setting up a new governing team after 1 July. In other words, he hopes that the current term Legislative Council can endorse the proposal before 1 July so that it can be implemented immediately on 1 July. I have not conducted any in-depth study of the relevant proposals. However, according to the practices of governments in

many other different places, it seems that it is rare for a current term government to deal with matters concerning the changes in political structure for the next term government because it seems to be more appropriate for the new government to discharge this responsibility. Moreover, it involves matters concerning the creation of two Deputy Secretary of Department posts and two Director of Bureau posts. Even if the current term Government undertakes the drafting of papers on behalf of the new Government, who should be responsible for promoting it to the media in future?

More importantly, the attendees of the Legislative Council meetings are people who hold positions and powers in the constitutional system. President, you are elected from among us. You are elected by us as the President, and relevant provisions have been laid down in the Basic Law. Today, the seats opposite us are all empty. However, officials sitting there are all appointed by Donald TSANG, the head of the current term Government. They have been vested with constitutional powers prescribed by the Basic Law. If we debate the new framework of the future Government before 1 July, then regardless of whether Secretary Raymond TAM or Chief Secretary Stephen LAM will attend and gives a reply in our debate, the public cannot help but ask who has given them constitutional powers to answer questions related to the next term Government. It is because during the debate, they have to answer questions raised by Members, apart from delivering a speech. Therefore, I cannot understand how the current term Government can handle issues related to the new political structure. It seems impossible unless there are new proposals that beyond my knowledge.

Second, it is a new proposal, which is included in Mr LEUNG Chun-ying's political platform. But during the election campaign, apart from mutual muckraking and tit-for-tat debates in a wanton manner, there was no detailed discussion on the issue in the community. Is it really necessary to create two Deputy Secretary of Department posts and increase the number of bureaux from 11 to 13 or 14 by restructuring? Given that this is a constitutional revamp, should public consultation not be conducted to solicit public opinions on whether this is the best option? There is no reason for us to justify the proposal by simple logic that the more Directors of Bureaux we have, the higher the efficiency; the higher the salaries we pay, the better their performance. This seems to be an illogical idea.

When Mr TUNG Chee-hwa first implemented the Accountability System for Principal Officials (Accountability System), there were only a few Policy Bureaux, including three Secretaries of Departments and 11 Directors of Bureaux. Subsequently, Donald TSANG slightly expanded the structure. Now, it is even proposed that the posts of Under Secretary be created at a very attractive remuneration package. However, can we draw a conclusion that the more Directors of Bureau and Under Secretaries we have, the better the administration and the higher their popularity ratings? Logically, I cannot find any answer to this question. Will the public benefit more in welfare and other aspects, higher efficiency in community work be achieved and public views be heeded more attentively as the number of Directors of Bureaux increases? The answer seems to be the opposite.

Therefore, I hope Mr LEUNG Chun-ying can answer one question. Can he garner public support for his ambitious plan of creating two Deputy Secretary of Department posts and two Director of Bureau posts? Can he prove that the new Government will be more willing to listen to public views on various aspects, better benefits be enjoyed by the people, and higher efficiency in policy implementation will be achieved in the next five years after the creation of these additional posts? These questions remain unanswered. I only know that any government structure has a well-known common problem, that is, Parkinson's disease, which does not refer to senile dementia suffered by the elderly people. Rather, it refers to the expansion trend of all bureaucratic structures. Once the performance of a government is found unsatisfactory, it will request more manpower in order to improve efficiency. However, is this the right approach?

Let us take a look at the performance of Mrs Carrie LAM, whose popularity rating is the highest at present. She is one of a few Directors of Breaux in the governing team without the assistance of an Under Secretary. However, how is her performance? At present, her popularity rating is the highest. On the contrary, do officials who are assisted by Under Secretaries enjoy high popularity ratings? It seems not. I am also doubtful about the restructuring of a Policy Bureau into two bureaux.

All these questions have not been fully discussed in society. Nor the public have been consulted. To a certain extent, this is actually a proposal on an expansion of the Accountability System, which is a major revamp of the constitutional framework. Therefore, I hope Mr LEUNG Chun-ying will bear in

mind that even though he can get enough votes in the Legislative Council to pass the proposal in a hurried manner without paying heed to public views, this does not mean that the proposal has been accepted by the public. Nor does it mean that the Government's administration will be improved after the proposal has been passed. The expansion of the Accountability System in the absence of public support will lead to public reactions, leading to a result which may depart from his original objective or even conflicts. Therefore, I hope that he will adopt a more prudent attitude in taking this step. He should allow a transition of the old system before deciding the way forward by launching a six-month public consultation to explore how the Accountability System can be implemented in a more desirable manner. I do not think that a six-month consultation will cause any great delay to his work in the remaining four and a half years of his term.

Thank you, President.

MS CYD HO (in Cantonese): The Chief Executive elect was elected in a situation where the 7.07 million people in Hong Kong did not have the right to cast votes. For those who have the right to cast votes, they may still hold a little bit expectations. But for those who do not, what expectations can they speak of? So, today, I will discuss the Chief Executive elect's responsibilities and the qualities required of a political figure and leader of the SAR.

The question today involves a lot of policies and administrative measures, totalling more than 20. All Members or political parties have their own priorities and all of them will hang their wishes to the wishing tree. Inevitably, something will be missing. Therefore, today I would like to discuss political figures' qualities and responsibilities, which are the essential qualities. The first one is integrity. A political figure is not required to talk a lot. Instead, he has an obligation to put his words into action and honour his promises. I would not require that a political figure should put his words into action within a specific time frame as the successful achievement of a goal depends on many factors, apart from his personal efforts. However, he should at least move in the direction consistently in accordance with his words or the commitments made in his election platform.

However, let us take a look at Mr LEUNG's election platform. By comparing the version before and after he has obtained the necessary

nominations, we will find that his election platform has been downsized. The number of public housing units mentioned by Members just now is a case in point. But it is even more disappointing that he paid regular visits to the poor and the old in the local communities after declaring his interest in running in the election, projecting himself as a person caring for the grassroots. However, when it comes to the universal retirement protection scheme, which is a basic measure in helping the poor, he has no communication with our civil society. Apart from saying that discussion can be held, he has not made any commitment. I think his words and gesture are only empty utterances, which will make us lose our confidence if we have heard them too much.

Furthermore, he likes to play with words. For instance, there is a big gap between the appointment of Mrs Fanny LAW in the Chief Executive-elect's Office and the expectations of the people. Mr LEUNG indicated that he would not appoint any members of his electioneering team to take charge of any government posts. But now, he has appointed Mrs Fanny LAW on the pretext that it is only a position in the Chief Executive-elect's Office rather than a position in the new Government. However, there is a gap in the understanding of the people who first heard him say that he would not appoint members of his electioneering team to any public office. The repeated occurrence of such incidents may undermine our basic trust in him, let alone maintaining Hong Kong people's confidence in his governance in the future.

As for the second basic quality of the Chief Executive, he should respect the rule of law and uphold procedural justice. President, the problem concerning "doubly non-permanent resident pregnant women" giving birth in Hong Kong has really caused Hong Kong people great anxiety because it has disrupted our planning in healthcare and education. Different political parties in this Council have made a lot of efforts about this and they have worked very hard for a long time to avert the current situation. In fact, there are many formal channels which are in line with the due process for us to deal with the matter, including an amendment of the Basic Law. If the problem is very serious, we can also adopt a fine-tuned approach, that is, to amend the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance in order to impose restrictions on private hospitals in admitting "doubly non-permanent resident pregnant women" and the issuance of appointment certificates on the basis of public interest. These are legal channels consistent with procedures and can be put forth to the public for consideration.

However, Mr LEUNG has resorted to "verbal coercion", claiming that he will not guarantee that those babies born in Hong Kong in 2013 will be issued birth certificates. Thus, we cannot help wondering whether the Chief Executive has decided not to follow the Court's ruling and whether the Government will take the lead not to abide by the law. Therefore, when the Chief Executive elect was questioned whether he would violate the spirit of the rule of law, he had in fact betrayed his responsibilities. It is because one of his major responsibilities is to uphold the spirit of the rule of law in Hong Kong society. It is necessary for him to adhere to this principle in work. In order to dispel the anxiety of Hong Kong people due to the problem of babies born to "doubly non-permanent resident pregnant women", he has the responsibility to explain the procedures to achieve this end while disseminating this message. He can tell us his approach even though he will exert political pressure on private hospitals in his negotiation with them. However, the fact that he has resorted to "verbal coercion", claiming that those babies are not guaranteed to be issued with birth certificates is worrying as it may lead to questions as to whether the Chief Executive will try to achieve the purpose by fair means or foul.

President, the transition of the two Governments is another problem. Mr LEUNG can scarcely wait to expand the Accountability System for Principal Officials at the expense of the current term Government which has become a "lame duck". If he wants to do so, he might as well formally announce his consideration of adopting the "Downing Street model" to follow the practice of the United Kingdom. Under this approach, the incumbent Prime Minister will retreat through the back door as soon as the election is over and the polling result has been announced while the new Prime Minister will move into the Prime Minister's official residence from the main entrance the next morning to take over all the powers and work with the Civil Service. However, he should consult various sectors before implementing such changes.

Finally, I know that Mr LEUNG is a strong-willed political figure. However, he should respond to dissenting voices and respect the views of other people rather than adopting a high-handed approach. He should not govern Hong Kong in a fearless manner regardless. Those in power should exercise power in a judicious manner when they have come to power. Only in doing so can the community be united, or else he will destroy harmony and stand in the way of progress of the Hong Kong community as a whole.

DR RAYMOND HO (in Cantonese): President, soon after Mr LEUNG Chun-ying was elected as the fourth term Chief Executive, he has arranged for meetings with Legislative Council Members from different political parties and groupings, including members of the Professional Forum and me, in order to exchange views on future administration. I welcome and appreciate that, looking forward to a healthy development of the executive-legislature relationship in future on the basis of mutual trust.

As an externally oriented economy, Hong Kong is also vulnerable to the impact of fluctuations of the global economy. Hong Kong has all along been relying on the financial and service industries, such as the property sector. If there is really a problem in the external economic environment, the local economy will certainly be dealt a heavy blow. Therefore, the first and foremost task of the fourth term Chief Executive is to stabilize the employment situation in Hong Kong.

Hong Kong's economic performance has all along been closely related to the construction industry, which has employed more than 350 000 employees, including construction workers, professionals and technicians. With a number of large-scale projects launched in succession in the past few years, including public works or private works which grow gradually, the unemployment rate of the construction industry has dropped from the record high of 20% in 2003 to around 5.1% at present, which is, however, still higher than the overall unemployment rate in Hong Kong. However, as the 10 major infrastructure projects will be completed one after another in the next 10 years, I have in the Legislative Council repeatedly urged the incumbent Government to plan ahead in respect of the so-called projects of "post-10 major infrastructure projects" as early as possible.

Given the long lead time of large-scale infrastructure projects and the complicated procedures such as a lengthy and arduous public consultation exercise, and the fact that more time is often needed for cross-boundary infrastructure projects which may involve discussions with governments on the Mainland, the 350 000 employees in the construction industry will be directly affected if the planning work cannot be carried out in tandem with the progress, thus resulting in a shortage of employment opportunities. Assuming that there are 3.5 people in each household, the number of people affected will be more than 1 million people among the 7 million people in Hong Kong. The figure is most

impressive and the impact on the economy as a whole will be profound. It will also pose a threat to the social stability of Hong Kong. Therefore, the fourth term Chief Executive should carry out detailed planning as early as possible in respect of our future investment in infrastructure. This will enhance Hong Kong's competitiveness on the one hand and ensure employment opportunities in the construction industry on the other.

The new Chief Executive should also strive to diversify Hong Kong economy in order to solve the present predicament of over-reliance on a few industries. A possible solution that may be considered is to promote the development of innovation and technology in Hong Kong through leveraging on our experience in marketing, financing and overseas markets, coupled with the Mainland's advantages in research and development, its huge market and the availability of human resources, as well as our healthy reserves and Exchange Fund. In order to cope with the development in this regard, appropriate adjustments should also be made to our education system so that rote learning or spoon-feeding education can be changed and students will be proactively encouraged to learn the method of subconscious learning and develop their creativity.

Apart from creating more job opportunities and enhancing Hong Kong's competitiveness through investment in infrastructure, the Chief Executive elect should give priority to land supply. In the past decade or so, I have repeatedly raised this problem with the Government, including expressing my views on this aspect to two Chief Executives on many occasions. My main concern is that given the future growth in the population of Hong Kong, the demand for land in Hong Kong will increase rather than decrease. While we have to meet our housing needs, we also have to meet the people's aspirations for economic and social development. Both of these factors will generate a demand for a large quantity of land. According to the "Hong Kong 2030 Planning Vision and Strategy" by the Planning Department, it is estimated that the population of Hong Kong will reach 8.91 million in 2033 and the number of households will increase by nearly 30%, reaching 3.1 million. According to the existing development density, Hong Kong will need an additional 45 sq km of land in order to cope with the population growth, the aspirations for better living environment and economic development.

In relevant motion debates held by the Legislative Council in the past, I have proposed various means, including reclamation beyond the Victoria Harbour, full utilization of rock caverns in land released from the Frontier Closed Area, making the best use of deserted agricultural land in the New Territories as well as launching urban renewal, to increase land supply. On the other hand, property prices have been rising in recent years. To a certain extent, this is mainly due to the shortage in land supply in relation to demand, which has resulted in a continuous surge in property prices. Therefore, I think the future Government should re-establish a land reserve system in Hong Kong to adjust the demand for land in the market, so that the local property market can develop in a stable and healthy way.

Besides, the Chief Executive should formulate a population policy for Hong Kong in a serious manner. The population policy is an important basis for the planning of Hong Kong's future development. It will directly affect major decisions in the allocation of resources concerning investment in infrastructure, education and public healthcare services in the future. The deteriorating problem of aging population will aggravate the burden on society, which has highlighted the importance of a population policy for Hong Kong.

All of these suggestions are conducive to Hong Kong's development on a relatively solid foundation. They will also promote a diversified economy, create more employment opportunities, facilitate the upward mobility of the people and help alleviate the disparity between the rich and the poor, so that people can live in peace and work with contentment. The Chief Executive elect will face many challenges before achieving this goal, including the deteriorating problem of division in society and the worries it brings. The Chief Executive elect should endeavour to balance the interests of all sectors, including the interests of the disadvantaged and the middle class, and win the support of different strata in society so that we will all move in the new direction of development. President, I so submit. Thank you.

MS AUDREY EU (in Cantonese): I felt a little bit worried at first sight of the motion moved by Mr CHIM Pui-chung today because it might be regarded as an act to bypass the incumbent Government and engage in a dialogue with the next term Government in the air. In fact, this is why Mr Ronny TONG has added a premise in his amendment, "the fourth term Chief Executive to, under the

principle of not interfering in the work of the incumbent Government, implement the following when planning his work during his term of office", in the hope that the Chief Executive will consider his recommendations.

With some examples, I would like to explain that problems may arise during the handover of two governments, giving people an impression that the incumbent government is a mere figurehead.

I would like to cite the example of the "doubly non-permanent resident pregnant women", on which we have discussed a lot in this Council or expressed our views to the incumbent Government. The Civic Party has been fighting for a long time the suspension of admitting "doubly non-permanent resident pregnant women" and a zero quota for this. In the Hong Kong Island Constituency to which I belong, all the billboards carry the messages explicitly calling for the suspension of quota for "doubly non-permanent resident pregnant women". This proves that we have not ignored the incumbent Government, just that we want to communicate with the next term Government. However, it is true that at Easter, Mr LEUNG Chun-ying gave a telephone call to the Civic Party leader, Mr Alan LEONG, requesting an immediate meeting with him so that he could consult his views on how to deal with the problem of "doubly non-permanent resident pregnant women" without seeking an interpretation of the Basic Law. Mr Alan LEONG told him our request, that is, to suspend the quota for these women. In fact, the easiest way to deal with it is to request the Department of Health not to issue certificates of pregnancy to them, apart from other supporting measures.

As we can see it, Mr LEUNG Chun-ying then came out and announced the zero quota for "doubly non-permanent resident pregnant women", which has given rise to a strong response from private hospitals. President, some private hospitals and private doctors have told us that this is not feasible. They oppose zero quota because it will drive them out of business.

However, Secretary Dr York CHOW convened a press conference today to explain that private hospitals had accepted the zero quota arrangement. This measure will in fact help "singly non-permanent resident pregnant women" because we have urged that "doubly non-permanent resident pregnant women" and "singly non-permanent resident pregnant women" be dealt with separately by suspending the quota for the former and providing a channel for the latter to give birth in Hong Kong if they can provide evidence on their marital status. I am

most happy to see Secretary Dr York CHOW come out to explain that he would request husbands of "singly non-permanent resident pregnant women" to submit marriage certificates, identity cards as well as making declaration. This will not only eliminate the problem of "doubly non-permanent resident pregnant women" taking up maternity beds in Hong Kong but also help the "singly non-permanent resident pregnant women" to have access to maternity beds. As the measure of zero quota will be implemented in 2013, we can, to a certain extent, understand why the next term Government will have a role to play.

The second example I wish to cite is about the incinerator. The current term Government requested a funding of \$15 billion before June for the construction of an incinerator. However, many people who are concerned about environmental protection have heard LEUNG Chun-ying say that the incinerator is dispensable if we can make more efforts in waste reduction. So, many people want to know whether the incinerator is dispensable if we can do a better job in waste reduction, waste recycling, waste separation at source or producer responsibility schemes. This has turned into a communication problem because even if funding is approved, the proposal has to be implemented by the next term Government.

The third example I would like to cite is that the new Government wants to expand the governing team, but from our perspective there is a lot of difficulties. Do we already have enough Directors of Bureau, Secretaries of Department and Political Assistants at present? Will the public accept it if the Government wants to create additional posts of Deputy Secretary of Department and Political Assistant? In what way should a public consultation be conducted? Therefore, the Civic Party has great reservations about it.

As for other examples such as the enactment of legislation to give effect to Article 23 of the Basic Law, Mr LEUNG Chun-ying has previously reiterated his view that this is the constitutional responsibility of Hong Kong and it is provided for in the Basic Law. However, he has refused to undertake that he would refrain from enacting legislation on Article 23 of the Basic Law before the implementation of universal suffrage. It is said that, as I have heard similar views today, Mr LEUNG Chun-ying has made a commitment to Beijing that he will enact legislation on Article 23 during his term of office. It is precisely because of this that the Central Government had assisted him in vote canvassing so that he could become the fourth term Chief Executive. Therefore, Hong

Kong people are really worried. I now raise this issue clearly in the hope that he can hear it.

President, another example is the implementation of dual universal suffrage. According to Mr LEUNG Chun-ying's political platform, he will seek a consensus on this issue and act in accordance with the five steps prescribed in the Basic Law. In other words, he will firstly ask for the green light from the Standing Committee of the National People's Congress (NPCSC) in Beijing. After that, the Chief Executive will report to the NPCSC in Beijing for approval and seek endorsement of a two-thirds majority of all the Members of the Legislative Council before it is reported to the NPCSC. This is the so-called five steps. He added that he would make a decision once a consensus has been forged in society.

Apart from that, he also mentioned that if the threshold is too low, it may lead to a situation where there are too many candidates and the turnout rate is low. We are concerned about whether his remarks imply a screening process for the Chief Executive Election and a high threshold. In the eyes of the Civic Party, this is not genuine universal suffrage.

Among those five steps, the first one is for the Chief Executive to submit a report. If this step is not taken expeditiously but procrastinated until 2016, we are worried that he may tailor-make a method for electing the Chief Executive featured by a high threshold and a screening mechanism. We will then be asked whether we accept it or not. If not, sorry, there may be no universal suffrage at all and we cannot cast any vote. The *status quo* is maintained and the Chief Executive will be elected by the 1 200 people. And the next term Chief Executive will also be elected by 600-odd votes. This is very, very unsatisfactory.

Therefore, the Civic Party demands that the first thing Mr LEUNG Chun-ying should do after taking office is to initiate the "five steps" project, write and submit a report to the NPCSC before start implementing the 2017 universal suffrage. We hope to have universal suffrage. We do not want to see a coterie election between a pig and a wolf.

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, I have not met with LEUNG Chun-ying because I have little confidence in him. As I have pointed out that he is an underground CPC member, what is the purpose of meeting with him? He will only listen to somebody else.

As the saying goes, we should judge people by their deeds. Recently he has done two things that make us cast doubts on his integrity. First, he has appointed Mrs Fanny LAW as the Director of the Chief Executive-elect's Office. I have heard LEUNG Chun-ying say during his election campaign that Mrs LAW is his personal friend, she has retired and will not hold any public office. This is the first thing. Secondly, Mrs Fanny LAW has also indicated that she does not want to take up any public office. She is different from Mrs IP, who has indicated her wish to take up public office. Perhaps Mrs IP will be appointed as a Secretary of Department. But there is no such arrangement now.

What is LEUNG Chun-ying doing? This is different from a situation where he is alleged of having lied because an investigation can be conducted as the facts are clear and evident. Does he mean that the position of the Director of the Chief Executive-elect's Office is not a public office? If it is not, it may stir up consternation among the masses who may say, "Are you sure? Are you eating your own words?" Possibly he has appointed Mrs Fanny LAW. He has deployed a tactic to test the people's bottomline. It is also like the tactic deployed by the camel in the fable *The Arab and His Camel*. If we do not take any action or keep our mouth shut, he will have no scruples.

I came up to his doorstep and said to him: "Today you do not keep your words and appoint Fanny LAW. How can we trust you on the legislation on Article 23 of the Basic Law?" I also exclaim and sing loudly: "There is no LEUNG Chun-ying without the CPC; and there is no Fanny LAW without LEUNG Chun-ying (*in Putonghua*)". He began to speak only a while after I used this song as a conduit for slinging mud at him President, you did not go on that day. I did not wait for you at the door. He came out and said that the Director the Chief Executive-elect Office's was not Fanny LAW. The post belonged to someone else. My buddy LEUNG Chun-ying, please stop fooling me. If it was really someone else, you should have informed us earlier. Why did you say "it was actually not" only at the last moment when the people of Hong Kong started denouncing and castigating you? The same applies to Fanny

LAW. Instead of confessing at the last moment amid an atmosphere of public scourging, why did she not indicate her refusal sooner? Where is the integrity?

Secondly, it is about Miss CHEN — CHEN Ran. Somebody who wanted to create a post in the Government knocked on the door of Denise YUE and told her that there were two persons, one of them had served as an officer in the Marine Department while the other Anyway, there are justifications for both of them. But what are the justifications for CHEN Ran? What are the justifications for him not to abide by the rules, not even to wait three more months? At that time, Rafael HUI was allowed to set up a company without going through a "cooling off period". Many of you here said that there might not necessarily be anything evil. But I had warned you about this, but you laughed and said how could Mr HUI have any problems? Why can Mr LEUNG not wait for just three months? Perhaps he has no confidants, right? If he has no confidants, he had better find another person. Should he appoint Mrs IP? Mrs IP has indicated clearly that she would like to be a Secretary of Department. If he wants to find somebody to take up the post of the Secretary of Department, why does he not look for a suitable person on the Motherland? Owing to these two things alone, I cannot place any trust in him.

After being elected, he claimed that the quota for "doubly non-permanent resident pregnant women" would be zero. The League of Social Democrats has already said that and there is no need for him to repeat. We have said it out loud. The credit does not belong to him, does it?

