

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 16 November 2011

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE 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:

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

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

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

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

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

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

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

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

TABLING OF PAPERS

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

- No. 28 — Hong Kong Science and Technology Parks Corporation Annual Report, Report of the Directors and Financial Statements 2010/2011
- No. 29 — Hong Kong Productivity Council Annual Report 2010-2011
- No. 30 — Report of changes made to the approved Estimates of Expenditure during the second quarter of 2011-12
Public Finance Ordinance: Section 8
- No. 31 — Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2011
- No. 32 — Report No. 57 of the Director of Audit on the results of value for money audits — October 2011
- No. 33 — Accounts of the Government for the year ended 31 March 2011

Report of the Committee on Members' Interests on its consideration of complaints against Hon Timothy FOK, Hon Mrs Sophie LEUNG , Hon Andrew LEUNG , Hon CHIM Pui-chung, Dr Hon Philip WONG and Hon IP Kwok-him

ADDRESSES

PRESIDENT (in Cantonese): Address. Ms Emily LAU will address the Council on the "Report of the Committee on Members' Interests on its consideration of complaints against Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung, Dr Philip WONG and Mr IP Kwok-him".

Report of the Committee on Members' Interests on its consideration of complaints against Hon Timothy FOK, Hon Mrs Sophie LEUNG, Hon Andrew LEUNG, Hon CHIM Pui-chung, Dr Hon Philip WONG and Hon IP Kwok-him

MS EMILY LAU (in Cantonese): President, on behalf of the Committee on Members' Interests (CMI), I will present the report prepared by the CMI to the Legislative Council. This report seeks to explain the CMI's conclusions and recommendations on two complaints against Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung, Dr Philip WONG and Mr IP Kwok-him.

President, to begin with, I would like to explain why I was tasked with chairing the meetings held to consider the complaints against these six Members. Pursuant to Paragraph (25) of the "Procedure of the Committee on Members' Interests for handling complaints received in relation to the registration or declaration of Members' interests or Members' claims for reimbursement of operating expenses" (the Procedure), no member of the Committee shall participate as a member of the Committee in the handling of a complaint or in the meetings of the Committee to deliberate on or inquire into a complaint where the complaint was made by or against him. As Mrs Sophie LEUNG, Chairman of the CMI, is one of the Members under complaint, in accordance with Paragraph (2) of the Procedure, I as Deputy Chairman of the CMI was tasked with chairing all the meetings held in relation to the complaints against the six Members.

President, the Clerk to CMI received complaints from two members of the public on 28 April and 5 May 2011 respectively in relation to press reports in the *Ming Pao Daily News* on 26 and 27 April 2011 alleging that the six Members had failed to register their remunerated directorships and their shareholdings of more than 1% of the issued share capital of companies and had breached the Guidelines on Registration of Interests. Expressing concern about these failures of registration, the complainants requested the Legislative Council to conduct an investigation and report to the public.

President, under Rule 83 of the Rules of Procedure (RoP), every Member shall, not later than the first meeting of each term, furnish to the Clerk to the Legislative Council (the Clerk), in the Registration Form on Members' Interests (Registration Form) approved by the President of the Legislative Council, particulars of his registrable interests. Rule 83 of the RoP further provides that every Member shall furnish to the Clerk particulars of any change in such registrable interests, within 14 days (the specified period) of any such change.

Under Rule 83(5)(a) of the RoP, "registrable interests" means remunerated directorships of companies, public or private, and if the company concerned is a subsidiary of another company within the meaning of the Companies Ordinance (Cap. 32), also the name of that other company. Furthermore, Rule 83(5)(h) of the RoP also provides that "registrable interests" should include companies or other bodies in which the Member has either himself or with or on behalf of his spouse or infant children, shareholdings of a nominal value greater than 1% of the issued share capital.

Pursuant to these rules, the CMI has held a total of five meetings in camera for examination and detailed consideration.

President, with respect to the complaint against Mr Timothy FOK, the CMI noted Mr FOK's failure to register his remunerated directorship in SJM Holdings Ltd. with the Clerk within the specified period, as required under the RoP. Nor had he de-registered his shareholdings in Hsudia Jewelry Ltd. within 14 days of his ceasing to own any shares of the company. The CMI also noted that although Mr FOK had registered his shareholdings of a nominal value greater than 1% of the issued share capital of Riverfront Holdings Ltd. with the Clerk on 2 October 2008 before the first meeting of the current legislative term held on

8 October 2008 in accordance with Rule 83(1) of the RoP, he erroneously de-registered the interest on 4 May 2011 and did not re-register it until 12 July 2011. Furthermore, although Mr FOK did not own a nominal value greater than 1% of the issued share capital of Pastone Ltd., he registered his share interest in this company with the Clerk on 4 May 2011. Mr FOK has attributed all this to "omission".

As regards the complaint against Mrs Sophie LEUNG, the CMI noted that Mrs LEUNG had failed to register her shareholdings of a nominal value greater than 1% of the issued share capital of the following five companies within the specified period, as required under the RoP. The five companies include Agro Development Limited, Club Unity Limited, Colonial Development Limited, Supplies (Asia Pacific) Company Ltd. and Web Resource Limited. Furthermore, although Mrs LEUNG had registered with the Clerk her shareholdings of a nominal value greater than 1% of the issued share capital of Shunde Pacific Limited, she erroneously de-registered the interest on 8 October 2010 and did not re-register it until 27 April 2011. Mrs LEUNG had also erroneously registered with the Clerk her ownership of shares of PacAsia Holdings Limited and Sunny Champ International Limited, though she actually did not own any shares in these two companies. Mrs LEUNG explained to the CMI that all this was due to an oversight on her part.

President, as regards the complaint against Mr Andrew LEUNG, the CMI noted that Mr LEUNG had failed to register with the Clerk his directorships in China South City Holdings Limited and CN Innovations Holdings Limited within the specified period, as required under the RoP. Nor had he de-registered his interest within 14 days after he ceased to be a remunerated director of Meadville Holdings Limited. Furthermore, although Mr LEUNG was not a director of Cherish Partners Limited, the company was erroneously registered with the Clerk on 27 April 2011 as one of which he was a director. Mr LEUNG explained that all this was due to an oversight on his part and an inadvertent oversight by his personal assistant. He emphasized that he had no intention of concealing anything from the public. As for his failure to register with the Clerk his directorship in CN Innovations Holdings Limited until 27 April 2011, he explained that it was because the appointment document was not ready until mid-April 2011.

President, regarding Mr CHIM Pui-chung's failure to register with the Clerk his directorships and shareholdings of Ginza Development Ltd. and Carrianna Chiu Chow Restaurant Ltd., the CMI decided that no follow-up action was required because he had ceased to own any shares in these two companies on 3 February 2004 before the commencement of the current legislative term; nor was he a director of these two companies.

In relation to Carrianna TST, the CMI noted that Mr CHIM had failed to register with the Clerk his shareholdings of a nominal value greater than 1% of the issued share capital of Carrianna TST by the first meeting of the current legislative term, as required under the RoP. Mr CHIM explained to the CMI that he thought it was not necessary to register his shareholdings as the restaurant business of the company had ceased operation since 2006.