Another issue there are two things on which we do not have to spend any money, one is the legislation on Article 23 of the Basic Law. As a politician, he should have figured out the solution to this problem early. Should legislation be enacted after the implementation of universal suffrage? He does not follow this route. He said he would consult the public. Do I have to replay the videotape? Do I have to replay the videotape to watch what happened on 1 July 2003? Is he blind? In any case, he has to tell us how to deal with the issue. What he has to do is very simple: he should tell us whether legislation will be enacted before or after the implementation of universal suffrage. I believe in the CPC. I believe that universal suffrage will be implemented in 2017. What kind of politician is he? How can he say that it is a piece of cake for him to be a politician? It is a piece of cake for someone else indeed. He

refused to answer this question because he is cunning. President, if I ask you this question, you may refuse to answer it here today. But if I ask you this question in private, you will tell me your views on how to deal with the issue, right? However, he kept his mouth shut.

As for the threshold of the universal suffrage in future, the situation is the same. He has also been a victim in the absence of universal suffrage. When he was an underdog chasing after Henry TANG, he said that universal suffrage should be implemented because he realized the advantages of universal suffrage. Nevertheless, when he has gained the upper hand, he has not done any reflection for his past misery. On the contrary, he proposes to further tighten the threshold. Buddy, whom did he refer to? Is that you? Why does he propose to further tighten the threshold? Among the three candidates, Albert HO and Henry TANG have got more than 200 nominations. Although he has only got 150, he caught up from behind. What else did he want? These two incidents are illogical.

There are a few more things. It is funny to hear what he said when he was interviewed by the media. He said he did not see that property prices were too high or the property market was overheated. Was he insane? When he was running in the election, he said that he would tackle this problem. Another issue is the "fruit grant". In future, I must hurl objects at him because he was just paying lip-service. He said he would give a double payment to recipients of "fruit grant" who passed the means test. He will do the same thing as Donald TSANG. What is the difference between them except that he has not treated to a shark's fin soup?

On public housing, he said that half of the target production would be completed ahead of schedule by one year. Is there any need for him to say this? Buddy, 5 000 White Form quota will be provided for the public to buy Home Ownership Scheme flats. Is there any need for him to say this? President, please pardon me for my "badmouthing". I cannot help criticizing him. For things that will not incur any cost, he does not do it. Nor will he do anything that politicians should do. He said he would take a pen, a book and a stool with him. Just save it. Rather, he should bring with him his brain, his mouth, his shoulders and his backbone and tell us whether he will enact legislation on Article 23 of the Basic Law. Otherwise, I will ask him the same question and

scold him whenever I see him. I think all Members should ask him this question: Will legislation be enacted on Article 23 of the Basic Law?

MR CHAN KIN-POR (in Cantonese): President, today the Legislative Council discusses the motion on making recommendations to the new Chief Executive in respect of his administration. I think we should thank Mr CHIM Pui-chung, the mover of the motion, as he has given us an opportunity to debate in public recommendations to the new Chief Executive before he takes office. As there have been many important policies currently pending decisions of the new Chief Executive after taking office, I believe the new Government, after coming into being, will be very busy and it is desirable that recommendations can be put forward by Members as earlier as possible. Of course, we hope that the new Chief Executive will listen to our views attentively.

The first point I wish to talk about is recommendations on policies on the insurance sector. After the Lehman Brothers minibond incident, the Government has spent most of its time on regulatory work to prevent the emergence of such problems in the financial sector. While the security of the financial sector has undoubtedly been enhanced, efforts in opening up business opportunities are ignored. On the contrary, the competitors of Hong Kong have been exerting efforts in a most proactive way in striving for business opportunities. They have persistently attracted investors by rolling out preferential policies. The insurance industry is worried that some of our business or business opportunities may be taken away by other regions or countries.

In order to expand the market, I hope that the forthcoming independent Insurance Authority will shoulder not only the regulatory responsibility, but also the responsibility for exploring business opportunities in the insurance sector in order to support the sustainable development of the industry. Its specific duties include broadening Renminbi investment channels and amounts, apart from conducting thematic studies by specialists, with a view to promoting the development of catastrophe and captive insurance as well as the proposal of fostering Hong Kong as a reinsurance centre.

Furthermore, given the pledge of the new Chief Executive in his election platform that tax deduction for medical insurance will be introduced, the industry

hopes that the new Government will honour its promise as earlier as possible and extend the tax deduction to all personal insurance items, including life insurance, in order to encourage the people to prepare for their future and reduce reliance on the Government.

Another issue of concern in the insurance industry is the voluntary medical insurance scheme. We hope that the new Government can complete the drafting work early before conducting a further consultation on the views of the industry and the community. Meanwhile, I hope the new Government will review the commitment of \$50 billion which has been set aside for the scheme because it will be put to use formally only in 2015. The Government should examine whether this commitment amount should be adjusted in the light of factors such as inflation, rising medical costs and ageing population in society. The Government should also make long-term commitment for the scheme. For instance, the \$50 billion should be turned into a seed fund and invested for return to avoid unsustainability of the scheme after 25 years of operation when the commitment amount is exhausted.

The housing policy will be the focus of the new Government's administration. I suggest that under its housing policy, public housing should play a primary role, to be supplemented by private sector housing. I also propose to increase the percentage of people living in public housing from the current 50% to at least 55%. Public housing should comprise mainly public housing estates, in addition to the construction of an appropriate number of Home Ownership Scheme flats. I make this proposal because it has proven that the more the people live in public housing, the more stable a society will be. The problem of poverty will also be ameliorated. Take Singapore as an example. With 85% of its people living in public housing, its social stability is very high. I believe it is the opportune time to radically solve the housing problem of the grassroots so that those who cannot afford home ownership can live in public housing estates. As to the problem of private sector housing, the Government's responsibility is to provide sufficient land supply for development by developers in the light of the market condition.

In my opinion, another pressing issue is our population policy. According to figures of the Immigration Department, the number of One Way Permit holders settling in Hong Kong from 1998 up till the first three quarters of last year is as high as 667 000, accounting for 10% of the population of Hong Kong. When

they came to Hong Kong, they were 27 to 28 years old on average. About 20% of them have completed primary school education, around 70% of them are secondary school leavers, while only 10% of them possess tertiary education qualifications or above. Furthermore, nearly half of them used to work as home carers in the Mainland. In our knowledge-based society nowadays, they can only take up low-pay jobs and even have a high risk of remaining unemployed. In the absence of a policy to improve the demographic structure of Hong Kong or formulation of complementary measures as a whole, the Government will get half the results with twice the effort in addressing the problem of poverty. Therefore, it should review the population policy expeditiously.

Besides, as the problem of aging population in Hong Kong is deteriorating, there is a need to study how best our retirement protection system can be further optimized. Even though the Mandatory Provident Fund (MPF) System is a good retirement system, yet due to the mechanism's limitations, the protection for some people is not enough. Therefore, the Government should examine how to optimize the current retirement arrangements and propose alternative retirement protection schemes for Hong Kong people as a means to make up for the inadequacy of the MPF System.

On environmental issues, although Hong Kong is an international financial centre, many talents of multinational corporations refuse to work in Hong Kong due to its serious air pollution problem. The next Government should roll out various measures to improve the air quality in Hong Kong. Given that the pre-Euro and Euro I diesel commercial vehicles have been the main sources of roadside air pollution, the Government should adopt new thinking in proposing an old diesel vehicle scrapping and replacement scheme in order to genuinely improve roadside air quality. Furthermore, the Government should take the lead in energy conservation, beef up its efforts in promoting energy conservation, organize energy-saving and emission reduction campaigns with enterprises and schools, and extend the campaigns to cover the whole territory so as to foster habits of energy saving.

I wish to point out one last thing. There is evidence suggesting that, in recent years, the people of Hong Kong have been unable to find any sustenance in their daily life. As a result, there is emptiness in their souls. Hong Kong is a commercial city where most people are devoted to their career in order to achieve a sense of accomplishment and maximum monetary reward. However, our

economy has reached a stage of maturity where the opportunities for our younger generation to aim high have greatly dwindled. In recent years, the dissocial spirit among the younger generation has been intense and the lack of spiritual sustenance may be one of the contributing factors. Therefore, the Government should study how to help them find leisure hobbies, such as the development of culture, arts, sports and entertainment business. The Government should help the people find the joys of life in order to rebuild a vibrant and dynamic society.

I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, today's debate question is "Making recommendations to the fourth term Chief Executive". Unfortunately, all measures have in fact been tied up. It was said that when meeting with LEUNG Chun-ying, the Liberal Party had asked him of his views on certain issues. He replied that all initiatives were written down in his election platform.

In this case, let us analyse the content of his election platform. The thesis is "seeking changes while preserving stability". After reading his election platform, I do not see what kind of change he wants to make. Simply speaking, there is not any change. As for "stability", I feel that he really wants to maintain stability, but his "stability maintenance" follows the State's major policy of stability maintenance. What is the major policy of stability maintenance? What is stability maintenance from the standpoint of the Chinese communist regime? The answer is to keep stalling the implementation of universal suffrage in Hong Kong while pursuing the enactment of legislation to implement Article 23 of the Basic Law. That is stability maintenance. Then, LEUNG Chun-ying will be the Chief Executive of stability maintenance.

Let us take a look at how he responds to the definition of universal suffrage. I am really scared. He says that universal suffrage involves a mathematical issue, meaning that there cannot be too many candidates running for office if a candidate must have over 50% of the votes in order to be elected — because too many candidates will make it difficult for any one of them to obtain over 50% of the votes. Therefore, this is mathematical. He is explicitly or implicitly indicating that universal suffrage can hardly allow too many candidates.

How can it be ensured that there will not be too many candidates? Everybody knows that, according to the Basic Law, a Nomination Committee must be set up. If the Election Committee — also commonly known as the "EC" — has turned into a Nomination Committee whose 1 200 members are responsible for nominating candidates If the threshold is set too high, the number of candidates will naturally decrease. The number of candidates can also be reduced if a qualification election is held after the nomination. If he wants to reduce the number of candidates, he can simply tamper with the threshold of universal suffrage. What does he mean with his said statement? He still owes us an explanation to date. In fact, he is implying that he will tamper with the future universal suffrage.

The second thing is that he has yet to state his stand regarding legislation on Article 23 of the Basic Law. Is he going to enact legislation on Article 23? He has been saying that it is the constitutional responsibility of Hong Kong, which requires discussion in society. It is like empty talk. We hope he can state a clear stand on whether to legislate or not.

As for "change", it is actually easy because the current Government is just too incompetent. It is so incompetent that the public will be very grateful even if the Government is willing to do something small and simple. I think the people hold that LEUNG Chun-ying is quite good. At least, he is willing to say that there will be zero quota for "doubly non-permanent resident pregnant women" and that there is something wrong with the current housing policy. This public impression stems from the fact that Donald TSANG is overly incompetent. In the eyes of the public, his rating is very low. Everything he does is most unwelcome. With these in mind, the public will applaud with big hands even if the Government is going to do a small good thing. But is this really some kind of "change"?

At present, Hong Kong is faced with real estate hegemony, financial hegemony and extreme disparity between the rich and the poor. The lives of the grassroots are getting more and more difficult because inflation erodes their livelihood. As for the middle class, they simply cannot afford home ownership. Renting a flat will turn them into "nomads" — moving from one place to another — because the landlords can increase the rents every year. All these have made the working class lead a hard life. They never know whether they will be unemployed tomorrow. Nor will they know the off-duty time of the day.

Excessively long working hours, together with super low wages, have imposed on them a heavy burden of living. Faced with housing, labour, social welfare and poverty conundrums, is LEUNG Chun-ying capable of bringing about real changes? On the face of it, there will not be any change.

President, I have no idea why the kaifongs think that LEUNG Chun-ying is pro-grassroots. I have no idea why there is such a beautiful misunderstanding. After reading his complete set of election platform, I still cannot see where his pro-grassroots mentality is based. On one occasion, he even criticized Henry TANG and Mr Albert HO for the obvious aggressiveness in their election platforms regarding welfare. How can he be regarded as pro-grassroots?

Talking about the grassroots, we in the Labour Party, with "The world belongs to the working class" as our object, care very much about the workers. The workers care mostly about the annual review of the minimum wage, legislation on standard working hours and the right to collective bargaining.

If you take a look at the minimum wage part in his election platform, he managed to build up his business thanks to minimum wage to a certain extent. The only occasion I happened to meet with him alone was the discussion on minimum wage. In the discussion on minimum wage, did he undertake to conduct an annual review? No. He just said "we will review and adjust the level of minimum wage with reference to the changing economic and social conditions". That is it. He did not promise us an annual review. As regards standard working hours, he only proposed to set up a special committee to follow up the study on promotion of standard working hours. That was only a "study". Is there any timetable or roadmap? No. Is there any commitment? No, either. As for the right to collective bargaining, the topic that we care about most, not a word is mentioned.

Everyone knows that this Saturday is Buddha's birthday, which is a public holiday but not a statutory holiday. Henry TANG originally said that he would return those five days of public holiday to the working class so that all wage earners could have more holidays if he were elected. There is no such commitment in LEUNG Chun-ying's election platform. He has not made any commitment as regards holidays, nor is there any improvement proposal. Therefore, I do not know how he can be pro-grassroots. At least, I do not see how he is in favour of the labourers.

As for the elderly, he indicated that he would increase the "fruit grant" to \$2,200, subject to means test. What we need is a universal pension system, in which every elderly citizen is entitled to obtaining \$3,500 every month. The employees, employers as well as the Government are responsible for contributing to the establishment of this universal pension system. This long-term system requires the Government to appropriate \$50 billion as seed money to initiate the plan.

However, it was not at all mentioned in LEUNG Chun-ying's election platform. Instead, only the handout of \$2,200 as "fruit grant" was mentioned. If you put Henry TANG's \$3,000 of "fruit grant" into perspective, Henry TANG's proposal is even more generous. But we do not have to calculate in this way. The point is whether the problem can be resolved. We do not see any proposal from LEUNG Chun-ying. Hence, I really do not understand why he is said to be pro-grassroots. We are certainly delighted if he is really pro-grassroots. Unfortunately, I have not seen him proposing any specific measure. It is entirely out of touch. There is no specific measure that can be implemented.

Thank you, President.

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

DR PRISCILLA LEUNG (in Cantonese): President, Mr CHIM Pui-chung has proposed a motion today on "Making recommendations to the fourth term Chief Executive". The scope of this question is very broad and Members may say whatever they like. However, as we should have many opportunities in future to discuss this, so today I would first focus on the question of transition and the collaboration between the current-term Government and the Government of the next term.

I hope that the next-term Chief Executive can try his best to steer his Government from any political time bomb that may lurk in its path and reduce the political embarrassment that may be brought to the current-term Government. If the Governments of these two terms can adopt these two principles and handle the divergence in opinions on certain major issues that exist in the transitional period, then would there be any chance to set some kind of informal

constitutional conventions by making use of this opportunity of a so-called "real change in government"? That is to say, these conventions will not be put down in black and white but they are part of a gentleman's agreement. Recently, the Governments of these two terms have engaged in exchanges of opinions on many issues but these are made in the air and no meetings have been held. So during this transitional period, can some sort of rules be set up to take care of the overall interest of Hong Kong?

There are at present a number of very controversial issues. One is about the question of whether the children of "doubly non-permanent resident pregnant women" can enjoy the right of being a permanent resident of Hong Kong. With respect to this issue, if the next-term Government does not have the co-operation and assistance from the current-term Government, there is a possibility that a huge political time bomb may be left. Therefore, if the next-term Chief Executive can state his stand on the issue clearly, this may well be an advance warning to local pregnant women, the people of Hong Kong, the Mainland pregnant women and those couples planning to have babies. When a couple wants to have a baby, the time taken from pregnancy to childbirth would at least be 40 weeks. If some Mainland couples want to come to Hong Kong to have their babies born here and if they are planning to have babies, now they can make some plans when they know about this policy in advance. I think that it is desirable for the next-term Chief Executive to make his stand clear. But if he wants to do this during the transition, can he minimize the political embarrassment that his remarks may cause to the present-term Government?

Now many people are talking about the My Home Purchase Plan (MHPP) and the proposal to build an incinerator. The construction of incinerators is a very controversial topic in Hong Kong. The current-term Government should try its best to come round to the way of thinking of the Government of the following term. If it is considered that incinerators are a necessary evil, can the Government not make reference to the state-of-the-art technologies employed around the world, find a suitable location and then build the incinerator while doing its best to minimize the side-effects so that Hong Kong people can find that easier to accept? When dealing with this problem, the current-term Government should try to come round to the way of thinking of the next-term Chief Executive and his Government on the incinerator issue.

As for the issue of the MHPP, I would think that it should be handled by the current-term Government. The MHPP may not be perfect because, as pointed out many Members of this Council, it is not a radical solution to the problem like increasing the production of Home Ownership Scheme flats. However, the MHPP is still a good plan because it can give another option to the public. Since the MHPP is beneficial to society, it should be taken forward by the current-term Government in order that it may feel less politically embarrassed.

The problem of illegal structures is an issue that arouses a lot of controversies in Hong Kong. It even leads to confrontation between dwellers in the city and those in the rural areas. The problem may need a long time to resolve. I would suggest that the next-term Chief Executive set up a committee formed by experts in coping with the problem of illegal structures as well as credible professionals from different political parties or political background, such as lawyers, surveyors and architects. Then the committee should try to settle problems concerning the village houses and small houses. This should be done in phases as the problems of the indigenous residents of the New Territories cannot be hoped to be solved by just invoking a certain point of view in law. These problems need time to address. If there can be a smooth transition from the current-term Government to the next, then I am sure the problems should be dealt with in a better manner.

With respect to the population policy and the housing problem, I believe some achievements should be made by the next-term Chief Executive. This issue is one of his trump cards. However, I want to point out that when the next Chief Executive is to increase the production of public rental housing and resume the production of Home Ownership Scheme flats, he should consider urban planning issues as well. Now the current-term Government has commenced some related projects and although they represent only a small step taken, I think that they are good. An example is the quality of water. Thanks to our constant efforts of lobbying, the current-term Government is only trying to probe its way for a solution. Nevertheless, the first step is taken and a sum of money is set aside to commence a seawater purification project. Another example is the waterfront promenades. It is the aspiration of Hong Kong people to see a continuous and unbroken stretch of waterfronts on both sides of the Victoria Harbour. But many planning problems are involved. These include some planning work which is outdated. I hope that the next-term Government can

learn lessons from the inadequacies of the current-term Government. Then more resources should be allocated to improving the planning efforts. This can hopefully leave to our next generation a clean harbour and a continuous stretch of waterfront promenade with greenery. If that becomes a reality, it will be considered as an important achievement of the next-term Government.

Apart from that, there are still many other problems such as the problems of noise and redevelopment of the old urban areas, as well as the problem of how best the West Kowloon Cultural District as a leading project can drive the transport infrastructure development of the old areas and improve the quality of living of local residents. The Government has taken its first step, but the work is not yet complete. I hope that the Chief Executives of the two terms (*The buzzer sounded*)

PRESIDENT (in Cantonese): Dr LEUNG, your speaking time is up.

DR PRISCILLA LEUNG (in Cantonese): can co-operate. Thank you, President.

MRS REGINA IP (in Cantonese): President, I am very grateful to Mr CHIM Pui-chung for proposing this motion. This is because the fourth-term Government of the SAR is certainly the first Government in the 15-year existence of the SAR that has to face the problem of a real and actual change of government. It is therefore deep in significance. Our party pays great attention also to this motion. We have discussed Mr CHIM's motion as well as all the amendments proposed by other Honourable colleagues. We have talked about whether we can lend our support to which of them and which ones we cannot support.

First of all, I agree very much with what has been pointed out by many Members earlier, that since the people of Hong Kong may have different convictions and aspirations, and if they are asked to come up with a checklist of problems that should be handled by the Chief Executive, I am sure the problems identified would vary from one person to another. During the past six months, I have tried on two occasions to run in the Chief Executive contest. I have put my

election platform on the website where I listed the problems that I think should be handled. However, as this is already history, I do not wish to repeat it. I also know that Honourable colleagues may have different focuses and we can just add in our ideas like decorating a Christmas tree. We can say that problems like environmental protection and those related to youths and women are not solved. But I think that it would not be meaningful at all if we add in our views this way.

I agree with what has been said by many Honourable colleagues, that apart from debating the issues that the next-term Chief Executive should handle as a matter of priority, we should also debate the qualities that our next Chief Executive should have. I agree with what has been pointed out by some Honourable colleagues earlier, that apart from competence, he should also have commitment. By commitment it means he should not just regard his service as the Chief Executive a good job with a high salary, excellent fringe benefits and access to air passages and treatment as head of state as he travels. He should be able to give and even make sacrifices. He should be clean and true to his duties. As many Honourable colleagues have said, he should abide by the law and strive to be whiter than white. And there is another point which Members think is important and that is, he should work hard and be down-to-earth. I am sure these are the expectations of the public.

As for Mr CHIM's original motion, we in the New People's Party have discussed it. But, sorry, I have to say that we cannot support it. This is because we think that the motion contains some parts which we think are well-intentioned but would lead to difficulties if the proposals were implemented. An example is the proposal in the motion to "plan for the construction of an additional cross-harbour tunnel in the vicinity of Tsim Sha Tsui connecting directly to the Central District on Hong Kong Island". I believe there would be difficulties if this idea were taken forward. This is because it can only become a reality if a lot of land along the waterfronts of Tsim Sha Tsui and Central District are used for this purpose. And we also have strong reservation about planning "massive reclamation projects" as suggested in the motion. The New People's Party thinks that there should be a suitable amount of reclamation but we do not think that massive reclamation projects can be carried out, though we must admit that this option of reclamation cannot be ruled out entirely.

As for the amendments from other Honourable colleagues, irrespective of those from Mr Albert HO, Mr Frederick FUNG or others, they have made many

suggestions on livelihood issues. We consider that these suggestions can be accepted and supported in various degrees. But we think we cannot support the amendment by Mr Albert HO because we are worried that some of the political issues in it may contravene the Basic Law. This applies also to the amendment by Mr Frederick FUNG. He seeks to delete many livelihood issues and the main point of his amendment is a show of political stand. We understand why he is doing that, but we do not quite agree with what he is doing, that is, linking all the expectations on the next Chief Executive with political issues.

As for the amendment by Dr PAN Pey-chyou, we think that it is generally acceptable. We find also the amendment by Ms Miriam LAU acceptable. But the suggestions made in Mr IP Wai-ming's amendment, namely, "to expeditiously enact legislation on standard working hours", "to standardize the number of statutory holidays and public holidays to 17 days", and so on, would touch on labour policies of enormous implications. The New People's Party will have to conduct consultations on these issues because we believe that enacting legislation on standard working hours will have a far more serious impact on the economy, especially on small and medium enterprises, than the imposition of minimum wage. It is very likely to undermine our competitiveness in the long run as well as the vigour and vitality of our economy. So the New People's Party will conduct consultations on these topics and we cannot show our support for these suggestions for the time being. And we will vote later according to this view of ours.

In any case, I appreciate the many expectations which Honourable colleagues have on the next-term Chief Executive. I am sure in the days to come, we will continue with our close watch on his work to ensure that he will effect strong governance and build a better Hong Kong.

President, I so submit.

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

MR ALBERT CHAN (in Cantonese): President, on this eve of the 15th anniversary of the reunification, there is personnel change in the post of the Chief Executive. Any change in the ruling echelon will bring some hope to the people

certainly. However, I wish to point out here that with this political ethos in Hong Kong now, the people of Hong Kong should not harbour any extravagant hope in the change of leadership. They must rely on themselves.

We can see that during these 15 years after the reunification, the wealth gap has widened, the poverty problem has deteriorated, people have been leading a harder life, and there is no hope of democracy in sight. And there has been no progress in livelihood issues, freedom simply withers and our core values have crumbled into dust. With this kind of governance, the so-called accountable officials in the Government, even if they are those civil servants at the top of the hierarchy, have begun to put on a straitjacket, and they are like enslaving themselves. Like slaves, they only know to look northwards and seek support and approval there. For this reason, the very centre of power is shifting from Central District to Western District. The ugly and appalling things we see in the small-circle election of the Chief Executive held recently have served to expose the problems. Now the era of Hong Kong communists taking over Hong Kong has formally begun.

On 9 May I will move another motion, pointing out that the People Power has got "three don'ts". We don't accept Hong Kong communists ruling Hong Kong. We don't recognize elections held under the control of Hong Kong communists. And we don't recognize the so-called Chief Executive elected.

In the face of such harsh political realities, the people of Hong Kong can only pray for a better future. They should not rely on political figures or political parties in the democratic camp to lead them in the fight to defend their rights. This is because over the past some 20 years, there has been too much frustration. The so-called political movements and social movements in Hong Kong have all been cosmetic in nature and acts of window-dressing with no substance. These are political acts done under the limelight and they will just vanish after photos are taken by the media. They cannot be called political movements, still less social movements. They can only be called some indications of a political stand. For many years, the work done is like a three-part movement. First, a march. Then a signature campaign. Or a hunger strike at most. The most forceful action is a leap into the sea wearing a life buoy in order to show some of this so-called determination to fight for democracy. However, no progress has been made after these some 20 years. In the face of the communists who are most adept at mobilizing the masses, the

democrats in Hong Kong can be regarded as lame and powerless. And there are even cases of defecting to the communist side and betraying the voters.

If we look at the resistance activities throughout the world recently I have begun to learn the ABCs of politics again. I have been reading the book *A Force More Powerful* by Peter ACKERMAN and Jack DUVALL. I am pondering over this question: Just what can Hong Kong people do given the time and space they have in history? Of course, we have also read a lot about Martin Luther KING and GANDHI, and the social movements and non-violent civil disobedience in which they came forth as leaders.

Hong Kong people may think about questions along this line. In a political struggle of the traditional manner and as practised in China, it is an armed uprising and revolution. This is especially the case of MAO Zedong who talked about "power comes from the barrel of a gun". And so one must resort to an armed uprising or an armed revolution if he wants to come into power. However, if we look at modern history closely enough, we can see that non-violent civil disobedience and peaceful resistance are more effective and they can bring about more changes. We can see that in history, apart from GANDHI of India who led his people in overthrowing the British colonial rule, another well-known movement is the African-American Civil Rights Movement led by Martin Luther KING. In the United States, civil rights activists staged sit-ins, boycotts and demonstrations against the racial segregation policy and these brought along phenomenal changes in the Deep South. In South Africa, the non-violent civil disobedience movement there resulted in the toppling of the white government. During the time of the Second World War, the civil disobedience movement of the Danish people under Nazi rule rocked the Nazi government. Just think how such a mighty militarist rule could have been shaken. Then in Poland, the solidarity movement of the trade unions is also another story of success. And so is the pro-democracy movement in Chile.

Even in recent years, or in recent months rather, we can witness the Jasmine Revolution which is a peaceful movement spreading to a number of countries. The Jasmine Revolution is a movement without any personages acting as leaders and heroes. It heads in a new direction in this age *sans* heroes.

The People Power will not expect to see any change in that so-called leader elected, for the reason that these people are all lackeys. They have to listen to

instructions from Beijing. So the people have to fend for themselves, and they should come out and fight for their rights.

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

MS EMILY LAU (in Cantonese): President, LEUNG Chun-ying will soon become the Chief Executive. Some members of the public hope that he will bring about changes. But more people are very worried that he will speed up the death of "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong".

President, the things done by LEUNG Chun-ying of late are a cause of great concern to the people. He has hired a girl called CHEN Ran who does not even have a Hong Kong identity card to work in his interim office. She has not yet lived here for seven years. But he wants the SAR Government to waive her residence requirement and offer a job to her. The civil servants are complaining that he is destroying the system and causing damage to the principle of "Hong Kong people ruling Hong Kong". I want to ask LEUNG Chun-ying, "What does he want to do?" In the amendment by Albert HO, the most important thing is to say that Hong Kong does not want to become independent. We are still a Special Administrative Region of the People's Republic of China and the Central People's Government has made a solemn pledge to the people of Hong Kong that under the principles of "one country, two systems" and "a high degree of autonomy", there will be "Hong Kong people ruling Hong Kong" and Hong Kong can decide on a lot of things on its own.

Why has this small-circle election made so many people furious? This is because there is constant interference from the Central Authorities. President, do you remember that an oral question was asked in this Council last week about a staff member of the Liaison Office of the Central People's Government in the Special Administrative Region of Hong Kong (LOCPG) having scolded the Director of the Chief Executive's Office because of the investigation into the West Kowloon Cultural District incident? Is this not because of the view that this investigation carried out in the course of the Chief Executive Election would be unfair to LEUNG Chun-ying? But why can someone from the LOCPG scold officials of the SAR Government in such an open manner? Who is this CAO

Erbao fellow? As I hear it — well, President, you may know more than I do — sometime before the great march in 2003 had taken place, the Central Authorities told the LOCPG that it must not have any lateral relationship with the SAR Government. But it was because of that great march in 2003 that the Central Authorities began to lose confidence in the TUNG Chee-hwa clique and so many people were sent to Hong Kong. Some practices were changed and one of them was to allow the LOCPG to delve its hand into Hong Kong affairs and that accounts for its arrogance now.

When this CAO Erbao could scold people that way, what would those principal officials, political appointees and civil servants think? Do they have to get scared like hell when they hear the name of the LOCPG? President, I can tell you, if our Secretariat is meddled by the LOCPG like this, then how can there be "one country, two systems" anymore? How can there be "Hong Kong people ruling Hong Kong"? During the Election, even when Albert HO had on many occasions posed questions to LEUNG Chun-ying; he did not even dare to utter a word to say that he would defend "a high degree of autonomy" and that should anything happen and when there is any conflict between the views of Hong Kong people and those of the Central Authorities, he would stand on the side of Hong Kong people.

President, the political commentator, CHING Cheong, has said in a programme on Commercial Radio that he would lend you his support. He has also said that Mr Jasper TSANG is a communist. CHING Cheong has also said that there were some Secretaries of Departments who were also communists. But they were bold and they would tell Beijing what they thought about certain issues. What we want to see is that the officials of the SAR Government can have the courage to tell the Central Authorities what they think. This is because they understand Hong Kong better because they are living in the territory. Then they can tell the Central Authorities that certain things should not be done. I have asked many people and they have told me that they cannot think of a single thing which Hong Kong people care very much but that does not sound pleasing to the ears of Beijing and it is LEUNG Chun-ying who would come forth to stand on the side of Hong Kong people. Such a thing has not happened at any one time during LEUNG's political career which has lasted for decades.

Given a person like this, can we place our trust in him and can we be convinced that he will uphold our core values? Despite the LOCPG having

acted in such an arrogant manner in the Election, LEUNG Chun-ying still went to the LOCPG as soon as he was elected to thank its assistance. And he has been there for a countless number of times. A few days ago, he was in Shenzhen. What kind of an impression do these things give the people of Hong Kong? The impression that he has gone there to receive the edicts and be told what he should do.

President, sometime ago your Honour said that LEUNG Chun-ying would have difficulties in putting together a governing team and if this is really true — no one will think that you are lying — then he will have to seek help from the Central Authorities again. So we may have a SAR Government which is really powerless and it has to ask for help from the LOCPG in everything. If this is true, then it might as well I will definitely not agree to that, for in that event, it will become the LOCPG ruling Hong Kong. Then where will be pledges like "no change for 50 years", "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong"?

If LEUNG Chun-ying wants the people of Hong Kong to know that he has got the guts and power to defend the free lifestyle of the people of Hong Kong as well as our core values, I challenge him to come forth and make that clear. President, I have never heard him utter a single word about the freedom of the press, the freedom of speech, academic freedom, the freedom to stage demonstrations and rallies and such things.

I hope that he would listen to this motion debate, and I ask him to understand the fears in the minds of many Hong Kong people.

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

MR WONG TING-KWONG (in Cantonese): President, Mr LEUNG Chun-ying, the Chief Executive elect, will assume office on 1 July this year. People from all sectors across the community of Hong Kong have expectations on him. The motion today is on making recommendations to the fourth term Chief Executive elect. Members have made quite a number of recommendations. The ones receiving the most attention are those on how the hardship of the people from all classes can be relieved. But we should not neglect the assistance to the business

sector as well, for issues of people's livelihood and the economy are equally important to the development of our society.

Mr LEUNG Chun-ying said during an interview by some foreign media last week that he would abandon the so-called "positive non-intervention" concept of free market which has been used in the Hong Kong SAR for many years. He would change from the approach of "big market, small government" to a more proactive form of governance. He opined that the Government should increase its support for local industries. I am very supportive of these proposals. I hope that the Government of the new term can formulate an integrated and clear industrial policy underlined by the right convictions. These can enable Hong Kong industries to go in the direction of high value-addedness, hi-tech and highly innovative development, hence blazing new trails for Hong Kong industries. As to the question of how this can be realized, I would think that we have to see what the new Chief Executive will do to take this policy forward in a specific manner.

Apart from asking the Chief Executive elect to introduce more proactive policies on the industries, the DAB had as early as in October 2007 proposed a plan on making Hong Kong an international capital of exhibitions. We suggested making use of the land along the borders and foster the development of Hong Kong into an international venue of exhibitions whose curtains will never drop. The SAR Government should make use of the land along the borders and other kinds of underutilized social resources like the vacant factory buildings and take active measures to develop the exhibition industry in Hong Kong and build some sort of a two-way exhibition platform with links to both the international community and the Mainland. This will foster the development of Hong Kong into the shopping windows for both international and Mainland enterprises so that Hong Kong can become a capital of international exhibitions.

In addition, the SAR Government should collaborate with the Mainland and develop the Loop area and border areas with a view to fostering mutual complementarity. Hong Kong should strive to solicit support from the Central Authorities to build that area into a region of special co-operation between the two places and especially for the development of those emerging industries.

CEPA gives a greater degree of liberty to Guangdong Province so that it can carry out pilot schemes on closer economic and trade development with Hong

Kong on a trial basis. In view of that, the SAR Government must seize the opportunity and propose specific plans of collaboration to Guangdong Province. At the same time, the Government must act on the existing basis and hold discussions with Guangdong Province on the forging of more collaboration projects in other economic, financial and professional service domains. They must jointly strive for support from the Central Authorities. This can promote the economic co-operation between Hong Kong and Guangdong Province and also turn the two places into vanguards for further reform and liberalization of the Chinese economy.

We hope that the SAR Government can also pay attention to the fact that when Hong Kong enterprises want to go northward and do business on the Mainland, they have to face the problem of what can be described as "the large doors are open but the small doors are still shut". Moreover, there are differences between the laws and regulations as well as the trade practices of the two places. These are a big problem for the SMEs. The Government must play the role of a prime mover and help Hong Kong enterprises clear the hurdles, be they big or small, as well as try to facilitate smooth progress in the co-operation between both places in the economic and trade domains.

The Government held a public consultation sometime ago on the patent system in Hong Kong, and the DAB suggested that the Government should set up an original grant patent system. At the infancy stage of the system, patent examination personnel from the Mainland may be introduced to Hong Kong for the purpose of setting up a regulatory regime on the professional qualification of patent agents and patent attorneys while also offering training for local people to become these professionals. With respect to this proposal, I hope that the new-term SAR Government can consider it seriously. Patents and inventions are closely related and a sound patent system can stimulate inventions and innovation and hence drive economic growth. This will benefit the public. Therefore, the Government should conduct a serious review of the patent system with a view to introducing reforms and removing the shortcomings.

The aim of these proposals is chiefly to achieve diversity in the economy while adding new points of growth to it. The Chief Executive elect, Mr LEUNG Chun-ying, will assume office in about two months. He will have an arduous task to accomplish. I believe as business grows and the economy thrives, employment will not be a problem and people will lead a better life. This is

because the economy and people's livelihood are closely related. We have with all good intentions made quite a number of suggestions on administration in the future, and we hope that the Chief Executive of the next term can study them and give serious thoughts to them.

With these remarks, President, I support the original motion and the amendment by Mr CHEUNG Hok-ming.

MR WONG YUNG-KAN (in Cantonese): President, late last year, when the whole society was engrossed in the fourth Chief Executive Election, the 60 members of the Election Committee (EC) from the agriculture and fisheries sector, together with me, drafted a submission entitled "Expectations on the future Chief Executive" to enable various candidates to understand the needs of the agriculture and fisheries sector. Subsequently, only Mr LEUNG Chun-ying and Mr Henry TANG took the initiative to make an appointment to meet with the sector and receive the submission. Afterwards, only Mr LEUNG Chun-ying tasked a core member of his election campaign office to make an appointment to meet with the several representatives of the sector and me to gain a deeper understanding of the views voiced by the sector in the submission. Eventually, the 60 EC members from my sector and I all believed that among the three candidates, Mr LEUNG Chun-ying's political platform and his response to the agriculture and fisheries sector were more in line with the demands of the sector, so we all voted unanimously for Mr LEUNG.

Now, taking this opportunity of the new Chief Executive forming his cabinet and taking office, I am going to give an overview of this submission, in the hope that Mr LEUNG would pay attention to them and cover them one by one in his policy addresses.

The first item in the submission is to implement Article 119 of the Basic Law, which gives the agriculture and fisheries sector the right to develop, by formulating a sustainable development policy and establishing an agriculture and fisheries development board comprising official members, representatives from the agriculture and fisheries sector and experts in scientific research. The Government has to position the Agriculture, Fisheries and Conservation Department as a department that assists in the development of the sector, rather than controlling the sector, by appointing officials conversant with the agriculture

and fisheries who have vision. This is the master plan of the submission and the rest are the details. If Mr LEUNG can follow this overarching principle, this will be like lifting the headrope, after with which the meshes will spread open.

The submission also mentions the establishment of an agriculture and fisheries research centre to assist the sector in improving the strains of its produce and its production techniques, as well as researching into drugs for the prevention of animal and plant diseases, so as to apply the results of scientific research conducted by the academia to agricultural production expeditiously.

Reviewing the thresholds for the application of loans and funds by the sector can enhance the fund-raising ability of the sector. Here, I am pleased to inform Members that the current-term Government has agreed to lower the application thresholds for the Fisheries Development Loan Fund and the fishing moratorium loan. Apart from raising the maximum loan amount to \$15 million, the lowest interest rate has also been reduced to 1% per annum. In addition, the Government has finally agreed to accept the fishing vessel or fish collection vessel of the borrower as collateral. I hope the new Chief Executive can lower the application threshold further in the future and reduce the interest rate to 1% per annum across the board. Why? Because the current interest rate in the fishery industry is 2.5% and that of the Agricultural Development Fund is also 2.5%, so I hope the Government can do a good job in assisting the sector in its restructuring and development by adopting standardized measures.

To amend the regulations and revise the mechanism for the payment of ex gratia allowance will ensure that reasonable compensation can be made when fishing grounds, aquaculture farms and agricultural plots are affected by the pollution from nearby projects and the invasion of migratory birds. Here, I am pleased to inform Members that recently, the current-term Government has also agreed to revise the ex gratia allowance mechanism to increase the calculation basis from seven years of fish catch in the affected area to 11 years of fish catch for fishermen suffering the permanent loss of fishing grounds, and from three years of fish catch in the affected area to five years of fish catch for fishermen suffering a temporary loss of fishing grounds. Although the shortest water distance between a fish culture zone and marine works projects is maintained at 5 km, the four fish culture zones at Western waters are listed as in a special arrangement and defined as zones affected by the six large-scale marine works projects, eligible for the payment of a special ex gratia allowance. Since

large-scale reclamation will also be carried out in the future, I hope the SAR Government can further increase the ex gratia allowance offered to the sector.

We also hope that reforms to the wholesale fish, vegetable and poultry markets can be introduced and a set of laws and regulations suited to Hong Kong can be formulated to ensure that the public can enjoy inexpensive, quality, safe and fresh food every day.

We also hope that the next Chief Executive can implement the policy to ban trawling in Hong Kong waters within his term. We hope that the new Chief Executive can assist the industry in restructuring by developing leisure fishery and eco-tourism with Hong Kong characteristics, as well as the aquaculture of marine fish, pond fish and shellfish, so as to develop local brand names and enhance our competitiveness on the one hand; and formulate development policies on offshore and deep sea fishing on the other, so as to assist the sector in its restructuring.

Recently, the sector is also making preparations to discuss with the Government the further development of loans extended by the Government. Today, I had discussions with several members of the sector, in the hope that the Government can provide further assistance to the sector in their applications for fishing licences or fishing permits from the Central Government in the process of developing the sector, so that fishermen affected by a series of events can obtain new fishing permits and of course, old ones can be cancelled, replaced, upgraded, or other arrangements can be made. We hope the SAR Government and the Mainland authorities can have further discussions, so as to resolve this matter.

I so submit.

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

MR PAUL TSE (in Cantonese): President, if my memory has not failed me, this is the first motion debate sponsored by Mr CHIM Pui-chung in the current-term Legislative Council. I feel happy for him, and this is also the second motion proposed by him in his political career. This motion is very interesting in itself because it allows Members to take whatever approach they like. In fact, many

Honourable colleagues have talked about various subjects. However, since the speaking time is only a few minutes, I am afraid that at this stage, this is not the best time for us to discuss each policy issue in depth.

In fact, it was said, or reported, earlier on that the Chief Executive elect had invited Members of various political parties and groupings to meet him *vis-à-vis* and I also received an invitation. However, on private contacts, I think that at this stage, since an inquiry is being conducted by the select committee on the incident relating to the West Kowloon Cultural District, it is not appropriate to have any, or too much, private contact.

Allow me to be more detached and take this opportunity to say a few words from the perspective of a third party. Recently, Members can see that the Chief Executive elect has taken many actions and made a lot of comments. I think I must speak up on some matters before I can feel at ease. I also wish to reflect some views on behalf of the public, so I wish to take this opportunity to raise them.

The first is the issue of "one country, two systems". Just now, many Honourable colleagues, in particular, Members of the pro-democracy camp, have voiced many concerns in this regard. In fact, I think that unless Mr LEUNG himself wants very much to convey to us the message that another kind of reunification is taking place now — a real reunification, and that this time, it is for real, so the rules of the game are also entirely different — why do I find that recently, his words, deeds and some of his policies, including the choice of his assistants, have all given people the impression that apparently, he does not care about other people's opinions?

In the final analysis, there are constitutional requirements in Hong Kong and we all know what the innermost concerns of Hong Kong people are. In this regard, I may as well say a little more. I advise Mr LEUNG that unless he intends to show us his determination or he wants us to have a taste of what is in store for us, that this is only the beginning and we can wait and see — unless he has this kind of thinking, the comments made by him and the actions taken by him of late have already gone a bit too far. I believe that since he is such a clever and circumspect person, he knows very well what the consequences of his words and deeds are.

President, the second thing is related to some of his comments, in particular, the issue of the quota for Mainland pregnant women whose husbands are non-Hong Kong residents. Of course, if he says something pleasing to us, his popularity can shoot up by some 10 to 20 points immediately but the problem is that in the final analysis, if he has not thought this matter through at this stage, if he has not had proper discussions with incumbent officials, reached any consensus or even made any transitional arrangement and only made some comments casually to please Hong Kong people, thus creating chaos in the existing system, I am afraid doing so is not upholding the proven system in Hong Kong.

All along, we have relied on the system and nobody can be autocratic. We do not want to take a step backwards to the imperial system of the old days and even hear what Louis XIV of France said. When other people asked him, "What is the law?", he replied, "What I say is the law." One word can already change everything, but I believe many people cannot accept such a style. If Mr LEUNG is not aware that these consequences would arise, I may be saying too much but allow me to remind him that these consequences would arise.

President, the third point is related to the creation of additional posts of Secretaries of Departments, Deputy Secretaries of Departments and Directors of Bureaux. In theory and frankly speaking, there is no stipulation on the system of Secretaries of Departments and Directors of Bureaux in the Basic Law. In fact, I believe that if we go through the relevant documents again, we would find Mr LEUNG ought to have a clearer idea of the discussions before the reunification than anyone else. At that time, no one ever thought about this system of Directors of Bureaux. Of course, there is a historical factor in this because the conflicts between Mr TUNG Chee-hwa and civil servants gave rise to the need to change the system.

However, I am afraid this kind of changes is straying farther and farther from our original proven civil service system. What I and many members of the public do not wish to see is that before extensive consultation and careful deliberation have been carried out, the status of the civil service system is dwarfed further at will, as though we were moving towards a presidential system under which the elected president has full say and can increase the staff or the

number of departments at will. I am afraid this is not the situation that we wish to see.

In sum, I believe the direction that we are taking is that even before the new official has taken office, many fires have already been set and the present situation is perhaps, as the saying goes, like "a newly wed daughter-in-law and a newborn baby", in that he wants to educate us afresh and let us see his style. If this is so, we will be very concerned.

In fact, in respect of some situations which originally should arouse little concern, for example, the amendments to the copyright legislation, which we are about to debate and deliberate, since some provisions are controversial in nature, they have aroused even greater concern among the public because of the regime change, that is, the new Chief Executive taking office. In this regard, I believe that given Mr LEUNG's intelligence, he would understand this. If he does not want the public to be unduly worried and does not want to stir up even greater controversy in society, he should know when and where to stop.

Of course, if he intends to test the water, or he wants to show you some of his true colours, then deal with you people slowly and let you know the dire fate in store for you, he can certainly do so, but the trouble is that this would make even more people take to the streets on 1 July this year, the Legislative Council would have even more troubles this year and more obstacles would be added to the existing conflicts between him and civil servants. I believe he does not want to see these consequences.

However, it seems that his choice of people, including his appointment of Ms CHEN Ran, really makes people wonder if we are really heading that way. Mr LEUNG gives people the impression of a very smart guy, so in doing this, does he want to lift a stone to crush his own foot? Or does he have any other design, wanting to test the water and probe the reaction of the people? If this is the case, I think the public and Members should deliver a message to him, that is, we do not wish to see this kind of actions that erode the "one country, two systems" arrangement, undermine the civil service system and are blatantly autocratic because this is not in Hong Kong's interest.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHIM Pui-chung, you may now speak on the seven amendments. You have five minutes to speak.

MR CHIM PUI-CHUNG (in Cantonese): President, among these seven amendments, the first one was proposed by Mr Albert HO and as he said, he had rehatched nearly all the proposals found in the political platform proposed by him in the Chief Executive Election back then, so he has really taken the easy way. Of course, he can remind the next Chief Executive what to do, but since the proposal to abolish functional constituencies is put forward, I personally think that in the present circumstances — of course, he may put forward the proposal — the likelihood of it being implemented is very slim, so I will oppose his amendment.