President, regarding the complaint against Dr Philip WONG, the CMI noted that he had failed to de-register with the Clerk his directorships in Elec & Eltek International Co. Ltd. and Rentokil Initial Hong Kong Ltd. within 14 days of his ceasing to be a director of these two companies, as required under the RoP. He had also failed to register his shareholdings of a nominal value greater than 1% of the issued share capital of Kate International Development Ltd. and Chapter Far East Ltd. within the specified period.

Furthermore, Dr Philip WONG had also failed to de-register his interest with the Clerk within 14 days after he ceased to own shares of Golden Force Pharmacy Ltd. Although he had registered with the Clerk his shareholdings of a nominal value greater than 1% of the issued share capital of Golden Force Group (International) Ltd. before the first meeting of the current legislative term, he erroneously de-registered his interest in the company on 7 May 2011 and did not re-register it until 2 June 2011. Dr Philip WONG explained to the CMI that his failure to comply with Rule 83 of the RoP was due to staff oversight.

President, concerning the allegations that Mr IP Kwok-him had failed to register with the Clerk his directorship in Modern Funeral Service Company Ltd., the CMI decided that follow-up action was not required because Mr IP had already resigned as a director of Modern Funeral Service Company Ltd. on 14 August 2007 before the commencement of the current legislative term.

President, as Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung and Dr Philip WONG have admitted their failure to comply with Rule 83 of the RoP under which they are required to register/de-register with the Clerk their registrable interests within the specified period, the CMI considered that the complaints were substantiated and decided that no further investigation was necessary in accordance with Paragraph (11) of the Procedure. The CMI also decided that a report shall be made to the Council in accordance with Rule 73 of the RoP.

President, the CMI considered that the late de-registration of registrable interests with the Clerk by Mr Timothy FOK, Mr Andrew LEUNG and Dr Philip WONG did not impede the public's monitoring of their interests, and their breaches were less serious than that of failing to register a registrable interest in terms of non-compliance. The CMI also considered that the registration of interest by Mr Timothy FOK, Mrs Sophie LEUNG and Mr Andrew LEUNG, though they were not required to do so, did not constitute a breach of Rule 83 of the RoP. However, the registration of such interests by the three Members may have misled the public that they had the interests.

President, the CMI noted that the purpose of establishing the Register of Members' Interests is to give public notification on a continuous basis of those pecuniary interests held by Members which might be thought to influence their actions, speeches or votes in the Legislative Council. For this reason, Rule 83(1) of the RoP may be construed as Members having a continuing obligation to maintain registration of a registrable interest throughout each legislative term. Although Mr Timothy FOK, Mrs Sophie LEUNG and Dr Philip WONG had registered with the Clerk their registrable interests during the specified period, they had failed to maintain registration of their shareholding interests as required under Rule 83(1) of the RoP.

President, the CMI noted that, under Rule 73(1)(e) of the RoP, in reporting to the Council, the CMI may make recommendations, including a recommendation to sanction under Rule 85 of the RoP. Rule 85 of the RoP provides that any Member who fails to comply with the registration of interests requirement under Rule 83 of the RoP may be admonished, reprimanded or suspended by the Council on a motion to that effect.

President, the CMI considered that there had been no information so far indicating the breaches of the RoP by Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung and Dr Philip WONG were deliberate. Neither was there any evidence showing that these breaches involved any conflict of interests with their role as a Legislative Council Member.

Based on these considerations and in view of the past experience, the CMI has decided not to recommend any sanction against Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung and Dr Philip WONG under Rule 85 of the RoP. In other words, recommendations would not be made by the CMI to the Legislative Council to admonish, reprimand or suspend these Members on a motion to that effect.

Nevertheless, President, the CMI notes the lack of care exercised by Mr Timothy FOK, Mrs Sophie LEUNG, Mr Andrew LEUNG, Mr CHIM Pui-chung and Dr Philip WONG in complying with the relevant rules of the RoP with regard to registration of Members' interests, and they have fallen short of the standards reasonably expected of a Legislative Council Member by members of the public. The CMI also notes that these five Members only registered/de-registered the relevant interests with the Clerk following the publication of the news reports referred to in the complaints against them. The CMI considers that as Legislative Council Members, they should have exercised due diligence and care to ensure compliance with the RoP, particularly after the tabling of the CMI Report to the Legislative Council earlier this year on the complaints against Mr LAU Wong-fat in relation to his failure to register interests with the Clerk pursuant to Rule 83 of the RoP. Mrs Sophie LEUNG, being the Chairman of CMI, should have been more vigilant in complying with Rule 83 of the RoP.

The CMI reiterates that although a Member may delegate his administrative work relating to the registration of interests to his staff, the Member should not solely rely on his staff to perform the duty to make registration as it remains to be his own responsibility to ensure that the relevant rules are complied with.

Lastly, in view of public expectation of the standards of behaviour of Legislative Council Members, the CMI again urges all Members to be alert at all

times in discharging their duty with regard to the registration and disclosure of their interests pursuant to the relevant rules of the Legislative Council to avoid bringing disrepute upon the Council and even serious consequences upon themselves.

With these remarks, I submit this report. Thank you, President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. The first question.

Planning and Development of Tin Shui Wai

1. **MR ALBERT HO** (in Cantonese): *President, on 11 February 1998, the Government indicated to the then Provisional Legislative Council that in 1982, it had reached an agreement with a private consortium on the acquisition of land at Tin Shui Wai and the development of a new town in the south of Tin Shui Wai. In this connection, will the Government inform this Council:*

- (a) *of the scope of acquisition and planned uses of the land involved in the agreement (with illustrations); the area of the land, the amount payable to the private consortium concerned, and the fee charged for regranting 38.8 hectares of land back to that private consortium for commercial and residential development;*
- (b) *of the restrictions imposed by the agreement on the development of the new town in the south and the northern part of Tin Shui Wai, and whether such restrictions were no longer in effect in 2002; and*
- (c) *given that it has been reported that the agreement restricted the allocation of land at Tin Shui Wai by the Government for developing shop premises and markets, of the number of public rental housing (PRH) tenants at Tin Shui Wai at present, and what measures the Government will adopt to provide affordable foods and daily*

necessities to those tenants, for example, whether it will consider identifying sites near the PRH estates at Tin Shui Wai for constructing PRH markets and shopping malls to provide shop premises at a lower rental level, or leasing out vacant lands on short-term tenancy for the development of bazaars for small business operators?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, in order to develop the Tin Shui Wai area thereby increasing housing supply, the Government entered into an agreement with the Mightycity Company Limited and the Tin Shui Wai Development Limited (TSWDL) in 1982 (the Agreement). According to the Agreement, the Government would purchase about 488 hectares of land in Tin Shui Wai from TSWDL and develop 169 hectares of the 488 hectares into a new town of a population of some 135 000. The remaining 319 hectares of land would be retained by the Government as land reserve, the use and disposal of which was at the discretion of the Government. The Agreement also set out that the Government would grant 38.8 hectares of the 169 hectares to TSWDL for residential and commercial development; the Government would develop the remaining 130.2 hectares for PRH and subsidized housing to accommodate a population of about 67 500, and would provide the necessary government, institution and community facilities, together with some commercial accommodation for neighbouring shops.