The second amendment is proposed by Mr Frederick FUNG. He has changed all the proposals in my motion, so much so that it looks virtually like another motion proposed by him. Any way, I will abstain from voting on his amendment. As regards the amendments proposed by the other five Members, including that proposed by Mr Ronny TONG, in principle, I will support all of them. Among them, the best amendment is the one proposed by Mr CHEUNG Hok-ming.

President, as I said at the beginning of my opening speech, initially, I only wanted to put forward proposals to the fourth Chief Executive but did not flesh the motion out. However, since the rules and regulations of the legislature do not permit doing so, I added the details. I did not set down any goal or objective. I only want to give Honourable colleagues an opportunity to express their views to the future Chief Executive. Of course, I can talk about these things only in the last three minutes of my speaking time. Concerning the several amendments, although Honourable colleagues can spend three more minutes on talking about their views, anyway, Members all want to achieve certain goals and objectives, so this is to "let a hundred flowers blossom and a hundred schools of thought contend" and is in line with the policy of our State in

1958. Of course, that it subsequently turned into an anti-rightist policy is another matter.

Therefore, President, my view is that I may as well cut short the speaking time by two minutes.

PRESIDENT (in Cantonese): Mr Albert HO, you may now move your amendment to the motion.

MR ALBERT HO (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Mr Albert HO moved the following amendment: (Translation)

"To delete ", as" after "That"; to add "in a small-circle election" after "smoothly elected"; to add ", and the fourth term Chief Executive must implement such recommendations" after "to the fourth term Chief Executive"; to add "(a) to uphold 'one country, two systems', implement 'Hong Kong people ruling Hong Kong with a high degree of autonomy', urge the Central Government to adhere to Article 22 of the Basic Law and request all departments under the Central Government (such as the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region), provinces and municipalities as well as autonomous regions to stop interfering in the affairs which HKSAR administers on its own; (b) to respect and uphold the core values of Hong Kong, and stop suppressing freedom of the press, freedom of speech and freedom of assembly; (c) to refrain from enacting legislation to implement Article 23 of the Basic Law during his term of office; (d) to implement universal suffrage with a low threshold for the Chief Executive Election in 2017, allow people with different political views to run in the election and let the people elect the Chief Executive by 'one person, one vote'; and abolish all functional constituencies and implement universal suffrage for the Legislative Council Election no later than 2020; (e) to abolish the split voting system of the Legislative Council in 2016; (f) to implement the various recommendations made by the various committees on United Nations human rights treaties after scrutiny of HKSAR's report on its implementation of various international treaties on human rights, establish

an independent human rights commission with statutory status and pluralistic representation to deal with cases of human rights infringement in Hong Kong, improve the human rights situation in HKSAR, set up a committee dedicated to promote the work on human rights education, and increase resources to promote human rights education; (g) to conduct a review of the population policy, including establishing an old age population fund to meet the soaring public expenditure arising from population ageing, and strive for the vetting and approval of one-way permit applications by HKSAR Government;" after "include:"; to delete the original "(a)" and substitute with "(h)"; to delete ";" after "strata" and substitute with ", re-establish the Commission on Poverty, set a poverty line, formulate a comprehensive poverty elimination policy, and implement a universal retirement protection scheme to provide protection for the retirement life of the elderly; (i) to build more public rental housing flats, so as to achieve the target of allocating flats in two years, and review the public rental housing allocation policy to meet the housing needs of grass-root people; (j) to increase the provision of residential land, continuously roll out the Home Ownership Scheme and re-launch the Tenants Purchase Scheme, so as to help people acquire their homes;"; to delete the original "(b)" and substitute with "(k)"; to add ", and expeditiously implement the \$2 transport fare concession for the elderly" after "of the elderly"; to delete the original "(c)" and substitute with "(l)"; to add ", expeditiously implement a dual-track system and relax the income and family asset limits, so as to benefit more members of the public" after "Transport Subsidy Scheme"; and to delete "(d) to address the issue of Old Age; (e) to plan for the construction of an additional cross-harbour tunnel in the vicinity of Tsim Sha Tsui connecting directly to the Central District on Hong Kong Island; (f) to construct large-scale underground cities in various districts; (g) to study the construction of towns for the elderly in Mainland China; (h) to plan for massive reclamation projects; (i) to review the country park policy; and (j) to nurture talents" immediately before the full stop and substitute with "(m) to address the issues relating to Old Age Allowance ('OAA') and Comprehensive Social Security Assistance ('CSSA'), and formally remove the absence limit so that those elderly residents living in Mainland China can receive OAA and CSSA even if they only return to Hong Kong once a year; (n) to proactively consider playing a more active and important role on issues such as the ownership of the major transport corridors and fare adjustments, for example, the Government allocates funding to buy back

the Western Harbour Crossing and establish a 'tunnels and bridges authority' to take charge of their management and operation; (o) to enhance public engagement in urban planning, explore a diversified range of means to increase land supply, including developing lands in the New Territories, redeveloping old districts, developing rock caverns and constructing large-scale underground cities in suitable locations of various districts, build a green city and easily accessible harbourfront promenades, and designate more public realms at ground level as well as green buffer zones and public open spaces for enjoyment by the public; (p) to study plans for reclamation projects outside the Victoria Harbour, on the premise of ensuring that such projects will not cause serious impact on the marine ecological environment and the development of nearby areas, and that the land use under the relevant development plans suits Hong Kong's long-term development and have the support of appropriate ancillary measures as well as social consensus; (q) to review the composition of the Town Planning Board, increase the number of elected members with public representation, set up an independent secretariat, strengthen its independence and creditability, and expeditiously draw up a statutory plan to regulate the development of periphery areas of country parks, so as to protect the natural environment; (r) build an open government, nurture political talents, establish a sound education system, implement 15-year free education and small-class teaching in secondary schools to enhance the quality of secondary school education, increase the number of subsidized university places, increase opportunities of upward social mobility for youngsters, ensure that national education is not brainwashing education for instilling love for the party, and enhance students' ability of independent and critical thinking; (s) to implement a series of comprehensive, feasible and effective measures to motivate the public to more actively practise waste reduction at source, waste separation and recycling in their daily life; (t) to legislate for setting the number of standard working hours at 44 per week and the payment of compensation for overtime work, and assist Hong Kong people in returning to a wholesome living, with their time evenly distributed among work, rest and leisure activities so as to achieve balanced development in different areas; (u) to adopt measures to address the problem of manpower shortage in the public healthcare system, including improving remunerations and working environment, providing more training for healthcare manpower as well as recruiting additional healthcare personnel with overseas practising qualifications, undertake proper long-term

manpower planning, and review the policy direction and the pace of developing the healthcare industry and private medical services, so as to prevent public medical services from suffering medical inflation and manpower wastage as a result of the expansion of the private healthcare market; (v) to prepare for opening up the electricity market, materialize the 'segregation of the generation sector from the network sector', and enhance competition in the electricity market; (w) to promote a diversified economy, and realize during his term of office a marked increase in the contribution to the Gross Domestic Product and the workforce by the creative, technological and environmental industries; and (x) to review the public finance strategy, optimize the use of fiscal reserve, and reduce the erroneous discrepancies in respect of estimated government revenue and expenditure each year".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr CHIM Pui-chung'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 HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

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

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Mr Paul CHAN, Dr LEUNG Ka-lau and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, 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, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP and Mr Albert CHAN voted against the amendment.

Dr Priscilla LEUNG and Mr LEUNG Kwok-hung 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, four were in favour of the amendment, 19 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 14 were in favour of the amendment, 10 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.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Making recommendations to the fourth term Chief Executive" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Making recommendations to the fourth term Chief Executive" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

MR FREDERICK FUNG (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To delete "as the fourth term Chief Executive has been smoothly" after "That," and substitute with "with the prevalence of numerous twists and turns, helplessness and feelings of powerlessness in society, after a small-circle election marked by confusion, injustice and unscrupulousness, and given the blatant interference of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region as well as the serious intensification of class and political conflicts in society, the fourth term Chief Executive was eventually"; to add "; in this connection" after "Executive Election Ordinance"; to delete "all sides to make recommendations to the fourth term Chief Executive; the relevant recommendations should include:" after "urges" and substitute with "the fourth term Chief Executive"; and to

delete "(a) to care about the disparity between the rich and the poor, especially paying regard to the aspirations of the middle and lower strata; (b) to address the issue of travelling expenses of the elderly; (c) to review the Work Incentive Transport Subsidy Scheme; (d) to address the issue of Old Age Allowance; (e) to plan for the construction of an additional cross-harbour tunnel in the vicinity of Tsim Sha Tsui connecting directly to the Central District on Hong Kong Island; (f) to construct large-scale underground cities in various districts; (g) to study the construction of towns for the elderly in Mainland China; (h) to plan for massive reclamation projects; (i) to review the country park policy; and (j) to nurture talents" immediately before the full stop and substitute with "to rectify the mistakes and return to the right path, defend Hong Kong's core values, resolutely uphold 'one country, two systems' as well as 'Hong Kong people ruling Hong Kong' and 'a high degree of autonomy', rectify the past policy blunders of the Government and the distortion of the political system, reposition the roles and functions of the new government in the future, establish a set of principles of development for all people that give consideration to all social strata, formulate fair social and economic policies, promote genuine universal suffrage, set up a democratic and open political system, proactively address deep-rooted social conflicts such as the disparity between the rich and the poor, housing difficulties, the lack of social mobility opportunities and unitary development of the economy, so as to build a truly harmonious and just society"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Mr CHIM Pui-chung'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 Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG 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 Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Ms LI Fung-ying, Mr CHIM Pui-chung, Mr Paul CHAN, Dr LEUNG Ka-lau and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP and Mr Albert CHAN voted against the amendment.

Dr Priscilla LEUNG 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, four 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, 14 were in favour of the amendment, 10 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 negatived.

PRESIDENT (in Cantonese): Dr PAN Pey-chyou, you may now move your amendment.

DR PAN PEY-CHYOU (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Dr PAN Pey-chyou moved the following amendment: (Translation)

"To delete "as the fourth term Chief Executive has been" after "That," and substitute with "the fourth term Chief Executive was"; to add "on 25 March 2012; in this connection" after "Executive Election Ordinance"; to add ", expeditiously include trams and public light buses in the fare concession schemes for the elderly and persons with disabilities, and study the provision of taxi fare concession for elderly persons with mobility difficulties who must go out (for instance, attending follow-up consultation in hospitals and receiving services at elderly day care centres)" after "of the elderly"; to add ", and expeditiously implement a dual-track system" after "Transport Subsidy Scheme"; to delete "plan for the construction of" after "(e) to" and substitute with "study the feasibility of constructing"; to delete "construct" after "(f) to" and substitute with "study the construction of"; to delete "to study the construction of towns for the elderly in Mainland China" after "(g)" and substitute with "to proactively study ways of responding to population ageing, including increasing the number of places in local residential care homes for the elderly and strengthening elderly community services; provide a carer allowance for relatives caring for elderly persons with disabilities; construct towns for the elderly on the Mainland to provide appropriate residential services for elderly persons with varying degrees of self-care capability; and study providing Hong Kong's public-sector healthcare services to elderly persons of Hong Kong living on the Mainland"; to delete "massive" after "(h) to plan for"; to delete "and" after "country park policy;"; and to add "; and (k) to review the problems of manpower shortage, uneven distribution of resources and inadequate effectiveness of the public-sector healthcare services, and enhance effectiveness of the services through management and services reorganization to satisfy people's needs" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr PAN Pey-chyou to Mr CHIM Pui-chung'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 Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mr WONG Ting-kwong voted against the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

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

Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 19 were in favour of the amendment, one against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 10 were in favour of the amendment, two against it and 13 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): Ms Miriam LAU, you may move your amendment.

MS MIRIAM LAU (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Ms Miriam LAU moved the following amendment: (Translation)

"To add "although it has been many years since Hong Kong's reunification with the Motherland, many deep-rooted conflicts have yet to be properly resolved;" after "That,"; to add "requests the fourth term Chief Executive to continue to resolutely implement the principles of 'one country, two systems', 'Hong Kong people ruling Hong Kong' and 'a high degree of autonomy', and continue to uphold the free economy belief, create a more business-friendly environment, explore more opportunities and room for upward mobility for people of all strata, especially the middle class and the disadvantaged, and provide more care and assistance to them when necessary; this Council also" after "this Council"; to add "(including low-income families and the elderly poor)" after "strata"; to delete "massives" after "(h) to plan for"; to add "on an appropriate scale" after "reclamation projects"; and to delete "and (j) to nurture talents" immediately before the full stop and substitute with "(j) to strenuously focus on the various problems faced by the middle class, and put forward concrete and comprehensive response strategies in a focused manner; (k) to further improve the system of education and manpower training, so as to nurture talents in all areas; and (l) to optimize the use of land resources so as to provide more adequate commercial and residential space"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Miriam LAU to Mr CHIM Pui-chung'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 Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mr CHEUNG Kwok-che voted against the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong and Dr Joseph LEE abstained.

Geographical Constituencies:

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

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Frederick FUNG, Ms Cyd HO, Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the amendment.

Mr Albert HO, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 22 were in favour of the amendment, one against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 10 were in favour of the amendment, six against it and nine 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 IP Wai-ming, you may move your amendment.

MR IP WAI-MING (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Mr IP Wai-ming moved the following amendment: (Translation)

"To delete ", as the fourth term Chief Executive has been smoothly elected" after "That" and substitute with "the fourth term Chief Executive was smoothly elected in March 2012"; to add "that are in the overall interest of society and conducive to the sustainable development of Hong Kong" after "make recommendations"; to delete "care about" after "(a) to" and substitute with "narrow"; to add ", and reduce working poverty" after "the poor"; to delete "the elderly" after "travelling expenses of" and substitute with "senior citizens"; to add "(e) to establish a comprehensive retirement protection scheme; (f) to enhance the Mandatory Provident Fund ('MPF') system by abolishing the mechanism whereby employers' contributions

under the MPF Scheme are offset by severance payments and long service payments; (g) to expeditiously enact legislation on standard working hours; (h) to standardize the number of statutory holidays and public holidays to 17 days; (i) to increase the annual public rental housing ('PRH') production to 30 000 units or more, so as to reduce PRH applicants' waiting time for housing allocation to two years;" after "Old Age Allowance;"; to delete the original "(e)" and substitute with "(j)"; to delete "plan for" before "the construction of an" and substitute with "study"; to delete the original "(f)" and substitute with "(k)"; to delete "construct" before "large-scale" and substitute with "study the construction of"; to delete "(g) to study the construction of towns for the elderly in Mainland China;"; to delete the original "(h)" and substitute with "(l)"; to delete "plan for massive" before "reclamation projects;" and substitute with "study"; to delete the original "(i)" and substitute with "(m)"; and to delete the original "(j)" and substitute with "(n)".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Wai-ming to Mr CHIM Pui-chung'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 Andrew LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew LEUNG 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, Mr CHIM Pui-chung, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the amendment.

Dr Margaret NG, Mr WONG Yung-kan, Mr Timothy FOK, Mr WONG Ting-kwong, Mr CHEUNG Kwok-che, Mr IP Kwok-him and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr James TO, Ms Emily LAU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr KAM Nai-wai, Mr WONG Sing-chi and Mr WONG Kwok-kin voted for the amendment.

Dr Priscilla LEUNG, Mrs Regina IP, Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the amendment.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr

CHEUNG Hok-ming, Mr Ronny TONG, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, nine were in favour of the amendment, 10 against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, eight were in favour of the amendment, four against it and 14 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may move your amendment.

MR RONNY TONG (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

President, I made it very clear in my speech just now

PRESIDENT (in Cantonese): Mr TONG, you may now move your amendment only but not make another speech.

Mr Ronny TONG moved the following amendment: (Translation)

"To delete "all sides to make recommendations to the fourth term Chief Executive; the relevant recommendations should include:" after "urges" and substitute with "the fourth term Chief Executive to, under the principle of not interfering in the work of the incumbent Government, implement the following when planning his work during his term of office: (a) to expeditiously discuss how to implement the election of the Chief Executive by universal suffrage, the abolition of the functional

constituency seats and the election of all Members of the Legislative Council by universal suffrage; (b) to adopt measures to ensure that the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region will not once again contravene Article 22 of the Basic Law by interfering in the internal affairs of HKSAR; (c) to refrain from enacting legislation to implement Article 23 of the Basic Law before the implementation of genuine universal suffrage; (d) to study the implementation of a universal retirement protection scheme; (e) to perfect the existing medical policy;"; to delete the original "(a)" and substitute with "(f)"; to delete the original "(b)" and substitute with "(g)"; to add "and people with disabilities" after "of the elderly"; to delete the original "(c)" and substitute with "(h)"; to delete the original "(d)" and substitute with "(i)"; to delete "(e) to plan for the construction of an additional cross-harbour tunnel in the vicinity of Tsim Sha Tsui connecting directly to the Central District on Hong Kong Island;"; to delete the original "(f)" and substitute with "(j)"; to delete the original "(g)" and substitute with "(k)"; to delete "(h) to plan for massive reclamation projects;"; to delete the original "(i)" and substitute with "(l)"; to delete "and" after "country park policy;"; to delete the original "(j)" and substitute with "(m)"; and to add "; and (n) to study the option of operating the 'three tunnels and one bridge' by the public sector" 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 Mr CHIM Pui-chung'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 IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr CHIM Pui-chung and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the amendment.

Ms LI Fung-ying, Mr Paul CHAN, Dr LEUNG Ka-lau, Mr Paul TSE and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, 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, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP and Mr Albert CHAN voted against the amendment.

Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, five were in favour of the amendment, 17 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 14 were in favour of the amendment, 11 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 negatived.

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you may move your amendment.

MR CHEUNG HOK-MING (in Cantonese): President, I move that Mr CHIM Pui-chung's motion be amended.

Mr CHEUNG Hok-ming moved the following amendment: (Translation)

"To delete "plan for" after "(e) to" and substitute with "study"; to delete "plan for massive" after "(h) to" and substitute with "study"; and to add "; in addition, this Council also urges the fourth term Chief Executive to accord priority to tackling the problem of 'doubly non-permanent resident pregnant women' giving birth in Hong Kong, improve the quality of public hospitals and shorten service waiting time, and resolve problems such as high property prices, exorbitant rents, poor living environment of people, as well as incessant fare increases by public transport operators, so

as to respond to the aspirations of the general public" 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 Hok-ming to Mr CHIM Pui-chung'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 LEE Cheuk-yan rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy

CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mr Abraham SHEK voted against the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

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

Mr LEUNG Kwok-hung and Mr Albert CHAN voted against the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 22 were in favour of the amendment, one against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 10 were in favour of the amendment, two against it and 13 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 CHIM Pui-chung, you may now reply and, as you know precisely, you still have three minutes.

MR CHIM PUI-CHUNG (in Cantonese): President, I am very grateful that today, 27 Members besides myself have spoken and spent three hours and 45 minutes discussing this motion.

Despite our diverse views, President, I have expressed my views today in order to make our personal views known to the fourth term Chief Executive. Although this motion has no legislative effect, and the Government might not heed us even though we have expressed our views, particularly the future Chief Executive might not listen because he has yet to take office, if Members support my motion and enable its passage, he will definitely listen, despite the motion's lack of legislative effect, because he is now putting on a show. Nonetheless, it does not matter to me whether or not Members support the motion. President, I do not need to use up the three minutes.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHIM Pui-chung 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.

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO 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 LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr CHIM Pui-chung, Mr CHAN Kin-por, Mr IP Wai-ming, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Dr Margaret NG, Mr Abraham SHEK, Prof Patrick LAU and Mr CHEUNG Kwok-che voted against the motion.

Dr Raymond HO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr WONG Yung-kan, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Paul CHAN, Dr LEUNG Ka-lau and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr WONG Kwok-hing and Mr WONG Kwok-kin voted for the motion.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Ms Cyd HO, Dr Priscilla LEUNG, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted against the motion.

Mr Albert HO, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 12 were in favour of the motion, four against it and 11 abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, two were in favour of the motion, 11 against it and 12 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second Member's motion: Defending academic freedom and institutional autonomy.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHEUNG Man-kwong to speak and move the motion.

DEFENDING ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY

MR CHEUNG MAN-KWONG (in Cantonese): President, the interference by the Liaison Office of the Central People's Government (LOCPG) in the Hong Kong SAR in the affairs of the SAR has become increasingly prominent. From reconciliatory united front work to exertion of strong pressure, from underground co-ordination to field command, from political interference to invasion of the academic realm, all this is evidence of the fact that "one country, two systems" has been openly damaged and the spirit of academic freedom seriously violated.

How can Hong Kong people remain docile? How can universities watch from the sidelines? How can Vice-Chancellors remain silent?

As everybody knows, the LOCPG is responsible for enforcing the dictates of the Central Government. It will never speak without a purpose. Its influence in Hong Kong even surpasses that of the SAR Government. In fact, this public opinion poll on Hong Kong people's ethnic identity, which has touched the nerves of the LOCPG, has been ongoing since the 1980s. It is also part of a sociological study. If the problem is only about an "unscientific" poll, why should HAO Tiechuan take all the trouble and rally the media to pass the judgment that the poll conducted by Robert CHUNG is "illogical"? Why should he escalate the issue to the political level and discredit "a certain institution" in an article for acting in the interest of a specific political body and, on the contrary, describe the institution as a despotic "academic hegemon" that rejects criticisms? After Mr LEUNG Chun-ying was elected the Chief Executive, the SAR Government, the establishment and all the people in Hong Kong know it better than anyone else that the words of officials of the LOCPG carry weight.

President, Article 22 of the Basic Law reads, "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.". In other words, no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the internal affairs of the Hong Kong SAR. Meanwhile, Article 137 of the Basic Law reads, "Educational institutions of all kinds may retain their autonomy and enjoy academic freedom.". However, HAO Tiechuan, despite his identity as a central official in Hong Kong, has turned a blind eye to the undertaking made by the Basic Law and even meddled in an academic poll. Hong Kong people must pull out all the stops to stop him and condemn him severely. What is more worrying is that this has set a precedent for the Central Government's interference in academic pursuit. In particular, party newspapers have launched an extensive personal attack on academics, smearing them as opposed to China and stirring up trouble in Hong Kong and even labelling them as "serving Western camps which are unfriendly to China", "fighting for the independence of Hong Kong" and "engaging in secession". Unless Members are not sensitive enough, they should understand the relevant political implications. Must academics be warned and scolded

severely by the LOCPG, like the way the Director of the Chief Executive's Office, Gabriel LEUNG, was treated, before the act of the LOCPG can be considered as interference?

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

Like a Hong Kong-style cultural revolution, the attack on scholars by the LOCPG and party newspapers in both spoken word and writing is most frightening. How can such a way of expression win the approval of Hong Kong people? What is most terrifying is that the SAR Government has behaved as if nothing has happened. Can Donald TSANG and LEUNG Chun-ying believe naively that this is purely academic exchange? Despite his emphasis during his election campaign that he attaches great importance to academic freedom, why does LEUNG Chun-ying shy away from saying anything about HAO Tiechuan's acts *ultra vires* and meddling? Why did he not mention in his political manifesto a word about academic freedom?

The response of Vice-Chancellors is frustrating, too. In the face of the interference in academic pursuit by autocratic authorities, the attacks on academics from both inside and outside, and the intended chilling effect on campuses, not even a single Vice-Chancellor — please listen carefully — not even one has managed to come forth steadfastly. Not even one has managed to openly uphold the academic freedom enjoyed by universities as well as institutional autonomy and dignity, and put the minds of the teaching staff at ease. Fortunately, there was still insistence among university intellectuals on academic freedom. Six hundred and thirty three academics have jointly signed a petition to protest against the political smearing by the LOCPG and leftist opinions and launched a counter-attack on a series of fallacies and some sort of chilling effect on the academic circle. Instead, they emphasize the importance of cherishing academic freedom and not tolerating any wanton intimidation by the rich and powerful and central officials. The force of justice and thought-provoking contents of the declaration are, like a thunder cracking in a sea of silence, a heartening wake-up call for the people.

Deputy President, academic freedom is not an empty conceptual expression or slogan, for it is underpinned by a set of universally recognized principles in the

international community. According to the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), freedom requires the autonomy of institutions of higher education. The following definition of academic freedom was issued by the first Global Colloquium of University Presidents, "The freedom to conduct research, teach, speak and publish, subject to the norms and standards of scholarly inquiry, without interference or penalty, wherever the search for truth and understanding may lead." The Lima Declaration on academic freedom and autonomy of institutions of higher education (Lima Declaration), also hailed as a human rights law on education, states to the effect that "university autonomy is considered to be institutional academic freedom the freedom enjoyed by universities must be protected from pressure exerted as a result of national and business interests". Nevertheless, these internationally-accepted fundamental principles for defending academic freedom have yet to be manifested in Hong Kong in the form of legislation.

A comparative study conducted by the Research Division of the Legislative Council in 2007 reveals that, as early as the 1980s, the United Kingdom and New Zealand already enacted a variety of legislation, including human rights and education orders, to safeguard academic freedom. In Hong Kong, on the contrary, except for the reference in the Basic Law that "educational institutions of all kinds may retain their autonomy and enjoy academic freedom", there is no elaboration or definition in other local legislation on institutionalized protection of academic freedom. The Lima Declaration emphasizes that "states are under an obligation not to interfere with the autonomy of institutions of higher education as well as to prevent interference by other forces of society" and "all States and institutions of higher education shall guarantee a system of stable and secure employment for teachers and researchers. No member of the academic community shall be dismissed without a fair hearing before a democratically elected body of the academic community". The universities in Hong Kong, however, do not only enjoy no protection of academic freedom in law, their Vice-Chancellors have remained silent and failed to respect the right and core value of universities to enjoy academic freedom, even after the infringement of academic freedom by central officials in Hong Kong.

In fact, since 1999, I have joined university faculty and staff unions in fighting for the establishment of an independent inter-institutional complaints mechanism. According to a poll conducted by the Hong Kong Professional

Teachers' Union in 2009, nearly 85% of the interviewed teaching staff supported the passage by the Panel on Education of the Legislative Council of a motion calling for "the establishment of an independent inter-institutional complaints committee to handle complaints lodged by institutional teaching staff". More than 72% of the teaching staff considered that the autonomy of educational institutions would not be jeopardized as a result of the establishment of an independent inter-institutional complaints committee. Nevertheless, the Government and universities continue to stand in the way. Whenever academic controversies and campus incidents are involved, teaching staff can more often than not only resort to collective actions or make use of the Legislative Council as a platform or public channel to seek justice outside their campus.

Fettered by the contract system, university teaching staff are compelled to suppress their grievances. Since the delinking of the remunerations of university teaching staff from the civil service system, the employment of contract staff by tertiary institutions has become even more prevalent. In the 2011-2012 academic year, for instance, the number of contract staff employed by the eight major publicly-funded institutions (excluding permanent contract staff) represents 26.4% to 55.1% of the total number of staff. Quite a number of contract staff members have had their contracts renewed for more than 10 times over a period of 20 or even 30 years without the prospect of being employed as permanent staff in sight. Although the contract system is also the mainstream mode of employment adopted in the United Kingdom and New Zealand, it is stated clearly by the tertiary institutions of the two countries in their employment agreements that "teaching staff enjoy the right to academic freedom, and the internal dismissal and complaint handling procedure of the institutions must be in line with the statutory procedure and the principle of fairness". In contrast, only The Hong Kong University of Science and Technology in Hong Kong puts academic freedom in the employment agreements of its teaching staff. In a follow-up carried out by the Research Division of the Legislative Council, institutions were asked whether they would consider mentioning academic freedom in the employment agreements of their teaching staff. It was found that The Hong Kong Institute of Education and the Hong Kong Baptist University categorically indicated that they would not consider doing so, The Chinese University of Hong Kong, the University of Hong Kong and the Lingnan University were non-committal, and The Hong Kong Polytechnic University and the City University of Hong Kong had even given no reply.

Deputy President, the report compiled by the Commission of Inquiry on Allegations relating to The Hong Kong Institute of Education says, "The right to speak and publish the truth, however unpopular or unpleasant the truth may be, without interference or penalty is the basic human right of the academic community. Scholars and students must be able to study, learn, teach, research, and publish without fear of intimidation or reprisal and without political interference, in an environment tolerant and supportive of diverse opinions." In the reality, however, academic freedom is not a licence protecting academics from dismissal. The professionalism and moral integrity of teaching staff are regulated, too. The Lima Declaration affirms that "all members of the academic community with teaching functions have the right to teach without any interference, subject to the accepted principles, standards and methods of teaching". By the same token, institutions should not enjoy autonomy at the expense of public interest and use autonomy as a protective shield to enable them to make a cart behind closed doors. It is pointed out by the UNCESCR that "self-governance, however, must be consistent with systems of public accountability institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible".

The importance of academic freedom and its impact on the civilization and progress of society are crystal clear. Let us imagine this. If scholars must listen to the command of the regime, how many of them will still be able to behave in an upright manner, speak their minds or think independently? Should academic research seek to please the influential and the powerful or come under the control of money, including government funds or private sponsorship, how much trust-worthiness and vitality can its findings command? There should be no distinction between human rights. Likewise, there should be no distinction between publicly-funded and self-financed institutions when it comes to defending academic freedom. For this reason, the Government should expeditiously make reference to internationally-recognized criteria, such as the principles set out in the Lima Declaration, to enact local legislation. Institutions should also draw up a policy to establish a substantive employment system and incorporate the spirit of academic freedom into their teaching staff's agreements to ensure that scholars can enjoy freedom to pursue teaching research and express their views, free from any interference or discrimination.

Earlier, Deputy President, Mainland dissident YU Jie, who has fled to the United States, lamented during an interview in a Radio Television Hong Kong

programme "Headliner" that though it is difficult to leave, he may be free from fear. What has he learnt from Nobel Peace Prize recipient LIU Xiaobo? The answer is he must speak the truth. YU Jie's words induce thousands of regrets. Can Hong Kong, being part of the Chinese territory and attacked by the LOCPG and party newspapers on both sides, continue to enjoy academic freedom under the perseverance and courage demonstrated jointly by society and universities? This motion in the Legislative Council today is just a beginning. When it comes to the hard struggle for academic freedom, the road ahead is very, very long.

With these remarks, Deputy President, I implore Members to support my original motion and the various amendments. Thank you, Deputy President.

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That this Council condemns HAO Tiechuan, Director-General of the Publicity, Culture and Sports Department of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, for publicly criticizing a number of times the public opinion poll on Hong Kong people's ethnic identity under the charge of Robert CHUNG, scholar of the University of Hong Kong, as 'unscientific' and 'illogical', and creating a chilling effect through political interference in academic pursuit, which is in contravention of the spirit of Article 137 of the Basic Law which provides that '[e]ducational institutions of all kinds may retain their autonomy and enjoy academic freedom', as well as the provision of Article 22 of the Basic Law, i.e. '[n]o department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law'; in this connection, this Council urges the Government and educational institutions to legislate for safeguarding academic freedom and to ensure that scholars can enjoy academic freedom in accordance with law, free from any interference and fear; academic freedom is the cornerstone for promoting social civilization and progress as well as an integral part of the autonomy of educational institutions, and therefore universities must not respond in silence to the interference and intimidation faced by their teaching staff and students, and not curry favour with and bow to the rich and powerful

in the face of their enticement and pressure, in order to defend the legitimate autonomy and dignity of universities."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong be passed.

DEPUTY PRESIDENT (in Cantonese): Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will first call upon Ms Audrey EU to speak, to be followed by Mr Albert CHAN; but they may not move the amendments at this stage.

MS AUDREY EU (in Cantonese): Deputy President, the Civic Party supports Mr CHEUNG Man-kwong's original motion. Specifically, with regard to the part on HAO Tiechuan and Robert CHUNG, I hope that my amendment can supplement it. In fact, we are concerned that the severe criticisms and attacks continuously levelled by leftist newspaper at some people recently have created a chilling effect on these people.

As Members may recall, there was a time when these newspaper had very severely criticized a radio presenter of Radio Television Hong Kong (RTHK), Ng Chi-sum. Finally, NG Chi-sum's contract was not renewed and he was eventually dismissed by RTHK for no reason. In fact, after the case of NG Chi-sum, we have also seen commentaries criticizing CHOY Chi-keung and Ming SING who are scholars in The Chinese University of Hong Kong and The Hong Kong University of Science and Technology (HKUST) respectively. Those commentaries were very strongly-worded. They even implied that those academics are followers of Falun Gong, alleging that they have, in their capacity as scholars, advocated a radical line and that they are politicians posing as academics. These commentaries have said that they oppose China and stir up trouble in Hong Kong and advocate political violence, alleging that they are politicians posing as academics who are against China and stir up trouble in Hong Kong under the guise of academic research. We are deeply concerned about

these comments which will create a chilling effect on other scholars who are concerned about current affairs.

We have also seen an article written by LEW Mon-hung entitled "Is Ming SING an Associate Professor of HKUST or a professional extremist politician?" He also mentioned the three major principles stressed by higher educational institutions in the United States through an association of university professors in the United States, which he referred to as the "3A principles". He said that one of these principles is "Academic Neutrality" and accused Ming SING of breaching this principle of "Academic Neutrality". I particularly wish to discuss this point.

I think the association that Mr LEW Mon-hung was referring to is the American Association of University Professors (AAUP). Founded in 1915, the AAUP has issued two well-known declarations on academic freedom, which are adopted by the entire academia in the United States. These declarations are the 1915 Declaration of Principles on Academic Freedom and Academic Tenure and the 1940 Statement of Principles on Academic Freedom and Academic Tenure. However, even if we read the two declarations from beginning to end, we still cannot find the words "Academic Neutrality". On the contrary, academic freedom is actually mentioned a number of times in these two declarations. The declarations stated at the very outset that academic freedom comprises three elements or basic principles: First, freedom of inquiry and research; second, freedom of teaching within the university or college; and third, extramural utterances.

I particularly wish to talk about extramural utterances. According to the explanation of the AAUP, it means (and I quote) "In their extramural utterances, it is obvious that academic teachers are under a peculiar obligation to avoid hasty or unverified or exaggerated statements, and to refrain from intemperate or sensational modes of expression. But, subject to these restraints, it is not, in this committee's opinion, desirable that scholars should be debarred from giving expression to their judgments upon controversial questions, or that their freedom of speech, outside the university, should be limited to questions falling within their own specialties. It is clearly not proper that they should be prohibited from lending their active support to organized movements which they believe to be in public interest. And, speaking broadly, it may be said in the words of a nonacademic body already once quoted in a publication of this Association, that

'it is neither possible nor desirable to deprive a college professor of the political rights vouchsafed to every citizen.'" (end of quote)

In other words, academic teachers absolutely have the right not to be prohibited from expressing their statements on public issues outside their specialties, even though the public issues are controversial, for they have the same rights as those of any other member of the community. You cannot say that if he is a politician, he can speak on public issues but he cannot do so if he is a scholar. This is not a correct principle.

Besides, I also wish to quote a paragraph in the 1940 Statement of Principles on Academic Freedom and Academic Tenure (and I quote): "College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution." (end of quote)

In other words, an academic teacher is like an ordinary member of the public outside the institution, and he has the right to make statements. But given the position of a scholar, the community certainly expects that a scholar will not speak in a way which is unworthy of his or her position as a scholar, such as making intemperate statements, which would otherwise bring disgrace or cause embarrassment to the institutions. Apart from meeting these requirements, a scholar is actually no different from an ordinary member of the public who can make a statement without having to give consideration to the so-called political neutrality.

Moreover, we also wish to particularly talk about how these two declarations came into being and how the AAUP was established. There were actually historical reasons. At that time, a well-known professor and economist, Prof Edward ROSS, had published some commentaries on new immigrant workers and railway monopoly. This aroused great dissatisfaction from his boss or institution (Stanford University) and resulted in his dismissal. A number of

other scholars, therefore, jointly set up the AAUP and issued a declaration in 1915. As I said just now, to the United States and all places in the world, the AAUP is an extremely influential association for the protection of academic freedom.

Therefore, based on these principles, it is absolutely not the case that, as Mr LEW Mon-hung said, a person who is a member of the academia should be prohibited from making statements outside the scope of teaching. This is actually an infringement of the freedom of other people. Certainly, some people may say that anyone can publish an article in newspapers. I certainly agree to this point, because we all have academic freedom, including columnists who write articles in newspapers. But the point under discussion now is that if your comments are too severe, it will bring pressure to bear on some academics or if you even call for their dismissal, like the case with Edward ROSS in Standard University back then, this will create the chilling effect I mentioned just now, and also affect the academic freedom and autonomy of institutions. We have, therefore, proposed an amendment to supplement the motion.

Deputy President, another part of the amendment concerns a point which I mentioned just this morning on The Hong Kong Polytechnic University (Amendment) Bill 2011. To the institutions, and particularly in respect of the composition of their Councils, they must make every effort to manifest their institutional autonomy. To this end, the number of Council members appointed by the Government should be minimized. We propose that their number should not exceed one third of the membership, because this will enable the institutions to have sufficient ability to handle some important matters. Council members and representatives of students and staff can be appointed by the institutions and their ratio should at least be two thirds or more than two thirds of the membership.

With these remarks, Deputy President, I support the original motion, and I call on Members to support my amendment.

MR ALBERT CHAN (in Cantonese): Deputy President, I think this motion today carries historical significance, because in view of the series of incidents that has happened, especially the manipulation of the Chief Executive Election by the Hong Kong communists, coupled with their interference in academic freedom some time ago, I would say that these are obvious examples of Hong Kong

communists violently ruining "one country, two systems". If Hong Kong people still do not wake up and continue to tolerate this in silence or if they remain sound asleep or pretend to be asleep, continuously turning a blind eye to or refusing to face these problems, the miseries and disasters to be faced by themselves or their next generation will not cease.

After the reunification, political interference in the academia is no novelty. As Members may recall, during TUNG Chee-hwa's era a furore was caused by Andrew LO exerting influence on the opinion polls conducted by the University of Hong Kong (HKU), resulting in the resignation of the Vice-Chancellor of the HKU. As precedents are already set, the Hong Kong representatives of Hong Kong communists brazenly and blatantly interfered in academic freedom in an attempt to exert influence, and this is all the more shocking. We are shocked not because the Communist Party of China (CPC) seeks to influence and interfere in academic freedom, for this has been typical of the CPC since the founding of the People's Republic of China by the CPC and this has been the way the CPC works. We are shocked because they can boldly make these blatant, brazen attempts in Hong Kong under the framework of "one country, two systems; Hong Kong people ruling Hong Kong; a high degree of autonomy" and yet, Hong Kong people seem to be readily accepting this. Particularly, the heads of various universities in Hong Kong have not openly made a statement to condemn these acts, and many people in the institutions still harbour the mindset of clinging onto the rich and powerful, failing to come forth to defend academic freedom. The conduct of these people all the more warrants our condemnation.

However, we must highly commend those tens of scholars who have come forth and put down their signatures on a statement to condemn these attempts of inference in academic freedom. We must give them our highest tribute. Meanwhile, I also take this opportunity to make an appeal to people in these institutions who claim to be or are considered to be members of the academia. They should cease to hide in the ivory tower enjoying the prosperity, affluence and well-being bestowed on them by taxpayers. In the academic institutions, they have a sacred mission to defend academic freedom, just as we defend democracy and human rights in this Council. Unfortunately, in the academic institutions there are "academic scoundrels" and in this Council there are "political scoundrels". The "political scoundrels" have betrayed democracy. Likewise, the "academic scoundrels" have betrayed academic freedom.

Chinese people, especially scholars, often emphasize an upright character. But the kind of upright character that we have read in books on history and historical figures has become more of a rarity in Hong Kong under the capitalistic system. As a century-old educational institution, the HKU should have cultivated a lot of scholars, especially as the university has already reached its centenary, and the scholars should demonstrate the characters and composition expected of scholars. However, the HKU has not only sold the right to name its Medical School — it can be bought by anyone who has the money, and it has been renamed after a businessman now — the ceremony for celebrating its 100th anniversary nevertheless became a ceremony to curry favour with the communists. This is pathetic, and it is also shameful.

Deputy President, Peking University and the HKU are universities with a very long history. Let us look back on the May Fourth Movement that broke out 93 years ago. Owing to the Paris Peace Conference, the Chinese Government suffered a diplomatic defeat. Students of Peking University were indignant. They organized protests and set fire to ZHAO's Mansion. At that time, the students were trampled on and suppressed by the northern warlords, and some students were even beaten up and suffered injuries.

In the face of the powerful warlords, Chancellor of Peking University, CAI Yuanpei, came forth to defend the rights of students. In present-day society, students setting fire to ZHAO's Mansion will definitely be condemned as violent. However, the Chancellor had come forth to defend students' patriotic sentiments and demanded the warlords to release the students. In view of widespread support for the students' patriotic movement and pressure from the masses, the warlords released the students, but this is already quite rarely seen in Hong Kong nowadays. At the ceremony celebrating the centenary of the HKU, the police abused its powers and put students under arrest and detention. It was only after the entire community had spoken up for the students that the university came to its senses and issued a statement, which was negligible though, to condemn the police. This shows that these so-called educational institutions have gradually become profit-making institutions, and the traditional status of scholars or the academia has gradually vanished.

Deputy President, with regard to this amendment proposed by me today, I am certainly just talking to myself, like a fool talking nonsense. Let us look at the May Fourth Movement some 90 years ago. Under the leadership of

students, the whole country expressed support in response. Finally, the then President, XU Shichang, was forced to resign. It shows that students and educational institutions can bring about far-reaching impacts on society. Social movements, political movements and academic institutions are inextricably linked.

Educational institutions, especially universities, should lead the trend, and lead ideological discussions and the pursuit of changes, thereby taking society forward. They should challenge the government, especially a government that suppresses people's freedoms and exploits academic freedom. They must not tolerate in silence; nor can they assist the evildoers to do evils. However, compared to Peking University 93 years ago, the current situation is even more depressing. Those scholars in Peking University back then, including HU Shi, LU Xun, and CHEN Duxiu were all respectable. They were all epoch-making scholars in respect of ideology, literature and creativity. They were highly creative, leading the trend and the pursuit of changes.

Let us look at the existing institutions. More and more "academic scoundrels" are just cheating money. Original ideas and novel creativity are rare nowadays. I hope that this incident can make people come to their senses. Hong Kong people must wake up. When political powers interfere in the academia, it would only bring about a darker society and the future would be all the more hopeless. In the blink of an eye, 93 years have passed since the May Fourth Movement. We should uphold the spirit of the May Fourth Movement and continuously fight for democracy and science. Apart from striving for a strong and powerful country, we must also strive for a country with democracy, freedoms and the rule of law.

Thank you, Deputy President.

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, academic freedom is an important social value treasured by Hong Kong, and it is even a cornerstone of the success of our higher education sector. We must maintain an open and free academic environment which allows the expression of different views, so that academics in various fields can give play to their talents in teaching, researches and other academic activities, thereby encouraging them to fulfill their mission of seeking, exploring and disseminating knowledge. It is

only when the academic sector is committed to passing on and seeking knowledge that they can nurture for society talents with knowledge and the ability to think independently, while striving for the greatest benefit for society through the application of knowledge and research results.

Institutional autonomy is part and parcel of academic freedom. The Government has all along been committed to defending it. The Notes on Procedures of the University Grants Committee (UGC) clearly stated that the claim for autonomy does not rest upon any assumption of special privileges, but upon the consideration (based on long experience) that the institutions can properly undertake the work expected of them by the community which supports them only if they have freedom of choice and of action. Certainly, this does not exempt them from public interest and criticism, nor does it mean that their policies should not be under review by themselves, and by others.

The Government of the Hong Kong Special Administrative Region (SAR) has always been committed to upholding academic freedom and institutional autonomy in law and institutionally. Mr CHEUNG proposes to legislate for safeguarding academic freedom in the motion but in fact, the Basic Law, as also cited in the motion, already provides important constitutional protection for academic freedom and institutional autonomy. According to Article 137 of the Basic Law, "educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region." Article 34 of the Basic Law also states that "Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities."

The eight UGC-funded higher education institutions are all independent and autonomous statutory bodies. They have their own governing ordinances and statutes which set out their objectives, functions and governance structure. The legislation provides for the power and freedom enjoyed by the institutions to carry out their objectives and functions.

Given historical and other factors, such as differences in principles of governance, religion, culture, and actual circumstances, the governing ordinances of the eight UGC-funded institutions, including provisions on the composition of their Councils, are different. In response to UGC's recommendation in its

review on higher education in 2002 that the governing and management structure should be reviewed, many institutions have made amendments to their respective governing ordinances or statutes, in order to reduce the membership of their Councils and revise the composition. We respect the decisions made by the institutions on the most suitable composition of their Councils.

With a history of over 40 years, the UGC performs the important role of a "buffer" between the institutions and the Government and provides further protection for academic freedom and institutional autonomy. As a non-statutory advisory body, the UGC's main function is to offer impartial and expert advice to the Government on the funding and development of higher education in Hong Kong, and to provide assurance to the Government and the community on the standards and cost-effectiveness of the operations and activities of the UGC-funded institutions. Specifically, the UGC allocates recurrent grants and determines the student number targets among its funded institutions, having regard to the Academic Development Proposals submitted by the institutions. Once allocations are approved, institutions have freedom and responsibility to determine the best use of their resources. Neither the Administration nor the UGC can dictate how the resources are to be allocated and utilized within the institution.

The UGC supports and safeguards academic freedom and institutional autonomy on the one hand, and pays due regard to the legitimate concerns of society and ensures the proper use of public funds on the other. In fact, the roles of the UGC, the Government and the institutions in the higher education sector are clearly defined in the UGC Notes on Procedures. In particular, the Notes on Procedure set out five major areas of institutional autonomy, namely, selection of staff, selection of students, curricula and academic standards, acceptance of research programmes, and allocation of funds within the institution

On the other hand, the freedoms of speech and the press are other core values of Hong Kong closely related to academic freedom. The freedoms of speech and the press are protected by the Basic Law. Article 27 of the Basic Law states that "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession, and of demonstration; and the right and freedom to form and join trade unions, and to strike."

With regard to this motion proposed by Mr CHEUNG today, I wish to point out that Hong Kong is a free, pluralistic and open society where anyone can express views on different issues. The SAR Government very much respects everyone's freedom to express views. Indeed, the fact that different members of the community can express different views or opinions on an issue is precisely a reflection that the freedom of speech is continuously upheld in Hong Kong. The SAR Government will make continuous efforts to resolutely uphold academic freedom and the freedom of speech in accordance with the Basic Law and the principle of "one country, two systems".