I reply to the three parts of the question as follows:

- (a) Pursuant to Mr Albert HO's request, I have shown in the attached Tin Shui Wai Outline Zoning Plan at Annex the locations of the following, namely the 169 hectares of land for the development of a new town of a population of some 135 000 and the 38.8 hectares out of it granted to TSWDL for private residential and commercial use as well as the 319 hectares of land retained as land reserve at the time. Such Government land reserve has subsequently been mainly developed as the current Tin Shui Wai North since the 1990s.

At the time, the Government purchased the 488 hectares of land from TSWDL at a price of \$2.258 billion; and after deducting the

\$800 million premium TSWDL had to pay for the 38.8 hectares, the Government would need to pay \$1.458 billion.

- (b) Apart from the land use arrangements for the 169 hectare development zone (that is, the 38.8 hectares to be developed by TSWDL for residential and commercial use and the remaining 130.2 hectares to be developed by the Government for PRH, subsidized housing, public facilities and some commercial accommodation for neighbouring shops), the Agreement also imposed a restriction on the commercial accommodation for neighbouring shops, stipulating that the provision of such commercial accommodation for neighbouring shops should not render the commercial accommodation to be provided by TSWDL on the 38.8 hectares not commercially viable. The original English text in the Agreement is "some commercial accommodation for neighbourhood shops being provided only to such extent as is calculated not to render the commercial accommodation to be provided by TSWDL on the 38.8 hectares not commercially viable". The Agreement, including the above restriction, was revoked in 2002.
- (c) Regarding the report that the Agreement restricted the allocation of land in Tin Shui Wai by the Government for developing shops and markets, I would like to point out that the Agreement had never restricted the planning and use of the 319 hectares retained by the Government as land reserve at the time, which has been mainly developed as the northern area of Tin Shui Wai. As for the 169 hectares of land within the current southern Tin Shui Wai, the restriction on the commercial accommodation for neighbouring shops in the development area has no longer existed since the revocation of the Agreement in 2002.

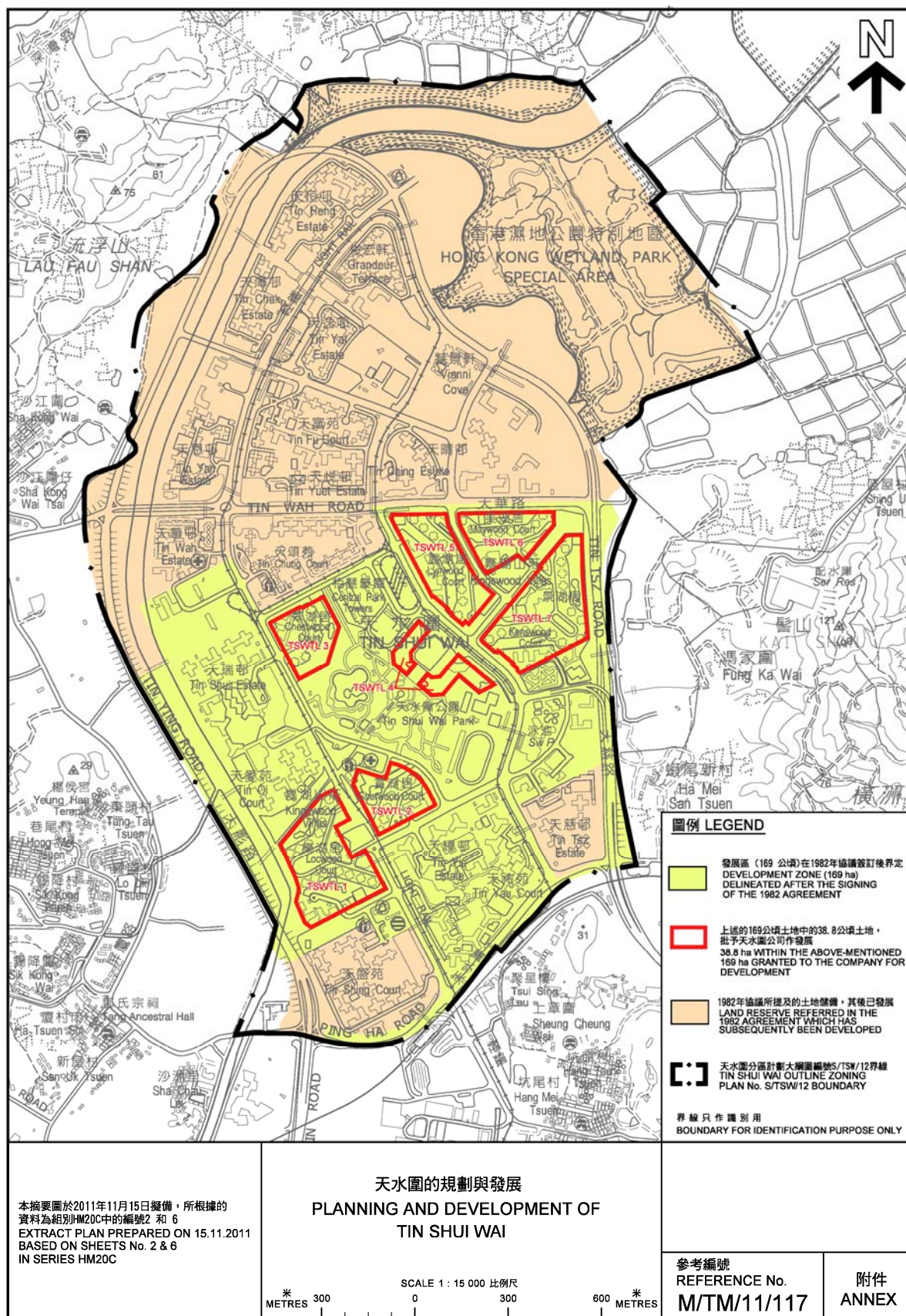
According to the information provided by the Housing Department (HD), there are at present about 56 500 PRH households living in Tin Shui Wai. When developing the PRH estates in Tin Shui Wai, the Hong Kong Housing Authority (HA) has reviewed the

community and retail facilities in the district, so that there is provision of facilities such as restaurants, supermarkets, markets, and so on, within each estate or in their vicinity to meet the daily needs of residents.

Construction of public markets falls within the purview of the Food and Health Bureau. According to the Food and Health Bureau, various factors should be considered when planning for the construction of public markets, including the population and demographic mix in the district, local ancillary facilities, market facilities nearby, as well as the number and distribution of fresh provision shops in the vicinity, and so on. Also, the Food and Health Bureau has to take into account the long-term viability of the market and to ensure the prudent use of public resources. At present, there are a number of private markets and supermarkets as well as markets operated by the HD in Tin Shui Wai. In addition, there are shopping malls and various kinds of shops in a number of housing estates, providing residents with daily shopping and dining facilities. Therefore, the Food and Health Bureau currently has no plan to construct any new market in Tin Shui Wai.

Currently, the Food and Environmental Hygiene Department (FEHD) has no plan to set up any new hawker bazaar, open-air bazaar or flea market. As members of the public are concerned about the environmental hygiene problems and other nuisances that might be caused by on-street hawking, any proposal regarding open-air bazaar should more appropriately be raised by the locals with the general support of local residents and people working in the district as well as the agreement of the local District Council. The Government keeps an open mind regarding such suggestion. The FEHD stands ready to provide, in collaboration with relevant departments, appropriate assistance to project proponents if they can identify suitable sites with the support of the local District Councils and satisfy the requirements on food safety and environmental hygiene.

Annex



MR ALBERT HO (in Cantonese): *President, when developing the Tin Shui Wai New Town, in order to protect the interests of the developer, the Government went so far as to enter into a private agreement to restrict the provision of commercial facilities in the district by the Government and other private companies. This is anti-competitive conduct and disregard of the interests of the grassroots. I think this is most unjust and ought to be condemned. I also hope that such instances will never occur again.*

However, as the Secretary said in the main reply, the agreement was revoked in 2002. Tin Shui Wai is still one of the poorest districts in Hong Kong but it turns out that in the whole district, these commercial facilities — facilities for the provision of markets and shopping malls — are still monopolized by the original single developer, that is, the Cheung Kong (Holdings) Limited and even the HA and The Link REIT in the district. As a result, retail prices in the district are 10% to 20% higher than those in the urban area. For this reason, many members of the public would travel to Yuen Long to do their shopping there.

President, the Secretary said in the final part of the main reply that the Government does not plan to make improvements and if anyone can identify suitable sites, they can put forward their proposals. Given that these members of the public in these poor districts are in hot water but she is still turning a blind eye to them, may I ask the Secretary if government officials are ashamed of themselves? Does she think she has fulfilled her responsibilities?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, first, I must respond to one point made by Mr Albert HO, that is, his claim that in the agreement the Government entered into with TSWDL in 1982, there was a provision that protected the interests of the private developer. I have to point out here that after entering into the agreement back then, the Government issued a press release in 1982, stating that the whole arrangement was intended to bring about a timely and effective increase in housing supply to meet the needs of the population in Hong Kong because at that time, the Government could already foresee that by 1987 or 1988, the new towns developed earlier on would reach saturation. To supply land within a short period of time to meet the housing needs of the Hong Kong population was the primary factor leading to the signing

of the agreement. Therefore, the Government's intention was not to protect the interests of any private developer.

In fact, we are still facing the same problem nowadays. We still have to strive continually to develop land to meet the needs of the public. Mr HO said just now that he hoped instances of signing agreements with developers unilaterally would not occur again. Mr HO can rest assured that we will handle this kind of matters very prudently and for this reason, we have carried out extensive consultation. In further developing the North East New Territories and North West New Territories, we will definitely take into consideration the views of society on this kind of developments in the past two or three decades.

By 2002, the agreement and all the restrictions in the agreement no longer existed, so it is difficult to prove that the situation within Tin Shui Wai as stated by Mr HO is directly related to the agreement or some of the provisions therein. In fact, as I said in the main reply, nowadays, be it in southern Tin Shui Wai or northern Tin Shui Wai, there are privately developed shopping malls and markets, as well as markets and shopping malls planned by the HA for the following housing estates: Tin Chung Court, Tin Shing Court, Tin Tsz Estate, Tin Wah Estate, Tin Yiu Estate, Tin Shui Estate in southern Tin Shui Wai and Tin Ching Estate, Tin Yan Estate and Tin Chak Estate in northern Tin Shui Wai. These shopping malls and markets are owned and managed either by the HA or The Link REIT.

Just now, Mr HO asked a question about the poverty problem in Tin Shui Wai. In the past few years, various Policy Bureaux and departments of the Government have done a great deal to help the poor in Tin Shui Wai. Due to the time constraint, I am not going to reply in detail here. If Mr HO is interested, in fact, we have a published document that gives an account of the measures taken by various government departments to target at under-employment and help low-income people in Tin Shui Wai.

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

MR ALBERT HO (in Cantonese): *My supplementary question just now mainly queries why the Government does not take the initiative to identify sites for the*

construction of municipal markets. Have the authorities been negligent in their duties? The Secretary did not answer this in any way.

PRESIDENT (in Cantonese): Mr HO, that was not the question asked by you just now. What you asked was whether or not the Government was ashamed of themselves on account of the poverty situation in Tin Shui Wai. In this connection, the Secretary has already given a reply. Nevertheless, Secretary, to the follow-up question asked by Mr HO just now, do you have anything to add?

SECRETARY FOR DEVELOPMENT (in Cantonese): In fact, I have already said in my main reply that under the existing policy, after taking into account various factors, the relevant Policy Bureau has no plan to construct any new market in Tin Shui Wai.

MR LEE CHEUK-YAN (in Cantonese): *Just now, the Secretary related the story of how hegemonic property developers had been fattened. Although she said that the aim was to release more land for the provision of housing, in the final analysis, this gave rise to an agreement that restricted commercial competition on Government land. However, these restrictions were removed in 2002.*

One very absurd situation is that Tin Shui Wai is the poorest district but it is also the most expensive one — the prices of goods there are the highest. Why? This is precisely because of the situation described by the Secretary just now, that is, the whole district is owned or managed by the Cheung Kong (Holdings) Limited and The Link REIT. It seems Members think that The Link REIT is a charitable organization, but do Members know that The Link REIT always bullies small businesses, oppresses small businesses and drives them away? Now, it is even driving all the commercial tenants out of markets, giving them no chance of survival there. Then, it brings supermarkets into these markets.

It seems the Secretary's reply means that with supermarkets, there is no need to build municipal markets. If that is true, all markets throughout Hong Kong can close because there are supermarkets all over Hong Kong

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

MR LEE CHEUK-YAN (in Cantonese): *My supplementary question is: Since Tin Shui Wai is so poor but the prices of goods there are the highest, in particular, given that the Government is now saying that it wants to help counter inflation, may I ask the authorities if they have formulated policies to pinpoint this problem? Has the Government targeted at the situation of Tin Shui Wai being monopolized by The Link REIT and the Cheung Kong (Holdings)Limited and devised such counter-measures as building municipal markets, so that the monopolization can be broken by government intervention? Therefore, may I ask the Food and Health Bureau if it will do so, so that the Government as a whole can really counter inflation and solve the problem of high prices of goods in Tin Shui Wai?*

PRESIDENT (in Cantonese): Your question is already very clear. Secretary, please answer by focusing on measures against the alleged monopolization.

SECRETARY FOR DEVELOPMENT (in Cantonese): First, in the main reply, I have already stated in what circumstances and after considering what factors the Administration would provide public markets, so I do not wish to repeat them here.

Second, I did not say in the main reply that if there were supermarkets, there would be no need to provide markets. In fact, in the public housing estates in southern Tin Shui Wai and northern Tin Shui Wai mentioned by me earlier on, instances of shopping malls and markets existing side by side in the same housing estate or HOS court can be found. There are a total of four markets in southern Tin Shui Wai and northern Tin Shui Wai, three of which are managed by The Link REIT and the other by the HD.

Of course, I understand Mr LEE Cheuk-yan's comment that commercial activities are not charitable activities. Precisely for this reason, according to the information provided by the HD, the shopping malls or markets owned or managed by The Link REIT are operated according to commercial principles, just like other private companies would, and The Link REIT will make appropriate

responses in light of the economic and market conditions, for continued operation in the market.

Due to the fact that the shopping malls of The Link REIT are located in public housing estates and their customer base consists mainly of residents in housing estates, the facilities under its management should suit the needs and affordability of residents in housing estates. The authorities believe that The Link REIT will continue to communicate with tenants and public housing residents, so that services meeting the needs of public housing residents can be provided.