Deputy President, I so submit. I will give a further response after listening to the views of Members. Thank you, Deputy President.

MR TOMMY CHEUNG (in Cantonese): Deputy President, the upholding of the freedom of speech and academic freedom is the cornerstone of the success of our higher education institutions and even our society as a whole, and institutional autonomy is a key element of Hong Kong's position as a free, open and pluralistic international city. Therefore, these rights are protected by the Basic Law.

Article 27 of the Basic Law states that "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession, and of demonstration; and the right and freedom to form and join trade unions, and to strike.". Article 34 of the Basic Law even states more directly that Hong Kong residents shall have freedom to engage in academic research, and so on; and Article 137 of the Basic Law also provides that "Educational institutions of all kinds may retain their autonomy and enjoy academic freedom."

However, some time ago, HAO Tiechuan, the Director-General of the Publicity, Culture and Sports Department of the LOCPG, criticized the public opinion poll on Hong Kong people's ethnic identity conducted by Robert CHUNG, Director of Public Opinion Programme of the University of Hong Kong (HKU), as "unscientific" and "illogical" in its agenda setting. This incident has aroused concerns in the community that these criticisms were made out of political considerations and that this will put pressure on scholars and create a chilling effect.

There are also concerns in the media that HAO Tiechuan's comments constitute interference by Mainland officials in academic studies in Hong Kong, in breach of Article 22 of the Basic Law which provides that "No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law."

Certainly, people in special positions should always be careful with their words and deeds, in order not to arouse suspicions or misunderstanding in the media. I think only in this way will public confidence be fostered and stability maintained in society.

However, it is equally important that we must also respect HAO Tiechuan's freedom of speech, a freedom that he should enjoy, too. As a matter of fact, these views only concern the suitability of distinguishing between "Hong Kong citizens" and "Chinese citizens" in the opinion poll, which is on the level of academic discussion. Over-interpretation of these comments is indeed not necessary.

Moreover, HAO Tiechuan has so far expressed only his personal views on the opinion poll programme under the charge of Robert CHUNG, rather than trying to influence the poll through an official channel. Is it justifiable to say that this has, in effect, already constituted interference?

Furthermore, in the incident of the Hong Kong Institute of Education in 2007, the High Court pointed out in respect of the judicial review on the inquiry that when government officials expressed government stances to academics privately and criticized the views of academics, even though there are arguments and so long as intimidation is not involved, this should be considered free debates and do not amount to interference in academic freedom.

In expressing his views HAO Tiechuan did not make any intimidating remark, and he even declined to make any comment when he was asked whether these opinion polls should cease to be conducted in future. On the question of whether or not his criticisms constitute interference in academic freedom, different people may have different opinions, and this question should be subject to further consideration.

In fact, as Robert CHUNG who was involved in this incident has said, he welcomed academic discussion, but the problem is that in his view, these comments in individual newspapers had transcended the academic level and many of the comments were fictitious. He hoped that discussions should remain on the academic level, and not include any political objective or consideration.

In addition, the Vice-Chancellor of the HKU, TSUI Lap-chee, stressed during a Chinese New Year event of the HKU that he would take HAO Tiechuan's criticisms as discussions only, saying that there is absolutely no interference by anyone in the HKU (in Robert CHUNG's opinion polls). He considered that this is purely a matter of academic discussion, and that it is only normal for scholars to have different opinions.

In spite of this incident, Robert CHUNG and other scholars in support of him can continue to express their views openly. They have not been barred from doing so and their research projects have not been told to stop. This precisely shows that we still enjoy the freedom of speech and academic freedom which are highly treasured by Hong Kong people. The university has not put pressure on the scholars at the expense of its institutional autonomy because of these criticisms.

Therefore, I think a famous saying by a French philosopher and poet is most worthy of our reference: "I disapprove of what you say, but I will defend to the death your right to say it!" It means that we should have the right to say "No" to each other, that we do not remain silent to yield to pressure and that we do not give up principles that we should uphold.

We do not have to feel pessimistic about the academic and institutional freedom and autonomy in Hong Kong or lose our bearing because of some criticisms. It is most important that we make concerted efforts to defend them. To achieve this objective, we consider it most important that our scholars, including the heads of various institutions, must show bravery and uprightness in making endeavours to maintain a free and open academic environment capable of withstanding all tests and challenges.

Deputy President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): On the incident of HAO Tiechuan interfering in academic freedom and criticizing Robert CHUNG, in fact, it is a struggle between two kinds of thinking and ideology. What HAO Tiechuan represents is the style on the Mainland, that is, to impose thought control and unify thinking. This is diametrically opposed to academic freedom. On these two kinds of thinking and ideology, Members only have to take a look at history to know how terrible thought control is. Let me remind Members that this year marks the 55th anniversary of the anti-rightist movement. What is the anti-rightist movement? It is about the totalitarian regime "luring the snakes away from their holes" by enticing intellectuals to speak their true minds, then purging them. Over 1 million intellectuals were criticized and denounced, and this is what is so terrible about the anti-rightist movement. The totalitarian regime of MAO Zedong regarded intellectuals as "stinking ninth category" and an obstacle to thought unification. Members have to look at this incident of HAO Tiechuan criticizing and denouncing Robert CHUNG that happened in Hong Kong in terms of the contradiction between this two types of thinking and ideology.

Just now, it was said that if we wanted to adopt the Mainland approach to unify thinking, intellectuals should not have academic freedom because they had to serve the political regime. However, what Hong Kong treasures is independent thinking, academic freedom, the independent spirit of academics and the ability to conduct research on various social issues independently, make recommendations and engage in academic discussions. All these are very valuable. If intellectuals are stifled even in participating in discussions in society, there would hardly be anything left in Hong Kong. Therefore, against this background, when Members look at the HAO Tiechuan incident, they really must think deeper and must not think that this is just a minor matter.

The criticism and denouncement of Robert CHUNG by HAO Tiechuan actually involve ideology. Criticism and denouncement are a form of ideology and what he criticized and denounced, that is, whether Hong Kong people identify themselves as Hongkongers or Chinese citizens, is also an issue of ideology. Did the research conducted by Robert CHUNG happen to goad HAO Tiechuan, thus drawing criticisms and denouncements from HAO Tiechuan? The survey conducted by Robert CHUNG was intended to look into whether Hong Kong people identify themselves as Hongkongers or Chinese citizens, but HAO Tiechuan believed that this was unreasonable and that the two identities of Hongkonger and Chinese citizen could not be separated. That was why he was

so furious and made it a point to come forth to criticize and denounce Robert CHUNG.

After the criticisms and denouncements, what is so terrible is that the incident was not an isolated one because apart from criticizing and denouncing Robert CHUNG, all the leftist newspapers also criticized and denounced other academics, talking about "politicians posing as academics", "who are against China and stir up trouble in Hong Kong under the guise of academic research". All these are obviously the language used in criticisms and denouncements and academics like CHOY Chi-keung and Ming SING were named and targeted, and academics in Hong Kong were also warned not to criticize the Central Authorities and not to resist, at the ideological level, the style that the CPC wants to introduce into Hong Kong.

After such criticisms and denouncements, a chilling effect would be created because academics are worried that if they express any more views in the future, they may lose even their jobs, or their research funding would be sapped dry. This chilling effect and sapping effect hang heavy over the heads of academics, arousing concern among them about whether or not they would get into trouble in future. When other academics see that some academics are criticized and denounced, they would be cautious when speaking in future, taking care not to offend the regime, in particular, the CPC and the Central Authorities. As a result, Hong Kong would lose its academic freedom, academics would no longer dare to express their views and Hong Kong would become a terrible place.

Therefore, if this incident creates a chilling effect and a sapping effect, and research funding in future will be sapped dry, in the long run, this would just be like cooking a frog in water by turning the heat up slowly and academic freedom would gradually disappear. Is this the silencing or noise elimination policy that the CPC wants to implement in Hong Kong? They want to reduce and eliminate all criticisms by all means and the academia is one of the areas targeted by them. They probably think that people like us are incorrigible and if the academia can be separated from us, so that it would respond to social issues and support democratic universal suffrage and the core values of Hong Kong independently if the voices of the academia can be reduced somewhat — since the academia is also authoritative — this would just be what they hope for.

(THE PRESIDENT resumed the Chair)

Just now, Mr Tommy CHEUNG said that HAO Tiechuan was also entitled to expressing his personal opinions, that not letting him express his personal opinions was unjustified and that he was also entitled to the freedom of speech. I remember that on one occasion, when I asked Raymond TAM, who was the Director of the Chief Executive's Office and who is now the Secretary for Constitutional and Mainland Affairs, if he had any personal opinion, he replied that he would not talk about his personal opinions because government officials would not talk about personal opinions. He was right. Government officials would not talk about personal opinions because if they do, other people would think that they are expressing their views in their official capacities. What is the capacity of HAO Tiechuan? Clearly, he is an official of the LOCPG. What he talked about was not his personal opinion, rather, his comments represent those of the LOCPG. If he represents the LOCPG, obviously, that was interference. In that case, where is the "one country, two systems" arrangement for Hong Kong? Where is the undertaking that the organizations of the CPC would not interfere with the internal affairs of Hong Kong? All these have been lost.

Therefore, Members must not think that we should just forget about this and that he only spoke for himself. This is not so. Clearly, his capacity is an official of the LOCPG. However, what is the most disappointing aspect is the slavish nature of the Hong Kong Government, which dares not criticize HAO Tiechuan, and even the heads of universities in Hong Kong do not have any backbones as they dare not make a sound. Therefore, what I am most worried about is that the SAR Government and heads of universities would send academic freedom to the guillotine of their own accord. Therefore, the Hong Kong public must rise and defend it together.

Thank you, President.

MS STARRY LEE (in Cantonese): President, this discussion on defending academic freedom by the Legislative Council can be traced back to the fact that after a public opinion poll on Hong Kong people' ethnic identity had been conducted by the University of Hong Kong (HKU), Mr HAO Tiechuan, Director-General of the Publicity, Culture and Sports Department of the LOCPG,

voiced his views on this public opinion poll, thus triggering discussions in society on the design of this public opinion poll and academic freedom. Concerning the question of whether or not the design of the questionnaire for this public opinion poll is scientific or not, Director-General HAO, Dr CHUNG, who is in charge of the public opinion poll, as well as members of the public have already discussed this issue a number of times in writing. Moreover, since the focus of the discussion by the Legislative Council is not on whether or not the design of the public opinion poll is flawed but on protecting academic freedom in Hong Kong, I will focus my discussion on academic freedom in Hong Kong.

What did Director-General HAO actually say or do? Did his words and deeds really constitute the serious allegation of "political interference in academic pursuit", as claimed by the original motion? Late last year, soon after the public opinion poll of the HKU was released, when Director-General HAO had a tea gathering with reporters from the major television media in Hong Kong, he talked about this public opinion poll. According to what was quoted by the press, at that time, Director-General HAO said, to this effect:

"First, in the public opinion poll, the aim and actual practice was to put "Hongkonger" and "Chinese citizen" side by side to let Hong Kong people choose one of them. Such definition of the issue is essentially 'unscientific' because after Hong Kong's reunification with China, identifying oneself as a Hongkonger does not preclude identifying oneself as a Chinese citizen. Hong Kong is already an administrative region of China rather than an independent political entity. If one identifies oneself as a Hongkonger, it follows naturally that one also identifies oneself as a Chinese citizen. If Hong Kong people are not Chinese citizens, may I ask to which country they belong?" Director-General HAO even made a counter-proposal, "If Dr CHUNG wants to reflect the changes in Hong Kong people's identity before and after the reunification through the public opinion poll, he can set the question in this way, 'Do you consider yourself a Chinese citizen or a British citizen?'" These are the comments made by Director-General HAO and I have quoted them from press reports.

We can then look at the response of the person in charge of this public opinion poll, Dr CHUNG. After learning about these comments, Dr CHUNG did not immediately accuse Director-General HAO of interfering in his research. In Dr CHUNG's own words, his response was largely like this, "The Public Opinion Programme welcomes all serious discussion on the design of public

opinion research, so as to pool collective wisdom. However, it is highly preferable for academic discussions to remain at the level of academic discussion without involving political considerations. Serious academic discussions should be able to reveal the merits and demerits of the relevant poll."

I want Members to look at one point clearly. If Dr CHUNG considered Director-General HAO's comments to be interference in his research, he should have criticized the latter for his wrongdoings outright, rather than giving the aforesaid response. Interfering in academic freedom is a very serious accusation, so we must ascertain the facts. We must not say that his comments are interference in the academic freedom in Hong Kong simply because he is a Chinese official.

In addition, can the expression of views be equated with interference? What kind of acts can be considered "interference"? Comments that are not intimidating surely cannot be equated with interference, nor do they constitute any interference. "Interference" should at least refer to using coercive power to hinder the launch of academic research activities or the publication of the results of academic research. Or it may mean using administrative measures, coercive tactics and even threats, for example, by reducing research funding or posing obstacles to somebody's promotion, in an attempt to hinder or influence some people or organizations in carrying out academic research, including conducting public opinion polls.

However, the comments made by Director-General HAO cannot hinder or influence the research conducted by academics in any way. He only voiced his views on the relevant public opinion poll, but he was criticized as interfering in academic freedom. If these comments made by Director-General HAO are considered "political interference in academic pursuit", as the wording of the motion puts it and the conclusion of "in contravention of Article 137 of the Basic Law" is thus reached, this is what can really be called conviction for the expression of opinions and infinite elevation of the issue to the political plane.

All people in Hong Kong enjoy the freedom of speech. Just like other people, Director-General HAO may also enjoy the freedom of speech in Hong Kong. Although as a government official, he must speak cautiously, if he is accused of interfering in academic freedom because he is a Chinese official, I think this is application of double standards.

Why do I say so? Some organizations often talk about "defending the freedom of speech" and "protecting the right of expression of the public". They often lash out at the law-enforcement actions taken by the police during public rallies and petitions to maintain public order, claiming rashly that the police are suppressing the freedom of expression. However, when Chinese officials voice their personal opinions, they would make a *volte face* and say that these officials are "interfering in academic freedom". These words are also used in the original motion today. Just now, I listened attentively to the speech delivered by Mr LEE Cheuk-yan. He said that the comments made by Director-General HAO were criticisms and denouncements directed at Dr CHUNG, so obviously he was applying double standards.

In addition, there is also another kind of double standards. Just now, many Members said that after Director-General HAO had made his comments, many "leftist newspapers" published a series of articles and Mr LEE Cheuk-yan used the words "criticisms and denouncements". We all know that various newspapers have their own positions and political orientations. They debate and engage in wars of words with one another. This is perfectly normal. However, if the comments come from "leftist newspapers", they are called "criticisms and denouncements" but when the comments come from newspapers the thinking or political spectrum of which are closer to their thinking, they are described as defending the core values. Is this not tantamount to adopting another kind of double standards?

In fact, Article 27 of the Basic Law states that "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.". Moreover, the Hong Kong Bill of Rights Ordinance drawn up in accordance with the International Covenant on Civil and Political Rights also protects the freedom of personal opinion and expression. The protection afforded by these pieces of legislation would not vary according to the person or on account of the particular capacity of an individual. Therefore, I believe the freedom of speech of Director-General HAO should be similarly protected.

I believe that apart from defending academic freedom, Members will also defend the freedom of speech without reservation. Therefore, no matter what his identity is, his freedom of speech should also be protected. The views

voiced by Director-General HAO on the public opinion poll fall entirely within the scope of his personal freedom of speech. Moreover, apart from being an official of the Central Authorities, he is also an academic. If Members care to look at his qualifications, they will find that he is a visiting professor who teaches in various universities.

In sum, since the allegation that the comments made by Director-General HAO constitute "political interference in academic pursuit" is at variance with the facts, the DAB will oppose the original motion and the other two amendments.

MRS REGINA IP (in Cantonese): President, after I had received Mr CHEUNG Man-kwong's motion, I noticed that he proposed the enactment of legislation to safeguard academic freedom on the ground that Mr HAO Tiechuan, Director-General of the Publicity, Culture and Sports Department of the LOCPG, had criticized Dr Robert CHUNG of the University of Hong Kong a number of times.

In this connection, I have done some research. Coincidentally, like Ms Audrey EU, I also made reference to the definition of academic freedom in the United States. Since this motion has gone so far as to demand the enactment of legislation but nobody has ever attempted to define what is meant by "academic freedom" in the motion or the amendments in the first place, I have done some survey and research and coincidentally, what I looked up were also the books published in the United States.

For the Common Good: Principles of American Academic Freedom is a book that has won high acclaim. It was written by two American professors of law and published by the Yale University in 2009. The evaluation of this book by the former President of the Harvard University, Prof Derek BOK, is, "This book is certainly the best and clearest analysis I have read on the theory and practice of academic freedom. It should be required reading for anyone interested in this important subject." This means that everyone interested in the subject of academic freedom should read this book. Since even the former President of Harvard University said so, let me share it with Members.

First, this book points out that historically, the discussion on academic freedom began in European universities in the Middle Ages. I believe many

Honourable colleagues must know that the majority of the universities in the Middle Ages were founded by erudite Catholic priests. This subject came into being as early as the Middle Ages but the person who formally advocated the concept of "academic freedom" was a German scholar in the late 18th century. The term "academic freedom" originated from German, but I do not know how to pronounce the German term. However, its meaning is that "academic freedom" includes "free investigation of every possible object of thought is without doubt a human right". The term "academic freedom" in German also has another meaning: "a dedicated, sanctified pursuit", "the morally imperative study of things for themselves and for their ultimate meanings.", meaning that "academic freedom" is research for its own sake.

After this concept of "academic freedom" had spread to the different American soil, it began to see changes. As I said just now, most of the universities in Europe were founded by priests but in the United States many universities were also founded by religious groups or foundations. I believe Secretary Kenneth CHEN must also know this. The most prominent universities are all private universities and they all have different interpretations of "academic freedom". As Ms Audrey EU said, the earliest declaration of academic freedom was the Declaration of Principles on Academic Freedom and Academic Tenure of 1915. After this declaration had been in operation for some time, another group of American scholars drafted another declaration in 1940, pointing out that the biggest goal of academic freedom is "to promote inquiry and advance the sum of human knowledge".

I do not have the time to read out all the details of this latter declaration but it is noteworthy that in the 1940 declaration, it is pointed out that academic freedom is different from the freedom of speech, "The 'Declaration' conceives of academic freedom not as an individual right to be free from any and all constraints but instead as the freedom to pursue the 'scholar's profession' according to the standards of that profession."

Due to the time constraint, simply put, after several decades of discussion by the Americans, academic freedom is considered to consist of several factors.

First, having academic freedom does not mean that one can express opinions without restraint. Academic freedom should not be interfered with but it should be regulated by experts, peers of the same profession and the

professoriate (people with academic standing and professional knowledge). This declaration "academic freedom implies that individual teachers should be exempt from all restraints as to the matter or manner of their utterances, either within or without the university.". That means academic freedom is also subjected to restraints. However, outsiders are not in a position to poke their noses into such matters, rather, the restraints should be imposed by experts with academic standing and people in professions concerned.

Second, academic freedom does not exclude controversy because it is inevitable that new knowledge would challenge the established ideas in society at a certain time and give rise to arguments.

Third, the declaration of 1940 was cited in the judgments delivered by courts of law and subsequently, there were also some interpretive comments, but I do not have the time to cite them one by one. These interpretive comments say that, "membership in the academic profession carries with it special responsibilities" and that the declaration "is not to discourage what is 'controversial'". I only have the time to cite these two points.

As an academic, I have also read the article entitled "My preliminary opinions on the public opinion poll" written by Director-General HAO. I think that as an academic, he absolutely has the right to voice different views. I found his article to be actually quite objective and I have also read Dr Robert CHUNG's objective and rational response. In fact, it was only a discussion between two academics, so we do not consider it necessary to enact legislation. In the United States, no legislation has ever been enacted to protect academic freedom either and it has also been pointed out that doing so is difficult. Therefore, we believe we should not overreact to an isolated incident.

MS CYD HO (in Cantonese): The United Nations Educational, Scientific and Cultural Organization (UNESCO) put forth some recommendations in 1997 concerning the status of higher-education teaching personnel. The UNESCO was of the opinion that "all higher-education teaching personnel should enjoy freedom of thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of the person and liberty of movement. They should not be hindered or impeded in exercising their civil rights as citizens, including the right to contribute to social change through freely expressing their

opinion of state policies and of policies affecting higher education. They should not suffer any penalties simply because of the exercise of such rights."

President, Ms Starry LEE just now said that it was not interference as there was no intimidating utterances or any reduction of research funding. If we dial back the clock to a decade ago and try to make an evaluation using any one of these two criteria, interference of academic freedom at that time actually happened.

Ten years ago, Robert CHUNG was conducting public opinion polls on the Chief Executive's popularity. High popularity is definitely a delightful thing to know. The result of the survey conducted in 1997 indicated that the Chief Executive's popularity had reached almost 70%. But by 2002, these polls had become a beam in the eye as the Chief Executive's popularity had reached an all-time low. Mr TUNG bade his Senior Special Assistant, Andrew LO, discuss with the management of the University of Hong Kong (HKU). The master of Robert CHUNG who was working at the management of the HKU subsequently approached Robert CHUNG, trying implicitly to persuade him to discontinue such kind of opinion polls.

Robert CHUNG, a man of uprightness and mettle, disclosed the incident, leading to the establishment of an independent investigation panel to further investigate the incident. The then Vice-Chancellor as well as the management staff of the HKU who had direct contact with Robert CHUNG had to resign, but Robert CHUNG's public opinion research centre was also detached from the University. Instead of being funded by the University, the research centre had to operate on a self-financing basis. Currently, the Public Opinion Research Centre is located in Kennedy Town rather than on the HKU campus. From time to time, Robert CHUNG has to take on some public opinion programmes from the outside in order to maintain the operation of the research centre.

If we use the availability of research funding and the definition of appropriation as a means of measurement, is it not interference in academic freedom? It has actually happened. Having written a couple of articles and claiming himself as a scholar, Director-General HAO this time tried to water down the incident as a gentlemen's discussion between two scholars. As for those members of the Chinese People's Political Consultative Conference, Deputies to the National People's Congress, and university vice-chancellors who

have been relentlessly advocating cross-boundary education, I do not know whether they will attempt to impose limitations after reading the masterpieces written by Mr HAO, the Director-General of a department under the LOCPG. We have no way of knowing whether these university vice-chancellors will imitate the HKU and say something implicitly with an intent of influencing the studies or standpoint of the scholars. But we can be sure about one thing, that our eight university vice-chancellors are not like CAI Yuanpei, the President of the then-Peking University because they did not come forth bravely. This is the fact we have clearly seen.

An incident that happened a decade ago could unfortunately repeat itself 10 years down the line. Because of this, this Council and people from all social strata must come forth and sound an advance warning in order to stop mishaps from happening.

Regarding the criticism of the media, NG Chi-sum has been criticized by *Wen Wei Po* and *Ta Kung Pao* by name for 78 times in just over two months. Some people regarded all this as "public criticism and denouncement". If this is not "public criticism and denouncement", then it really is non-sensical. There are so many things to write about in Hong Kong and there are so many things worthy of writing all over the world. Yet, they picked on the phone-in talk show host NG Chi-sum and criticized him for 78 times by name. Subsequently, an announcement was made in November that he was going to resign. The eyesore is finally removed. Therefore, President, there are things that we cannot wait and only raise the alarm or call a halt to them before they actually occur.