MR LEE CHEUK-YAN (in Cantonese): *President, she did not answer my question.*

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

MR LEE CHEUK-YAN (in Cantonese): *She admitted that monopolization exists, saying that The Link REIT operates three markets but she did not respond as to how the monopolization can be broken.*

PRESIDENT (in Cantonese): Do you mean to ask what measures the Government has taken to target at the monopolization that you referred to? Secretary, do you have anything to add?

SECRETARY FOR DEVELOPMENT (in Cantonese): In the main reply, I talked about how the authorities decide when, in what circumstances and in which districts they will provide public markets, but the factor of monopolization that Mr LEE talked about just now was not mentioned therein.

MR WONG KWOK-HING (in Cantonese): *President, the reply of the Government tells us clearly how the present situation of the markets and residents in Tin Shui Wai is like. It is obvious that before 2002, due to the need for supply*

of land, an agreement involving collusion between the Government and business was reached but after 2002, the agreement no longer exists but the Government still maintains this state of monopolization.

It is stated in part (c) of the Government's main reply that on the one hand, the Government has no plan to construct any new market and on the other, it has no plan to set up any new hawker bazaar (that is, flea market). Secretary Carrie LAM said that the Policy Bureau concerned (that is, the Food and Health Bureau) had no plan to construct any new market. In view of this, may I ask the Secretary when and in what circumstances the Government will consider the public's strong demand for municipal markets? In fact, the District Council concerned and residents of Tin Shui Wai have already voiced their strong demands, so why can the Government still not hear them?

Although Secretary Dr York CHOW is seated behind Secretary Carrie LAM, this Secretary said that he could not hear

PRESIDENT (in Cantonese): Mr WONG, you have already asked your supplementary question. Please let the Secretary reply.

SECRETARY FOR DEVELOPMENT (in Cantonese): I can only repeat what I said in the main reply, that is, when planning to construct new public markets, the authorities have to consider various factors and I think Mr WONG does not want me to repeat those factors. However, I must clarify that since several Members have all made some opening remarks before asking their questions, if I do not clarify the comments made in the opening remarks, they will be mistaken as facts.

Mr WONG said that before 2002, the Agreement and restriction had not been revoked and so many things that he does not wish to see happened, but I have already explained that this is not the case. The restriction in the Agreement was never applied on the over 300 hectares of land in northern Tin Shui Wai, so the planning of northern Tin Shui Wai had nothing to do with the Agreement. Even in southern Tin Shui Wai, markets are also provided. The design of the HA at that time also provided for markets.

According to the information on hand, when the Planning Department carried out land use planning in 1999, it also considered if land had to be reserved for the construction of public markets. As Members all know, 1999 was the era of the Regional Council and I believe the Regional Services Department then also considered the various factors mentioned by me just now and considered it unnecessary to provide public markets in the Tin Shui Wai area.

MR WONG KWOK-HING (in Cantonese): *President.*

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

MR WONG KWOK-HING (in Cantonese): *No. She did not reply as to when the Government will consider the construction of public markets. I pointed out just now that the District Council concerned and the public had voiced such a demand but Secretary Carrie LAM said that*

PRESIDENT (in Cantonese): You need only repeat your supplementary question briefly. Secretary, do you have anything to add?

SECRETARY FOR DEVELOPMENT (in Cantonese): I may perhaps add that this is not a question of when, rather, a host of factors have to be considered.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I take my hat off to the Secretary for her frankness in stating that she had not considered the factor of monopolization, and so she would not consider providing public markets in Tin Shui Wai. However, I wonder if the Secretary knows that at present, residents in Tin Shui Wai are in hot water and that goods in the area really cost more than those in other areas.*

Given that the grievance of the public is very great, may I ask the Secretary if she will carry out planning on the entire Tin Shui Wai anew, so that there will

be more space to provide more shopping venues, such as shopping malls or markets, to the public, so that the prices of goods will decrease as a result of greater competition and the public will not have to bear the high prices of goods? I hope the Secretary can give a full reply in this regard.

SECRETARY FOR DEVELOPMENT (in Cantonese): I notice that Mr LEUNG asked me if "I" will carry out planning anew, so I now give this response in my capacity as the Secretary for Development. From the angle of district development, there are still 11 Government, Institution or Community sites in Tin Shui Wai. Of these, some have been designated for specific uses, but some are vacant with no designated use. Therefore, as the Secretary for Development, from the angle of land planning and use, if various factors mentioned by me just now have been taken into consideration under a policy and it is concluded that certain public facilities have to be provided, I will surely work towards this end. This is the reply I give to Mr LEUNG in my capacity as the Secretary for Development.

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

Licensed Newspaper Stalls

2. **MR WONG TING-KWONG** (in Cantonese): *President, some newspaper hawkers who mainly rely on selling cigarettes and newspapers have relayed to me that their business is worsening because of the significant increase in tobacco duty by the Hong Kong Government in recent years, as well as the emergence of a large number of free newspapers and competition from convenience stores. In this connection, will the Government inform this Council:*

- (a) *of the existing number of licensed newspaper hawkers in Hong Kong; and whether the authorities had issued new licences for newspaper stalls in the past three years; if they had, of the number of licences issued each year;*

- (b) *in respect of licensed newspaper hawkers, whether the authorities have any long-term policy on matters such as business environment and the issuance of licence, and so on; if they have, of the details; if not, the reasons for that; and*
- (c) *apart from relaxing the restriction last year to permit the sale of additional commodities such as bottled water, and so on, at newspaper stalls, whether the authorities will consider further permitting newspaper hawkers to sell packaged snacks and make use of the space at their stalls for letting out advertising space to supplement their income; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, street hawking has a long history in Hong Kong. Although such activities may, to a certain extent, facilitate the public to shop, they may also cause environmental hygiene problems and noise nuisance as well as obstruction to public passageways. For many years, the Administration's policy has been to properly regulate the hawking activities of licensed hawkers and take enforcement action against illegal hawking.

In 2009, in response to the licensed newspaper hawkers' concern over the increase in tobacco duty that may result in income loss, as well as their urge for the Government to help them improve their business environment, the Food and Environmental Hygiene Department (FEHD), having consulted the trade, relaxed the relevant restrictions by expanding the list of additional commodities permitted for sale to 12 items. On top of the eight commodities already approved (that is, tissues, cigarettes, cigarette lighters, sweets, chewing gums, preserved fruits, battery cells and pens), four more types of items, namely bottled distilled water, trinkets, lai-see packets and cell phone cards, have been added to the commodity list. All licensed newspaper hawkers are currently permitted to sell these 12 items of additional commodities under their licences. The restriction on area used for the sale of additional commodities is also relaxed by expanding the space limit from not more than 25% to not more than 50% of the total stall area. In addition, the FEHD allows licensed newspaper hawkers to display within the confines of their stalls lawful advertisements related to commodities permitted for sale under the licence without making further application. There is no

restriction on the total space used for display of advertisements, though considering that public passageways should be obstruction-free, advertisements should not be extended beyond the confines of the stalls.

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

- (a) At present, there are 540 licensed newspaper hawkers in Hong Kong. The Administration has not issued any new newspaper hawker licence over the past three years.
- (b) Since the early 1970s, the former Urban Council had generally stopped issuing new hawker licences and imposed stringent restrictions on succession to and transfer of hawker licences already issued, with a view to gradually reducing the number of hawkers by natural attrition. To ensure that the hawker licensing policy meets public expectation, the Food and Health Bureau and the FEHD conducted a review on the hawker licensing policy earlier and decided, after consultation with the Legislative Council Panel on Food Safety and Environmental Hygiene (with Members' support received at the meeting held on 14 April 2009), District Councils, hawker associations and relevant stakeholders, to re-issue new Itinerant (Frozen Confectionery) Hawker Licences, to relax succession and transfer arrangements for "Dai Pai Tong" licences without compromising environmental hygiene, and to make better use of some vacant fixed pitch stalls in response to different views in the community on hawking activities, including the aspirations for preservation of local heritage. Given the growing number of newspaper and magazine retail outlets in recent years, as well as the diverse public views over on-street trading activities, the Administration has no intention of issuing new newspaper hawker licences, but will process the applications for succession to and transfer of newspaper hawker licences in accordance with the established policy.
- (c) Newspaper Hawker Licences are issued mainly for the sale of newspapers and magazines. Given that the number of additional items permitted to be sold at newspaper hawker stalls has increased to 12, and licensed newspaper hawkers may display lawful

advertisements relating to the commodities permitted for sale within the confines of their stalls, the Administration considers that the relaxation measures have taken into full account the business environment of newspaper hawker stalls. That said, the FEHD will continue to communicate with the representatives of licensed newspaper hawkers to gauge their views on the operational arrangements, and consider their proposals on improving their operating environment.

MR WONG TING-KWONG (in Cantonese): *President, just now, the Secretary mentioned that there are stringent restrictions on, among other things, succession to newspaper hawker licences already issued and over the past three years — actually nearly 10 years — no new licences have been issued; and the Secretary also mentioned that newspaper hawker stalls are part of the collective memories of Hong Kong culture. We find that the number of newspaper hawker stalls in new districts is extremely small. Will the Administration consider issuing an appropriate number of newspaper hawker licences for suitable locations in these new districts?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, as new retail outlets have very often been established in new districts, I believe the demand for this is not great. Secondly, given that newspaper hawkers already find it difficult to operate in urban areas, I believe it will not be easy for them to operate in new districts either. Hence, we have no such consideration for the time being. Certainly, if there are requests in this respect, we will consult the District Councils of the respective districts and hold discussions on siting before making a decision.*

MS AUDREY EU (in Cantonese): *President, I am very disappointed with the Secretary's reply. President, I would like to say a few words about a case before asking the Secretary a question in relation to policy. The case is about a newspaper hawker who has been operating a newspaper hawker stall in Sheung Shui for decades. Despite suffering from an emotional illness himself and having family members suffering from mental illnesses, he is the sole breadwinner of his family. Not only does he have to support his parents, he has*

to support his daughter and brother as well. President, he has been persistently prosecuted by the Government, especially during the past two years, and he was last prosecuted in August. Not only was he prosecuted, but all the newspapers in his stall were confiscated.

President, his stall is very small. Let me show you. His stall on the street is just this small, only enough to accommodate two persons. He only sells newspapers and magazines and nothing else, not even the preserved fruits mentioned by the Secretary. Although the Social Welfare Department (SWD) has issued him a referral letter requesting the Secretary to grant him a licence and I have campaigned for him for a very long time, the reply he has got is that there are hygiene and traffic problems, as mentioned in the Secretary's reply just now. In fact, he has followed the FEHD's instruction in relocating his newspaper stall. But he is still unable to obtain a licence. With the passage of four decades, the Government is still adhering to its policy of not issuing licences.

According to the hawker policy in the past, consideration might be given on compassionate grounds. For instance, some people with disabilities or people suffering physical disabilities after traffic accidents might be allowed to operate newspaper stalls outside restaurants. But the Secretary is still repeating the traffic and hygiene problems, and so on, in his reply today. May I ask the Secretary whether he can at least review this policy? I was very pleased that when I brought up a case concerning some bootblacks in Central with him years ago, he considered it at least possible for licences to be re-issued and he had already issued the licences to the relevant bootblacks. But in this case cited by me, the size of the stall is just this small. Does the Government want to make it impossible for him to support his living, thus compelling his entire family to apply for Comprehensive Social Security Assistance? Can the Government at least reconsider the hawker policy on compassionate grounds? In particular, the SWD has already issued him a letter in support of his application. So, can the Secretary consider granting him a licence in such consideration?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I think it is very difficult for me to make a judgment on an individual case here. But policy-wise, if we consider it really necessary to increase the number of hawkers in a certain district, we still have to consider the locations and the commodities to be sold. We have to pay attention to different views expressed by various

districts. Sometimes, we have to consult the District Councils in various respects before making a decision. As regards the issuance of licences to bootblacks as mentioned by Ms EU just now, the relevant decision was made by us after extensive discussions at the district level and discussions by the Central and Western District Council.

MS AUDREY EU (in Cantonese): *The Secretary has not answered my supplementary question. President*

PRESIDENT (in Cantonese): Is it about the compassionate grounds?

MS AUDREY EU (in Cantonese): *..... my question was not about which District Council*

PRESIDENT (in Cantonese): You need only repeat your supplementary question.

MS AUDREY EU (in Cantonese): *President, my supplementary question is very clear. My question for the Secretary is whether the Government will consider reviewing the hawker policy again and at least issuing licences on compassionate grounds to people who have been recommended by the SWD. The issue of where the stalls can be operated is yet another matter.*

PRESIDENT (in Cantonese): The Member's supplementary question is very clear. Secretary, please.

MS AUDREY EU (in Cantonese): *President, this issue should be dealt with by the Secretary, not District Councils.*

PRESIDENT (in Cantonese): Secretary, will the Government consider compassionate grounds as a justification for issuance of licences?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, insofar as the issuance of hawker licences is concerned, we already held a comprehensive discussion in 2009 and, in the light of the concern expressed by various social strata and the Legislative Council about the hawker policy at that time, introduced a series of changes, such as policy change in respect of Itinerant (Frozen Confectionery) Hawker Licences and some succession matters. However, no special discussion was held on the issuance of licences on compassionate grounds. I must emphasize that we rarely make a decision solely on compassionate grounds in issuing hawker licences. Moreover, we have to decide the places where hawkers are allowed to operate their business and stipulate the relevant arrangements. For instance, some vacant hawker stalls can now be found in every district. If someone wants to be a hawker and is eligible to apply for a licence, we can certainly examine, from a compassionate angle, whether he should be allowed to own one of the vacant stalls rather than operating a stall in a place of his own choice.

MR WONG YUK-MAN (in Cantonese): *President, we can use the expression "driven into desperation" to describe the Government's hawker policy. Although all licensed hawkers are currently allowed to continue their operation, the number of hawker licences has been on the decline. We have pleaded with the Under Secretary at panel meetings with all sorts of soft tactics in the hope of allowing elderly hawkers to continue their operation because, if driven into desperation, they can only wait for their death.*

Let me cite a very simple example. At the present stage, the Government's hawker policy focuses on "management" only. But in the long run, it seeks to be driving hawkers into desperation. As for the newspaper hawkers mentioned by the Secretary, all convenience stores have

PRESIDENT (in Cantonese): Mr WONG, please be concise and do not make a long statement.