In fact, public intellectuals all over the world are facing pressure. Take Noam CHOMSKY in the United States as an example. He has been anti-war through and through, opposing the BUSH administration's Middle East policy. Unable to publicly release them, his articles could only circulate on the Internet. Yet, the university which has hired him will not give him the sack. Paul KRUGMAN has also written many articles criticizing the economic policies of BUSH Senior and Junior, Bill CLINTON and even the current OBAMA administration. None of his writings affects his job in the university. Universities worldwide protect their scholars, but in Hong Kong, I am very worried about Robert CHUNG, Dixon Ming SING, CHOY Chi-keung and even MA Ngok who has yet been named. I wonder if they will receive the same kind of protection.

We have been following it up in the Panel on Education with a view to establishing an inter-institutional complaint mechanism so that any unfair transfer, resignation or termination of employment contract of a scholar can be dealt with under a fair and impartial mechanism. Unfortunately, the University Grants Committee has failed to compel various institutions to set up the said complaint mechanism. Instead, it has only formulated a code, hoping that they would observe. At present, there are still not many institutions that have demonstrated their willingness to make use of the said complaint mechanism to protect the scholars by limiting the authority of the management of the institutions of their own accord. Therefore, President, we need all the more to sound an early warning before any incident of interference in academic freedom has occurred, so that the community as a whole can be in full alert. *(The buzzer sounded)*

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

MR ALBERT HO (in Cantonese): President, the issue of academic freedom under discussion today is not just a simple debate on some major principles or a universal value. It is about the situation of academic freedom in the current special political environment. We must adopt this perspective in order to stay on course and know where the problem lies.

In any free democratic country, I believe no publicly elected officials will criticize the opinion of any academic institution or scholar at will. If an opinion or speech is related to any policy enforced, political debates will be initiated. Otherwise, the officials will not challenge the scholars' studies without any reason. But there is one thing worthy of note. The challenged scholars are now facing the Director-General of the Publicity, Culture and Sports Department of the LOCPG. How can we obliterate and isolate ourselves from this fact and say that it was only a free discussion or an exchange among scholars? It is totally naïve to see things in this way. We must not forget that a professor from an academic institution can hardly compare with an official who possesses public authority. Nor can this professor be comparable with a representative of the insurmountable Central People's Government or an official responsible for culture and publicity work.

To put it simply, let us take Hong Kong officials, particularly the Secretaries who are in attendance in this Council today, as an example. Imagine some people say that you have initiated fierce debates with some scholars on some issues and even think that you have made some harsh criticisms of some academic studies. You can easily be blamed for abuse of public authority. The public may even worry that the Secretary will make use of the convenience of being responsible for education policies and exercise his political influence to interfere in the university's autonomy as well as the freedom of academic studies through funding arrangements. This worry comes very naturally.

We should understand that the distinctive feature of "one country, two systems" is the extreme inequality between the two systems. The power and influence of the Central Government is in practice overriding the fragile system of Hong Kong. As we all know, Hong Kong is so small that we must work relentlessly while staying vigilant in order to protect our limited space from shrinking. Therefore, if anyone including any non-elected official within the system should intend to exert pressure, we must be extra awake and raise exquisitely our opposition. If the pressure comes from officials of the Central Government who hold authority that we will never be able to surmount, the situation is much more worrying.

We should not forget the system in the Mainland, which often creates political campaign through pressure of public opinion. It has been the culture in the Mainland. During a political struggle, sheer release of articles will suffice. Huge impact will be made. Writing articles is first and foremost in enabling a social movement and even a political or policy change. This kind of political pressure naturally causes certain bulldozing consequence, creating tremendous chilling effect on public opinion. In other words, dissident scholars and public intellectuals will keep their mouths shut under the pressure from those in power. This kind of pressure will produce a social atmosphere of white terror among the public, and this may turn into a political trend and induce policy changes riding on the trend. This is exactly the kind of thing we worry gravely about.

Therefore, do not be so naïve as to think that it is only an academic debate. Please also do not think that Director-General HAO is only a scholar. If he were not the Director-General of the Publicity, Culture and Sports Department, why would he bother to spend time conducting those studies and writing those articles? I do not believe he would. If he were not the Director-General,

would he have aroused great reactions in society? I believe he would not. Would Director-General HAO conduct those studies and write those articles on the basis of his personal pursuit for academic truth? I do not believe, either. He has a political purpose as well as political motivation to exert pressure. Behind his back stands the powerful Central Government. Under the Central Government's wings probably lies the SAR Government, including LEUNG Chun-ying's administration, which has to closely follow its dictates. This is the present trend. If we do not understand this trend, we may not know why we are so worried.

MR LEUNG KWOK-HUNG (in Cantonese): The reason why an "ivory tower" is I detest those scholars in an "ivory tower", who pay attention purely to academic issues and show no interest in society. Tracing the origin of "ivory tower", we know that it is actually meant to let scholars talk inside the tower because the Church's powers were unrestrained and so, they were allowed to say as much as they liked inside the "ivory tower". Just let them talk there, and they would not feel intimidated inside the "ivory tower", just as they are free to say anything inside a university, right?

Now that HAO Tiechuan of the CPC I said, "Oh, dear!" on hearing his name. HAO Bocun of Kuomintang (KMT), who was the commander of the army and a warlord, had persecuted people not belonging to the KMT. Could it be that he has a successor now? Is this guy his younger brother or sworn younger brother? On hearing it, I said that HAO Bocun was horrible. He was a brutal killer who even arrested people in the National Taiwan University. This HAO Tiechuan is far from any match for him. Tell him to go home and sleep, or he should, like HAO Bocun, send some secret agents to arrest people.

President, when you were young, you should have read about WEN Yiduo, right? You should have read about LI Gongpu. They had only expressed their views, but their lives were then taken for doing so. Did the CPC not hold a memorial ceremony for WEN Yiduo back in those years? But what about this HAO Tiechuan now? President, let me introduce a good scholar to you — the black horse of China, Mr LIU Xiaobo. He lost his job. He was involved in the 4 June incident after returning from the United States and lost his job in Renmin University of China. He lost his job after serving a prison sentence. He then stayed at home publishing articles on the Internet, but he still could not get away.

President, I wish to introduce him to you, for he is a victim of the suppression of academic freedom and worse still, he has been put behind bars. So, there is really no reason for Ming SING to complain about what happened to him.

There is also Prof DING Zilin. She is a learned scholar specializing in studies on the history of the CPC, but she also lost her job — No, I am sorry. I really must apologize. I should say that she cannot continue with teaching. I must apologize. For what reason is she barred from teaching? Because after the death of her son, she said something that did not even relate to academic freedom, and she was only speaking the truth. But concerning academic freedom, apart from Members said in their speeches earlier that academic rules have to be observed, but is it not the greatest knowledge to speak the truth? Speaking the truth is the greatest knowledge. GALILEO spoke the truth, although his scientific methods may not necessarily be correct, right? Speak the truth. Other people were speaking the truth but he made irresponsible remarks, and what exactly was he trying to say? Since he likes academic studies so much and as universities are keen to recruit talents now, he should follow the steps of LEUNG Chun-ying, and since he is with the City University of Hong Kong, exceptional arrangements should be made for him to become a professor and let him talk then. Since he likes academic studies so much, there is no reason for him to engage in academic discussion as a member of officialdom, right? Does anyone who is an official discuss academic issues? This is really stupid. But some people have even defended him, saying that it was merely an academic discussion. Buddy, during the Cultural Revolution, when MAO Zedong criticized a movie, the entire country would criticize it. This movie is "The Life of Wu Xun". Once he criticized the movie for this and that, the whole country followed suit and hurled criticisms at it. HU Feng had written the "ten-thousand-word letter" and ultimately, he was arrested and jailed, and he was already mad when he was released. Do we still want to do such things?

What is actually under discussion today? Could it be that HAO Tiechuan was correct in making those remarks? Let me now tell HAO Tiechuan this: Go and write a book if he likes academic discussion so much, buddy, so that we can have a chance to read it. Our President also has a book entitled "蓬間集", and whenever I chided him, I would take out his book, scribbling on it and saying that this man should really be damned. I would actually take out his book and scribble on it, but at least he has left something to this world, right? I would not say that I am academic, and I would not go any further after making remarks

here. But in what way can he possibly be considered an academic? He has only published two articles which were just written by a Party group and published under his name. Buddy, what was he talking about? And yet, there are people saying that his comments are academic. I would say that he is uneducated.

President, what we are discussing today is not an academic issue. Let us think about the incident of Robert CHUNG, in which Andrew LO and LEUNG Chun-ying were involved. This is what LEUNG Chun-ying is like. Though he is now elected the Chief Executive, he really did this back then. Even though other people were saying that no more action should be taken, and even though Mrs CHAN took the view that things should be considered settled and the matter should not be pursued anymore, he refused to give way and said that an investigation must be conducted into these vicious attacks on the leaders. Finally, it was found in the investigation that Andrew LO had really interfered in academic freedom. It has been 12 years since this incident and now, does this SAR Government have such courage? Is the media in the SAR bold enough? Buddy, he is HAO Tiechuan, and even iron can still wreak damage.¹

President, what I consider most detestable of officials is this. If they want to chide people, they should do so by all means; if they think that their Party cannot tolerate somebody anymore, go and chide that person, or tell the Party newspaper to chide that person, right? But why should he make it academic? Does he want to start an argument with people? Could GALILEO argue with people? COPERNICUS was already dead, and he was frightened but he was really unwilling to yield. On the day of trial by the Roman Catholic Church, did the people trying GALILEO discuss academic issues with him? Did they not talk about theology with him? They did talk about theology, not science, but theology is still academic. So, HAO Tiechuan must really do something to show us his worth.

President, LIU Xiaobo, DING Zilin, WEN Yiduo and LI Gongpu are all suppressed by despotic powers. HAO Tiechuan, if you have the guts — let me now throw down the gauntlet to you — I now challenge you to an open debate with me if you have the guts, or else you are a useless, uneducated person. Let

¹ The middle character of the Chinese name of HAO Tiechuan is "鐵", which literally means iron.

me now challenge HAO Tiechuan openly to a public debate. He must not say that he is so-and-so of the LOCPG. HAO Tiechuan is his name!

MR ALAN LEONG (in Cantonese): President, totalitarian rulers of all times and in all countries will first target intellectuals whenever they want to consolidate their regimes. Incidents such as burning books and burying Confucian scholars alive in a former dynasty and scholars who refused to succumb were persecuted are precisely because these scholars were knowledgeable and influential. These scholars, with a character of uprightness, would neither bow for a handout nor forget their dignity for a meal.

During the past 15 years after the reunification, we in Hong Kong have experienced a series of incidents involving interference in academic freedom, which is getting more and more blatant. In the public opinion polls incident involving the University of Hong Kong (HKU) in 2000, Andrew LO, the Special Assistant of former Chief Executive TUNG Chee-hwa, exerted pressure on Dr Robert CHUNG, through CHEUNG Yiu-chung, the former Vice-Chancellor of the HKU. Dr CHUNG had been requested on many occasions in just a year to discontinue his polling work relating to the SAR Government and the Chief Executive. After the incident was revealed, CHEUNG Yiu-chung had to step down in disgrace.

In the incident involving The Hong Kong Institute of Education (HKIED) in 2007, the former Secretary for Education and Manpower Arthur LI was accused of forcing the HKIED President to take the initiative to make a merger offer to The Chinese University of Hong Kong, or else Mrs Fanny LAW, the Permanent Secretary of the Education and Manpower Bureau, would be given a free hand to reduce the places of the HKIED at will. Furthermore, whenever a teacher of the HKIED had written an article to criticize the Government's education reform policies, Mrs LAW would ring up the HKIED President to request the dismissal of the scholar in question. As a result, both Arthur LI and Mrs LAW had to step down.

By the end of last year, the Hong Kong Public Opinion Programme, as usual, published the findings of a public opinion poll on the sense of identity of Hong Kong people. It was found that the percentage of Hong Kong people who claimed themselves as Chinese and who had a sense of identity as Chinese had

dropped to a record low since 2000. After the publication of the findings, HAO Tiechuan, the Director-General of a department under the LOCPG openly criticized the poll as "unscientific" and "illogical" in a special tea reception with the media. He told the media that the polling activities of certain institutions over the past decade in Hong Kong were meant to serve particular political organizations and deviated from academic issues.

In the past when some officials did not want to hear the truth, they would surreptitiously exert pressure on the heads of universities or scholars through an intermediary. They had to step down and offer an apology after the incident was revealed. But now, HAO Tiechuan, the Director-General of a department under the LOCPG, has blatantly exerted pressure on a polling organization through the media in front of the 7 million people in the territory, such that scholars dare not conduct surveys which may irritate these officials.

Dr CHUNG, who conducts a study in the field of his competence, is supposed to be free from any interference by external authority. However, HAO Tiechuan, as a scholar, has failed to understand this basic principle. He has even violated Article 137 of the Basic Law concerning the protection of educational institutions' academic freedom; Article 22 concerning that no Mainland departments can interfere in the affairs of Hong Kong which administers on its own; and Article 34 concerning the protection for Hong Kong residents who shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities. What HAO did is simply a violation of these three Articles of the Basic Law. He has totally turned a blind eye to the Basic Law and should be severely condemned.

In fact, since the reunification, higher education institutions have been clamped and penetrated from all sides by the Central Government and the SAR Government. Undoubtedly, this is carried out through the University Grants Committee (UGC) which was introduced by the British Hong Kong Government and adopted by the current Government. Certainly, the UGC members are appointed by the Chief Executive direct. The Government can definitely interfere in the development of various institutions through the provision of grants and funding to them.

Furthermore, the Chief Executive himself is the Chancellor of various institutions. As for the Council which is the highest authority of an institution,

its members are mostly appointed by the Chief Executive. Take the City University of Hong Kong as an example. Among its lay members the number of whom should be no more than 15, seven are appointed directly by the Chief Executive while eight are appointed by the Chief Executive on the recommendation of the Council. These appointees will serve as Chairman and Deputy Chairman of the Council. On the other hand, only four to five of the Council members are elected by teachers and students. Therefore, apart from exerting its influence through the UGC and through the control over the Council members, the SAR Government has no difficulty in interfering with an institution's development and academic freedom as long as it can control its financial resources if it really wants to do so. We must be vigilant in this regard.

In an article on academic freedom, Mr Joseph LIAN has also pointed out a trend which will gradually affect the academic ecology in Hong Kong as the percentage of Mainland scholars in the tertiary education sector of Hong Kong keeps rising. While there was a shortage in the supply of teachers in local universities in the 1980s, the early batch of Mainland scholars studying abroad during the Mainland's reform and opening had completed their studies overseas and came back as reinforcement in local educational institutions. During the process of the old being replaced with the new in these institutions, many Mainland scholars have been promoted to the leadership echelon. Mr LIAN believes that they have made a lot of contribution to Hong Kong. But their weaknesses lie in their cultural background, and the fact that their relatives are still in the Mainland. They will easily succumb to the powers of the regime and their courage to defend academic freedom will be undermined. Therefore, those who are brave enough to criticize the Central Government or the SAR Government are mostly scholars born and bred in Hong Kong.

After the HKU opinion polls incident in 2000, the Independent Investigation Panel defined academic freedom in its report, and I quote, "the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see it in the field of their competence, without any control of authority except the control of the authority of the rational methods by which truth is established." (end of quote).

Under the pressure, restriction and penetration from all sides as mentioned, the space for the academia to face the autocracy fearlessly in the pursuit for truth and serve as a social conscience has been dwindling. Nowadays, we have to

resolutely defend academic freedom so that the values we cherish will pass on in Hong Kong.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you can now speak on the two amendments. You have five minutes.

(Ms Emily LAU raised her hand to indicate her wish to speak)

PRESIDENT (in Cantonese): Ms LAU, do you wish to speak?

MS EMILY LAU (in Cantonese): I am sorry, President. I raised my hand late. President, the debate on academic freedom has unexpectedly come to a close in this Council so soon. I have gone to several universities recently and the scholars told me that they were very concerned and worried about it. I remember the other day when the Panel on Education was holding a meeting. Representatives from all universities were invited to attend. The meeting was held in Conference Room 1 and the Under Secretary was also present. I do not know whether it was a lucky day or not. Coincidentally, Mr Albert HO was proposing a motion for discussion and many people went over to him. Mr CHEUNG Man-kwong was the only person who remained in the conference room. I think Mr CHEUNG can still recall it. Those scholars who attended the meeting or those who watched the whole process on the television were most unhappy. They were astonished to find that this Council did not care so much about academic freedom. I believe the performance this evening will let them see clearly.

President, I have an advertisement on my hand. On 7 March, a total of 20 organizations and 633 scholars issued a joint statement reiterating their strong

stance in defending academic freedom. That was in response to HAO Tiechun's atrocity. They stated that the officials at the LOCPG and some "leftist" newspapers had published over 70 articles at the end of last year to attack Dr Robert CHUNG, even saying that he was a British agent. He was further described as having contact with special agents and being manipulated by foreign countries. Those hundreds of scholars were very much dissatisfied with those accusations.

President, honestly speaking, I have no idea how long Dr Robert CHUNG can withstand such attacks from HAO Tiechun or those articles. President, I also blamed the LOCPG during the previous motion debate for their frequent if not daily — may be not daily — outbursts of truculence. With such attacks on Hong Kong scholars, where is the "one country, two systems" under a high degree of autonomy? What do the studies or speeches made by Hong Kong scholars have to do with officials from the Mainland? Otherwise, where does the high degree of autonomy stand?

I have also pointed out that Mr Albert HO had, at numerous "small-circle" election debates, asked LEUNG Chun-ying how to defend academic freedom and what his personal opinion was. But he was speechless. Therefore, are the scholars now watching this motion debate as worried as many of you sitting here?

President, during my recent visits to some universities, some scholars told me that as a matter of fact I was not very well informed. Recently, there was a discussion as to who would be the Secretary for Education because the Under Secretary most probably might not be taking up the post of Secretary in the new Government. Some newspapers earlier reported that Anthony CHEUNG would take up the post. But those scholars said it was not him. They said that the post would be taken up by WONG Yuk-shan instead. President, you must know him. He is the Vice-President of The Hong Kong University of Science and Technology.

I actually do not know him. Those professors told me that most of the Chinese scholars and education-related people from the Mainland will look for him upon arrival at Hong Kong. President, they will not be looking for TSUI Lap-chee or any other university presidents. That may be the reason why he would be the Secretary for Education. Some say that he is a CPC member.

Now, a large number of CPC members may be joining LEUNG Chun-ying's team. If so, then it will be horrible, those scholars and professors said.

Today, we discuss academic freedom. In future, who is responsible for leading the Education Bureau? Will officials of the LOCPG, together with the newspapers acting as the mouthpiece of the CPC, keep maliciously detracting some scholars for purposes of creating a chilling effect, as some Members said just now? Now, a few people may dare to speak. Is it necessary to make everybody utterly quiet? Does it imply that they will be allowed to go to the Mainland to work and make money if they know how to behave in a delicate situation? Do we have to treat the academia like this?

These several hundreds of scholars President, I can say that there are many more scholars in the universities. The number is definitely far more than a few hundred. Actually, I also hope that there are more scholars who are willing to come forth "with their heads held high" to safeguard academic freedom. Rather than just a monopoly of scholars, academic freedom is also something that all Hong Kong people treasure. But if we keep seeing those in power making threatening gestures by baring fangs and brandishing claws with the purpose of making more and more people wary of speaking up, then academic freedom is really dead in Hong Kong. The rights under the Basic Law will become void to the detriment of 7 million Hong Kong people. As for the motion moved by Mr CHEUNG Man-kwong today, I do not understand why the people sitting there must negative the motion. Voting down Mr CHEUNG Man-kwong's motion is trivial, but how many of you can afford to carry the label of suppressing academic freedom?

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

MR ANDREW CHENG (in Cantonese): President, after listening to Ms Emily LAU's speech just now, I found that not many Members have spoken today, but there are many people waiting to vote. Obviously, those people who are waiting to vote want to show their loyalty to the CPC through their votes.

Certainly, we in Hong Kong have some colleagues who uphold "one country, two systems" and all the more uphold the authoritarian regime in the

"one country" under the communist rule. This is their freedom. However, we have to think twice if the core values of Hong Kong are undermined when they are propping up such a power.

President, academic freedom seems to be a very simple concept. But under "one country, two systems" and the authoritarian communist regime, our hearts feel very heavy when we read out these two words. In fact, scholars of all times should be able to think independently. They should not be subject to any pressure when they communicate or talk with each other, express their views or publish their articles in order that a positive impetus can be generated in society. Very often, the ordinary people may find the remarks of some scholars bizarre. Their views may be much more avant-garde than ours because they have conducted a lot of academic research in various fields. They can look ahead into the future, being the vanguards of society.

However, if academic freedom in our society is curbed, suppressed, and even intimidated by the regime or officials who hold public authority, thereby resulting in a situation where some scholars keep their mouths shut, or even curry favour with them in order to win better resources, there will be no more academic autonomy or vitality to speak of. Academic pursuits will only become a tool of a ruler or an authoritarian regime which wants to brandish its swords. That is why today's motion has given us the opportunity to make a most crucial reflection.

Obviously, from the perspective of the communist regime, the term "academic" is not much different from the People's Liberation Army. It is in fact a tool. While the People's Liberation Army will equip themselves with arms and ammunition, the CPC will make use of the scholars' pen in polemics. Consequently, if it is found that a scholar's pen, thinking or words do not tally with that of the communist regime, it will use another pen to attack him until he is eliminated. Public authority is another weapon to suppress him.

Just now, I have been listening to the speeches of other colleagues who talked about what had happened in the past 10 years. I have almost forgotten the name of "Andrew LO". At that time, it sent shock waves through the community. Why? Because people were also concerned about freedom of the press. The news media were brave enough to join hands with the academia, academics and some Legislative Council Members in exerting their pressure. If

we take a look at this incident, we will see a process that can be likened to boiling a frog in warm water over the past decade. The CPC will certainly exert pressure on institutions first so that scholars will gradually be silenced or keep their voice down. We can see that many scholars who used to express their insightful criticisms in a loud voice have shifted to adopting different wordings over the past decade. This is because they are worried about their position. Secondly, if they cannot maintain their position, it may also affect the amount of resources being allocated to their colleagues. This is precisely a kind of white terror. Apart from the academia and educational institutions, religious bodies and news media have also felt the impact. They can see that infiltration is effected in the education sector, media, religious sector, as well as the Legislative Council and political parties. Pressure is also exerted on one sector after another. This is why we have to be worried.

In my opinion, academic freedom is as simple as speaking our mind, what we believe in or what we have learnt in the pursuit of academic studies. It is so simple that there is nothing to hide. Nor is it necessary to put on political whitewash in order to serve those in power. However, such freedom is being gradually eroded due to the suppression of the communist regime, like a domino effect. As some colleagues have rightly pointed out, how much longer can Robert CHUNG withstand? Robert CHUNG is just a symbol. He will retire sooner or later. He will not work until over 100 years of age. However, Hong Kong will still need to have some scholars like Robert CHUNG who work diligently for the sake of Hong Kong's academic freedom and freedom of speech, not afraid of telling the truth and the facts in the face of the autocrat so as to genuinely set up a model of "one country, two systems" for the citizens of Hong Kong, for Hong Kong people.