MR WONG YUK-MAN (in Cantonese): *the major consortia Ms EU was simply wasting her time in asking the Government about compassionate grounds in her question just now. She is really innocent. How will licences be issued to newspaper hawkers on compassionate grounds? The Government is now determined to drive them into desperation*

PRESIDENT (in Cantonese): Please be concise.

MR WONG YUK-MAN (in Cantonese): *My question for the Secretary is: The Secretary has not responded to Mr WONG Ting-kwong who mentioned advertisements just now, has he? Has the Secretary responded to the Member as to whether newspaper hawker stalls can display advertisements to earn more income? The Chairman of the Coalition of Hong Kong Newspaper and Magazine Merchants has commented that even the Government will run advertisements or advertisements promoting tourism. He thus asked whether newspaper hawkers can be allowed to display such advertisements in a conspicuous place in their stalls so that they can earn more income.*

My supplementary question is that the major income of newspaper hawkers basically comes from selling cigarettes, but the Government has increased tobacco duty for two years in a row. As everybody knows, and the Government will also know if it has conducted any survey or study, selling newspapers is no longer a lucrative business because there are so many free newspapers for the taking, and newspaper hawker stalls you see. He is going to answer the question

PRESIDENT (in Cantonese): Mr WONG, you have raised your supplementary question. Your question for the Government is

MR WONG YUK-MAN (in Cantonese): *The Government will not issue any more new licences. So, should the Government retain the existing newspaper hawker stalls rather than only regulating them? Will the authorities*

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

MR WONG YUK-MAN (in Cantonese): *My supplementary question is: Will the authorities relax*

PRESIDENT (in Cantonese): Are you talking about advertisements?

MR WONG YUK-MAN (in Cantonese): *Yes, I am talking about the display of advertisements because the Secretary has not answered the supplementary question raised by Mr WONG Ting-kwong just now.*

PRESIDENT (in Cantonese): Mr WONG, if you have raised your question, please let the Secretary give a reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I have pointed out in the main reply that, insofar as advertisements are concerned, we have discussed with representatives of relevant hawkers since the last increase in tobacco duty on relaxing the restrictions on the advertisements currently displayed by them. However, the content of the advertisements must be related to the 12 items permitted for sale. I have also noticed that many newspaper hawkers are displaying a lot of advertisements. It can be said that the advertisements are mostly related to magazines, that is, the items permitted for sale.

PRESIDENT (in Cantonese): The supplementary question raised by the Member just now is: Will the Government relax the restrictions to permit newspaper hawkers to display advertisements unrelated to the items permitted for sale, such as advertisements on promoting tourism for the Government? Can the Government answer this question?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have explained to the trade that, according to the legal advice we have sought, newspaper hawkers are not allowed to display advertisements unrelated to the commodities permitted for sale.

MS STARRY LEE (in Cantonese): *President, all the newspaper hawkers must be very disappointed when they heard the Secretary's reply just now. The Secretary's comment in part (c) of the main reply that "Given that the number of additional items permitted to be sold at newspaper hawker stalls has increased to 12 the Administration considers that the relaxation measures have taken into full account the business environment of newspaper hawker stalls" all the more indicates that the Administration does not entirely understand the situation currently faced by newspaper hawkers.*

President, newspaper hawkers are in general members of the grassroots and primarily elderly people. This is the first point. Second, the current business environment is indeed extremely poor. The two major reasons are: First, the increase in tobacco duty is so steep that there has been a sharp fall in their business; and second, the entire market is flooded with free newspapers

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

MS STARRY LEE (in Cantonese): *To my understanding, the trade proposed to the Government in August this year further relaxation in addition to the 12 commodities permitted for sale — for instance, only drinking water is currently permitted for sale, and soft drinks are prohibited — the trade queried whether soft drinks could be included in the list of commodities permitted for sale. Or, despite the fact that cell phone cards are currently permitted for sale, the new cell phone cards used by iPhone are not included. With respect to these proposals that keep abreast of the times, may I ask the Secretary whether he will agree to expeditiously relaxing the rules to enable newspaper hawkers to sell more commodities?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, having gained an understanding of hawkers' concern subsequent to a discussion with their representatives in May this year, the FEHD has told hawkers that, should they wish to make any requests for increasing the types of consumer goods permitted for sale, they may inform the FEHD. As of today, the FEHD has not received any proposals from them in this connection. I believe the best approach is for the representatives of newspaper hawkers to continue discussions with the FEHD.

In this respect, the problem is that the space available at newspaper hawker stalls is limited. The quantity of commodities they can display at their stalls is most crucial. If the commodities for sale require other facilities, for example, the placement of refrigerators to enable the sale of soft drinks, it might not be possible within the existing confines of their stalls. Moreover, doing so might increase the risk of illegal occupation of other public places. Therefore, we have to discuss this very carefully. But we agree that, should newspaper hawkers consider it necessary to include additional types of commodities for sale, the FEDH has agreed to hold discussions with them again.

PRESIDENT (in Cantonese): Third question.

Litigations to Which Government was a Party

3. **MR RONNY TONG** (in Cantonese): *President, I am trying to find my microphone. Sorry, I have taken up a few minutes of your time.*

President, it has been reported recently that the Hong Kong SAR Government has lost in a number of high-profile criminal and judicial review (JR) cases, resulting in the Government having to pay large amounts of legal costs. In this connection, will the Government inform this Council:

- (a) *of the respective types, outcome and win-lose ratios of litigations to which the Government was a party in each of the past 10 years, including criminal and JR cases in the High Court and District Court, but not those in Magistrates' Courts;*

- (b) of the aggregate amount of public funds expended by the Government on the cases in part (a) in each of the past 10 years, and the amount for paying the fees of the attorneys of the winning parties among such public funds, together with a table setting out such figures in detail; and*
- (c) whether the authorities have analysed the aforesaid data to review and examine if the quality of the legal advice received by the SAR needs to be enhanced, and if the policy stances have deviated from the law; if such an analysis has been made, of the outcome; if not, the reasons for that?*

SECRETARY FOR JUSTICE (in Cantonese): President, there are established principles in respect of the appropriation of legal costs borne by parties involved in prosecution and litigation cases. In the context of prosecution, the general rule is that an acquitted defendant is entitled to be compensated by the prosecution of his/her costs, and in case of an appeal, also the costs of the appeal. On the other hand, in case of conviction or dismissal of the defendant's appeal, save in exceptional circumstances, it is not the practice of the prosecution to seek costs from the defendant. This is because in a criminal case the defendant enjoys the constitutional right of presumption of innocence and the prosecution bears the burden of proving the offence. Whilst the majority of prosecutions have resulted in convictions, there still remain a number of less successful prosecutions where the Government has to bear the costs of the defendants.

As for civil cases (including JR cases), the Government could either be the plaintiff or the defendant. The general rule on costs is that the successful party is entitled to recover its costs from the unsuccessful party. However, in exceptional circumstances, the Court may in its discretion order each party to bear its own costs or that the successful party is entitled to recover only part of its costs from the unsuccessful party.