Unfortunately, if colleagues feel that it is necessary to vote against today's motion, then I believe even if there are 10 or 100 academics like Robert CHUNG, "one country, two systems" in Hong Kong will collapse sooner or later.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now speak on the two amendments.

MR CHEUNG MAN-KWONG (in Cantonese): President, we have two amendments today. One is Ms Audrey EU's amendment, which criticizes the official newspapers of the CPC for attacking academics, while the other is the amendment by Mr Albert CHAN, who criticizes the heads of various universities for remaining silent. A lot of debates and controversies have thus been aroused.

Firstly, regarding the attack of academics by official newspapers of the CPC. These newspapers are certainly a kind of newspaper, but they are very special because they belong to the Party and have to toe the Party line. Thus, when HAO Tiechuan of the LOCPG sneezes, these newspapers will catch colds. They followed what HAO has done by publishing dozens or even 70 articles targeting only three academics. Do you not think this is scary? These three academics are Robert CHUNG, Ming SING and CHOY Chi-keung. Is this a kind of academic discussion? They are criticisms and attacks jointly launched by these newspapers. This is not a matter concerning the freedom of speech only. Rather, it is a matter concerning the suppression of academic freedom in Hong Kong by the cadres and official newspapers of the CPC. This has trespassed the boundaries of the Basic Law. Precisely because of the resistance of these academics, some restraint was shown. However, is it worthy of our reflection? These party cadres and party newspapers should not depart from the regulation and boundaries of the Basic Law, or else public anger will be drawn.

Some people do not agree as they opine that HAO Tiechuan is an academic, and as an academic he should also have the freedom of speech. However, may I ask whether HAO Tiechuan came to Hong Kong in order to teach at a university in the capacity of an academic? No. He came to Hong Kong in his capacity as an official of the LOCPG in order to discharge his duties assigned by the Central Government, which is the Publicity, Culture and Sports Department. Since he is an official of the Central Government, he certainly has to abide by the Basic Law. He cannot get involved or even interfere in the internal affairs of Hong Kong as prescribed by the Basic Law. His comments should certainly be subject to the constraints of the Basic Law. Only in doing so can he be described as truly acting in accordance with the law. This is not purely a matter concerning the freedom of speech of a scholar.

Some people say that this should not be regarded as interference with academic freedom. Why? As mentioned by Ms Starry LEE, no remarks of intimidation have been made and only intimidating remarks can be regarded as intervention. However, if his words were intimidating, he would have in fact made threats, which is a criminal offence. The original motion and the amendments have mainly pointed out that HAO Tiechuan has interfered with academic freedom.

When HAO Tiechuan criticized the surveys done by Dr Robert CHUNG as "unscientific", he got himself involved in the academic field. If HAO Tiechuan has got involved and made criticisms, he has certainly intervened. He has certainly interfered with the academic freedom in Hong Kong. The cadres and officials of the LOCPG should not interfere in the internal affairs of Hong Kong. Otherwise, they have transgressed and violated the Basic Law and should be condemned.

Mr Albert CHAN criticized the heads of universities for remaining silent. Before the reunification, we had never thought of a situation where debates would be held for defending our academic freedom, which is the core value of Hong Kong. However, after seeing the interference by HAO Tiechuan from the LOCPG and the interference by TUNG Chee-hwa, we began to realize that we have to fight for every inch of land in defending our academic freedom, just like any other kind of freedom. Otherwise, it is like rowing upstream, not advancing is to drop back. The interference by TUNG Chee-hwa and HAO Tiechuan before our eyes are the fact and concrete evidence as they signify the migration of authority from Central to the Western District.

Therefore, apart from the protection accorded by the Basic Law, universities should see to it that legislation is enacted for safeguarding scholars so that they can be free from fear (*The buzzer sounded*) in enjoying academic freedom.

PRESIDENT (in Cantonese): Mr CHEUNG, your speaking time is up.

SECRETARY FOR EDUCATION (in Cantonese): President, first of all, I wish to express my gratitude to Members for their valuable opinions and suggestions. I will now give a consolidated response to Members' views.

As I said in my first speech, academic freedom is an important social value long treasured by Hong Kong. A free academic environment is vitally important to the pursuit and transmission of knowledge, and the views of Members and mine in this regard are consistent.

On the part of the SAR Government, our determination to defend academic freedom and institutional autonomy cannot be clearer, and our objective is to create an ideal environment in law and institutionally under which academic freedom and institutional autonomy are afforded the greatest protection. The Basic Law provides constitutional protection to academic freedom and institutional autonomy, and the institutions are independent and autonomous statutory bodies. Coupled with the University Grants Committee (UGC) and its fair and objective funding mechanism, all these have further consolidated academic freedom and institutional autonomy and protected institutions and scholars from undue interference.

With regard to this motion today, I think there are a number of objective facts that must be clarified. First, as I have stressed repeatedly, Hong Kong is a free, pluralistic and open society where everyone can enjoy the freedom of speech conferred by the Basic Law and express views on various issues. These rights should be respected. The most precious thing is that everyone can express different opinions and exchange views with each other at different levels. While we respect academic freedom, we should also respect the freedom of other people — including scholars and different organizations and individuals — to express diversified opinions, so as to encourage the exploration of knowledge and issues of social concern rationally, responsibly and objectively from a diversity of angles.

Second, academic freedom is fully protected by law and institutionally in Hong Kong. Academic freedom absolutely will not be affected by statements made by any individual. Take this incident as an example. The scholars mentioned in the motion can continue to conduct opinion polls and academic studies which they consider to be worthwhile after the incident, just as they were allowed to do before the incident. We have not seen any change in this regard.

Third, there is no objective evidence showing that this incident has created a so-called "chilling effect". On the contrary, the views expressed a few months ago have aroused extensive and heated discussions in various sectors of the community, and discussions are still going on now. This is precisely proof that

Hong Kong has academic freedom and freedom of speech. The fact that scholars who have participated in these discussions can continue to express their views freely is also proof that they are confident in the legal and institutional safeguards for academic freedom in Hong Kong.

Members have expressed concern that the comments were made by an official of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. I wish to point out that since the establishment of the SAR, the Central Government and all Mainland organizations in Hong Kong have been strictly observing the fundamental policies of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" and the provisions of the Basic Law, and supporting the SAR Government in administering Hong Kong in accordance with law, with a view to maintaining the prosperity and stability of Hong Kong. All organizations and individuals must act in accordance with the Basic Law and the relevant legislation in Hong Kong, and this is all very clear. At the same time, Hong Kong is a place where people enjoy the freedom of speech. Any organization or person can express views on various issues and the SAR Government fully respects the freedom of opinion of every individual.

Ms Audrey EU's amendment has expressed concern over the composition of the Councils of the educational institutions. I wish to reiterate that the eight UGC-funded institutions are all independent statutory bodies. Their respective governing ordinances have made provisions on the composition of their Councils, while members of the Councils perform their duties in line with their statutory responsibilities, and whether or not they are appointed by the Government bears no direct relevance to their discharge of duties. In fact, many institutions have, in recent years, made amendments to their governing ordinances by way of private Members' Bills to streamline and reorganize the membership of their Councils, such as The Hong Kong Polytechnic University (Amendment) Bill 2011 which has just been passed in this meeting of the Legislative Council today. The purpose is to enhance the efficiency of the operation of the Council. We respect the decision of the institution in this respect.

Regarding the appointment of members by the Government, I wish to stress that when considering the appointment of members to various Councils, the Government will strictly uphold the principle of appointment by merit, having regard to a candidate's ability, expertise, experience, integrity and commitment to public service, and more importantly, whether or not the appointee has the

expertise and experience to assist in the development of the institution in the long term.

Besides, with regard to Mr Albert CHAN's amendment, I wish to point out that the institutions have actively defended the academic freedom of their staff. At a meeting of the Panel on Education in March, the deputy presidents of a number of universities who attended the meeting unanimously stressed the need to respect and safeguard academic freedom, the expression of a wide spectrum of opinions, and rational discussion. They considered that the freedom of scholars to make academic statements is inviolable. Meanwhile, various universities also stated that they have in place clear policies and systems for safeguarding academic freedom. This shows that the management of the local universities has been seriously dealing with this incident in the front line.

Like Members, the SAR Government very much treasures academic freedom and the freedom of speech. However, it takes more than the legal system or a role played by the Government to defend academic freedom and institutional autonomy. What is equally important is the academic sector and even society as a whole taking actions to put these into practice. For instance, the institutions should practise good governance in accordance with their respective ordinances and statutes to enable their teaching and administrative staff to fully give play to their talents without violating the academic standards or rules. Scholars should strictly uphold academic ethics and professional integrity, and various sectors of the community should support an environment that encourages the expression of a wide spectrum and a great diversity of opinions in academic discussions.

President, I particularly hope that Members will think about this in depth. Interference in the freedom of speech of any individual by the Government for whatever reason will set an extremely bad precedent, as people or organizations from various sectors of the community may call on the Government to interfere with the freedom of expression of other people again in future on the same ground, which would create a vicious cycle and deal a blow to the core values of Hong Kong. For this reason, the Government should respect and defend the right and freedom of expression of members from various sectors of the community, unless their statements have transcended the restrictions in law.

President, I so submit.

PRESIDENT (in Cantonese): Ms Audrey EU, you may now move your amendment.

MS AUDREY EU (in Cantonese): President, I move that Mr CHEUNG Man-kwong's motion be amended.

Ms Audrey EU moved the following amendment: (Translation)

"To add "this Council expresses deep concern over the opinions expressed by 'leftist newspapers' about two academics in Hong Kong, Ming SING and CHOY Chi-keung, such as strongly insinuating that Ming SING is a follower of Falun Gong who opposes China, stirs up trouble in Hong Kong and even advocates political violence, and alleging that the two of them are 'politicians posing as academics who are against China and stir up trouble in Hong Kong under the guise of academic research';" after "with this Law";"; to delete "enjoy academic freedom" after "scholars can" and substitute with ","; to add "be" after "in accordance with law,"; and to delete "," after "fear" and substitute with ", and to strive to reduce the ratio of members directly appointed by the Government to the governing bodies of higher educational institutions, so as to promote the democratic management of institutions by teaching staff and students;"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Audrey EU to Mr CHEUNG Man-kwong'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 five 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 and Dr Joseph LEE voted for the amendment.

Dr Raymond HO, Mr WONG Yung-kan, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him voted against the amendment.

Ms LI Fung-ying, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

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

Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP 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, 13 were present, two were in favour of the amendment, seven against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, five 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 "Defending academic freedom and institutional autonomy" 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 "Defending academic freedom and institutional autonomy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Albert CHAN, you may move your amendment.

MR ALBERT CHAN (in Cantonese): President, I move that Mr CHEUNG Man-kwong's motion be amended.

Mr Albert CHAN moved the following amendment: (Translation)

"To add "expresses deep regret that the heads of various universities did not openly condemn the aforesaid acts of infringing academic freedom, strongly condemns those academics who clung onto the rich and powerful and failed to stand forward to defend academic freedom, and" after "connection, this Council"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHAN to Mr CHEUNG Man-kwong'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:

Mr CHEUNG Man-kwong and Dr Joseph LEE voted for the amendment.

Dr Raymond HO, Mr WONG Yung-kan, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him voted against the amendment.

Ms LI Fung-ying, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

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

Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP 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, 13 were present, two were in favour of the amendment, seven against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, five 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 CHEUNG Man-kwong, you still have 15 seconds for your reply.

MR CHEUNG MAN-KWONG (in Cantonese): President, it is very likely that today's motion is the last motion that I moved in the Legislative Council. I really hope that in future, the Legislative Council will still hold more rational debates, just as on today's motion, so that the Legislative Council can speak up for Hong Kong people and command greater respect from the public.

Thank you, Members.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong 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.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

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

Dr Raymond HO, Mr WONG Yung-kan, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him voted against the motion.

Ms LI Fung-ying, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

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

Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP voted against the motion.

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, 13 were present, two were in favour of the motion, seven against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the motion, five 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 motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 2 May 2012.

Adjourned accordingly at twenty-four minutes past Nine o'clock.

Annex I

Securities and Futures (Amendment) Bill 2011

Committee Stage

Amendments moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) In the proposed section 307C(2), in the Chinese text, by deleting everything after “透過” and substituting “由某認可交易所營運的、用以向公眾散發消息的電子登載系統，散發根據第307B條的規定而須披露的內幕消息，即屬遵守該款。”.</p> <p>(b) In the proposed section 307D(1), in the Chinese text—</p> <p>(i) by deleting “有並只要”;</p> <p>(ii) by adding “在有此情況期間” after “，則”.</p> <p>(c) In the proposed section 307D(2), in the Chinese text, by deleting everything before “無需” and substituting—</p> <p>“(2) 如有以下情況，則任何上市法團在以下情況持續期間”.</p> <p>(d) By deleting the proposed section 307F(3).</p> <p>(e) In the proposed section 307I, in the Chinese text, in the heading, by deleting “有關披露的研訊程序” and substituting “關於披露的研訊程序”.</p> <p>(f) In the proposed section 307I(1), in the Chinese text, by deleting “發生違反披露規定，則可就該事宜提起在審裁處的研訊程序(有關披露的研訊程序)” and</p>

substituting “曾發生違反披露規定，則可就該事宜在審裁處提起研訊程序(關於披露的研訊程序)”。

- (g) In the proposed section 307I(2), in the Chinese text, by deleting “有關披露的研訊程序” and substituting “關於披露的研訊程序”。
- (h) In the proposed section 307J, in the Chinese text, in the heading, by deleting “有關披露的研訊程序” and substituting “關於披露的研訊程序”。
- (i) In the proposed section 307J(1), in the Chinese text, by deleting “有關披露的研訊程序” and substituting “關於披露的研訊程序”。
- (j) In the proposed section 307N(1)(d), in the Chinese text, by deleting “法團違反披露規定” and substituting “法團”。
- (k) By deleting the proposed section 307Q(2)(a) and substituting—
“(a) by giving a copy of the report to the Commission; and”。
- (l) In the proposed section 307Q(2)(b), by deleting “then,”。

11

- (a) By renumbering the clause as clause 11(1).
- (b) By adding—
“(2) Schedule 1, Part 1, after section 12—

Add

“13. Notes in Ordinance

A note located in the text of this Ordinance is provided for information only and has no legislative effect.”。

- 13(2) In the Chinese text, by deleting “各方” and substituting “一方”.
- 13(9) In the proposed section 19A, in the Chinese text, by deleting “可能發生” and substituting “可能曾發生”.
- 13 In the Chinese text, by deleting subclause (10) and substituting—
“(10) 附表9，第21條，在“在任何”之後—
加入
“根據本條例第252條提起的”。
- 13(11) In the proposed section 21A, in the Chinese text, by deleting “提控官可” and substituting “提控官”.
- 19(3) In the proposed section 251(8), in the Chinese text, by deleting “第254(1)條中法官的定義中(a)段所指的法官，則除主席外)可獲財政司司長支付一筆” and substituting “第245(1)條中法官的定義中(a)段所指的法官，則除主席外)可獲支付一筆財政司”.
- 20(1) In the proposed section 252(1), in the Chinese text, by deleting “除第252A條另有規定外” and substituting “在第252A條的規限下”.
- 21 (a) In the proposed section 252A(2), in the Chinese text, by deleting everything before “同意” and substituting—
“(2) 如有以下情況，則律政司司長只可在以下情

況持續期間，拒絕根據第(1)款對根據第252條提起的、關乎任何行為的研訊程序給予”。

- (b) In the proposed section 252A(2)(a), in the Chinese text, by deleting “研訊” and substituting “法律”。
- (c) In the proposed section 252A(2)(b), in the Chinese text, by deleting “除外)提起研訊” and substituting “除外)提起法律”。
- (d) In the proposed section 252A(3), in the Chinese text, by deleting everything after “同一行為而” and substituting “提起檢控任何罪行(第XIV部所訂的罪行除外)的法律程序。”。
- 23(2) In the Chinese text, by deleting “句號” and substituting “逗號”。
- 24 (a) By deleting subclause (1) and substituting—
“(1) Section 262(2)—
Repeal paragraph (a)
Substitute
“(a) by giving a copy of the report to the Commission; and”.”。
- (b) By adding—
“(1A) Section 262(2)(b)—
Repeal
“then,.”.”。
- 28(1) In the proposed definition of *party*, by deleting “各方” and substituting “一方”。

28(7) In the proposed section 32A(a), in the Chinese text, by deleting “各方” and substituting “一方”.

Part 4 By adding before clause 29—

“Division 1

Amendments to Securities and Futures Ordinance”.

29 By deleting “this Part” and substituting “this Division”.

Part 4 By adding—

“Division 2

Amendment to Prevention of Bribery Ordinance

33A. Prevention of Bribery Ordinance amended

The Prevention of Bribery Ordinance (Cap. 201) is amended as set out in this Division.

33B. Schedule 1 amended (Public bodies)

At the end of Schedule 1—

Add

“122. The wholly owned subsidiary of the Securities and Futures Commission that is established under section 5(4)(da) of the Securities and Futures Ordinance (Cap. 571).”.

36

By deleting the clause and substituting—

“36. Section 109 amended (Offence to issue advertisements relating to carrying on of regulated activities, etc.)

Section 109, Chinese text—

Repeal subsection (1)

Substitute

“(1) 除第(3)至(6)款另有規定外—

(a) 凡—

(i) 某人在任何廣告中顯示自己準備進行第4、5、6或9類受規管活動；而

(ii) 該人沒有按本條例規定就該等活動獲發牌或獲註冊，

則明知有第(i)及(ii)節所述情況而發出該廣告或為發出而管有該廣告的人，即屬犯罪；或

(b) 任何人發出其本身知道載有上述廣告的文件，或為發出而管有其本身知道載有上述廣告的文件，即屬犯罪。””。

37(1)

By deleting “an on-line medium” and substituting “the Internet”.

New

By adding—

“40A. Section 309 amended (Exemptions)

Section 309(5)—

Repeal

“an on-line medium”

Substitute

“the Internet”.”.

New

By adding—

“42A. Section 407 amended (Savings, transitional, consequential and related provisions, etc.)

(1) Section 407(1) and (2), Chinese text—

Repeal

“即適用或就本條例或本條例任何部分的生效而適用”

Substitute

“適用或關乎該項生效”.

(2) After section 407(3)—

Add

“(4) Part 4 of Schedule 10 provides for the savings and transitional arrangements that apply on, or relate to, the commencement of the Securities and Futures (Amendment) Ordinance 2012 (of 2012) or any part of that Ordinance.”.”.

44(2)

In the proposed section 76(2), in the Chinese text, by deleting “就發還的申請和” and substituting “要求發還該按金或保證的申請，以及”.

Part 5

By adding—

“Division 1A

Miscellaneous Amendments to Companies Ordinance

44A. Companies Ordinance amended

The Companies Ordinance (Cap. 32) is amended as set out in this Division.

44B. Section 38A amended (Exemption of certain persons and prospectuses from compliance with certain requirements)

Section 38A(6)—

Repeal

“by means of an on-line medium”

Substitute

“by the use of the Internet”.

44C. Section 342A amended (Exemption of certain persons and prospectuses from compliance with certain requirements)

Section 342A(6)—

Repeal

“by means of an on-line medium”

Substitute

“by the use of the Internet”.

Annex II**The Hong Kong Polytechnic University (Amendment) Bill 2011****Committee Stage****Amendments moved by Dr. the Honourable LAM Tai-fai**

<u>Clause</u>	<u>Amendment Proposed</u>
5	<p>(a) By deleting subclause (2).</p> <p>(b) By deleting subclause (3) and substituting –</p> <p>“(3) Section 6 – Repeal paragraph (m) Substitute “(m) enter into a partnership or any other form of joint venture with any person;”.”.</p>
6	<p>(a) By deleting subclause (4) and substituting –</p> <p>“(4) Section 8 – Repeal subsection (3) Substitute “(3) The policy governing the terms and conditions of service of persons in the employment of the University shall be approved by the Council.”.”.</p> <p>(b) By deleting subclause (6) and substituting –</p> <p>“(6) Section 8 – Repeal subsection (4A) Substitute “(4A) The President is not a member for the purpose of appointing or removing himself or herself. (4B) The Deputy President is not a member for the purpose of appointing or removing himself or herself. (4C) A Council member who is proposed for appointment as President or Deputy President is not a member for the purpose of the appointment.”.”.</p>
9	<p>(a) In subclause (2), in the Chinese text, by deleting the proposed section 10(1)(c)(i) and substituting –</p> <p>“(i) 2名須由全職員工從全職員工中選出；及”.</p> <p>(b) In subclause (3), in the proposed section 10(1)(d), by adding “or public officers” after “University”.</p>

- (c) In subclause (4), in the Chinese text, by deleting the proposed section 10(1)(f)(i) and (ii) and substituting –
- “(i) 1 名須由全日制本科生及學位以下程度課程學生從全日制本科生及學位以下程度課程學生中選出；及
(ii) 1 名須由全日制研究生從全日制研究生中選出。”
- (d) By adding –
- “(9A) After section 10(7) –
Add
“(7A) For the purpose of section 8(2) and (4) and subsection (7), the acting President or the acting Deputy President who is not a Council member has the right to vote.””
- 12 In the English text, by deleting ““staff members”” and substituting ““staff””.
- 13 (a) In subclause (1), by deleting “A person who was a member of the Council appointed under section 10(1)(c) of the principal Ordinance immediately before the commencement of this Ordinance” and substituting “A member of the Council appointed under section 10(1)(c) of the principal Ordinance who was serving immediately before the commencement of this Ordinance”.
- (b) In subclause (2), by deleting “A person who was a member of the Council appointed under section 10(1)(d) of the principal Ordinance immediately before the commencement of this Ordinance” and substituting “A member of the Council appointed under section 10(1)(d) of the principal Ordinance who was serving immediately before the commencement of this Ordinance”.
- (c) In subclause (3), by deleting “The student who was a member of the Council appointed under section 10(1)(f) of the principal Ordinance immediately before the commencement of this Ordinance continues to be a member from the commencement of this Ordinance up to the end of the member’s term of appointment” and substituting “A member of the Council appointed under section 10(1)(f) of the principal Ordinance who was serving immediately before the commencement of this Ordinance continues to be a member from the commencement of this Ordinance for the remaining portion of the member’s term of appointment”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Development to Mr CHEUNG Kwok-che's supplementary question to Question 4**

As regards whether the Administration has comprehensive statistics on subdivided flats, both the Development Bureau and the Buildings Department (BD) do not keep statistics on the number of subdivided flats in Hong Kong. However, when the BD inspects subdivided flats, it will keep records of the cases, such as information on the premises involved and the irregularities of the associated building works. The Development Bureau and the BD will make reference to such information when formulating policies and enforcement strategies relating to subdivided flats.

In addition, the Building (Minor Works) (Amendment) Regulation 2012, which puts building works associated with subdivided flats under the regulation of the Minor Works Control System, was submitted to the Legislative Council on 9 May this year. There will be a better guarantee on the concerned works upon implementation of the legislative proposal. Basing on the relevant minor works submissions, the BD will also be able to maintain a database that contains the number and whereabouts of such works to facilitate effective monitoring and necessary enforcement action. Subject to scrutiny of the Legislative Council, the amendment regulation will come into effect on 3 October this year.