The expenditure for court costs awarded against the Government is contingent upon a number of factors, for example, the outcome of the trials and appeals, merits of the case, the orders made by the Courts, the progress and result of the relevant cost negotiations, and so on. The level of payment therefore varies from year to year.

On the three parts of the question raised by Mr Ronny TONG, my reply is as follows:

- (a) Based on information readily available, the annual number and outcome of criminal cases, JR and civil cases heard in the Court of Final Appeal, the High Court, the District Court and various Tribunals (as applicable) in the past 10 years in which the Government was involved, classified according to the levels of Court at which the cases were heard, is set out in Annex A.

As noted from the figures, for criminal cases, the conviction rates at the District Court and Court of First Instance levels remain relatively stable at about 70% excluding guilty plea (or about 90% if guilty plea is included) with a rising trend in the past 10 years. For appeals from the defendants (including appeals against sentence), about 70% were dismissed at the Court of Appeal level; as regards the Court of Final Appeal level, about 85% of the applications for leave to appeal were dismissed, while the success rate for the substantive appeals varied from year to year.

For the JR cases, the outcome of about 80% of the cases in recent years was in favour of the Government. For civil cases other than JR, the percentage of cases with favourable outcome is about 79% in the Court of Final Appeal, about 80% in the Court of Appeal and about 79% in the Court of First Instance. As for the District Court and the various Tribunals, the rate is about 82% and 90% respectively.

- (b) Government expenditure in handling prosecution and litigation cases mainly involves internal staff costs for handling such cases, costs for outside counsel service acting on behalf of the Administration where a case is briefed out to counsel in private practice, as well as the payment of court costs (if applicable).

We have not maintained expenditure statistics on internal staff for handling the cases in question, although when a costs order is made in favour of the Government in specific cases, the Department of

Justice (DoJ) will include our staff costs, plus the costs for outside legal service (if applicable), in our claim for costs.

As for expenditure information on court costs and briefing out costs for court cases, they are calculated on a financial-year basis. For the payment of court costs, we only maintain the annual aggregate number of cases and expenditure covering cases handled at all court levels, and the figures are set out in Annex B.

As for the annual aggregate expenditure for briefing out (including expenditure for representation for the Government in Court on prosecution and litigation cases, and for the provision of other legal advice generally), it is set out in Annex C. The figures in Annex C do not include Magistracies cases.

As noted from the figures, the expenditure in respect of briefing out has remained relatively steady in recent years, while payment of court costs varied from year to year. The annual figures vary due to a number of reasons. Whether the Government is required to pay costs to a large extent also depends on the merits of the case and the outcome as found by the Court, and the amount of court costs to be paid will depend on the individual cases. Generally speaking, the more complex a case, the higher the legal costs given the level of legal representation required and the longer duration of the trial.

- (c) The prosecution policy, which has been consistently applied, is that a prosecution is only to be brought if there is a reasonable prospect of conviction. That said, after court proceedings commenced, the outcome is to be decided by the Court, and a case which appears strong on *prima facie* evidence may turn out to be not as strong for various reasons: evidence may be ruled inadmissible, witnesses may not be available or may not come up to proof, the credibility of those who testify may wither under cross-examinations. As a matter of fact, given we still maintain the arrangements under the common law where the prosecution will not interview witnesses (other than expert witnesses) before trial, there is a certain degree of risks regarding the reliability of witnesses. Moreover, the defendants, who enjoy the

right of silence and are generally under no duty to disclose their case to the prosecution before trial, may present evidence or defences during the trial which are not known to the prosecution in advance.

In respect of civil cases where the Government is the plaintiff, the DoJ will advise on the merits of the cases and whether legal proceedings should be commenced taking into account a host of factors including client's instructions, the legal principles, case implications and costs. In respect of civil cases where the Government is the defendant, the DoJ will assess the merits of defending the cases and will defend or negotiate a settlement as appropriate. Moreover, there are cases which involve important points of law or important legal principles. In such circumstances, the Government must press ahead to seek the Court's clarification on important points of law. Furthermore, in certain cases, complicated issues and points of law are involved and different lawyers (or even Judges) may have different opinion on such matters. Under such circumstances, we are duty-bound to adduce evidence and present arguments that are of relevance to the Court, so as to enable the Court to make a ruling on the legal principles or view points through the judicial process. The DoJ strictly adheres to the principles and abide by the law to ensure proper handling of such cases.

As a matter of fact, the conviction rate/success rate of the Government in these cases or the amount of expenditure of the Government in handling these cases should not be taken as performance indicators in our handling of the cases, nor a reflection of our standard in handling the cases concerned. In any event, as reflected by the information presented in the Annexes, the figures over the years have remained quite steady without substantial changes in any specific area. That said, the DoJ will of course continue to take forward prosecution and litigation cases in a prudent manner, and at the same time carefully monitor the outcomes as well as payments in relation to the cases which may provide useful reference for case handling and preparation in future.

Annex A

Outcome of Court Cases involving the Government
(2001 to 2010)

Criminal Cases

*Conviction Rates**Trial (District Court)*

<i>Year*</i>	<i>Number of defendants convicted on own plea</i>	<i>Number of defendants convicted after trial</i>	<i>Number of defendants acquitted after trial</i>	<i>Conviction rate after trial</i>	<i>Conviction rate including guilty plea</i>
2001	954	416	247	62.7%	84.7%
2002	1 170	526	271	66.0%	86.2%
2003	1 110	483	228	67.9%	87.5%
2004	1 259	376	179	67.7%	90.1%
2005	1 152	365	216	62.8%	87.5%
2006	1 080	434	135	76.3%	91.8%
2007	1 096	331	149	69.0%	90.5%
2008	925	258	94	73.3%	92.6%
2009	1 190	274	122	69.2%	92.3%
2010	1 056	275	90	75.3%	93.7%

Trial (Court of First Instance)

<i>Year*</i>	<i>Number of defendants convicted on own plea</i>	<i>Number of defendants convicted after trial</i>	<i>Number of defendants acquitted after trial</i>	<i>Conviction rate after trial</i>	<i>Conviction rate including guilty plea</i>
2001	379	102	49	67.5%	90.8%
2002	375	120	54	69.0%	90.2%
2003	296	84	49	63.2%	88.6%

<i>Year*</i>	<i>Number of defendants convicted on own plea</i>	<i>Number of defendants convicted after trial</i>	<i>Number of defendants acquitted after trial</i>	<i>Conviction rate after trial</i>	<i>Conviction rate including guilty plea</i>
2004	302	73	46	61.3%	89.1%
2005	318	85	43	66.4%	90.4%
2006	273	96	31	75.6%	92.3%
2007	279	63	24	72.4%	93.4%
2008	276	73	19	79.3%	94.8%
2009	321	66	35	65.3%	91.7%
2010	355	71	28	71.7%	93.8%

Note:

* denotes period from 1 January to 31 December for each year

Outcome of Appeals

Court of Appeal

<i>Year*</i>	<i>Appeal by the Defendants (including appeal against sentences)</i>		<i>Appeal by the Prosecutions</i>			
			<i>To review sentences</i>		<i>By way of case stated</i>	
	<i>Allowed</i>	<i>Dismissed</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Allowed</i>	<i>Dismissed</i>
2001	96(33%)	195(67%)	12(85.7%)	2(14.3%)	1(100%)	0(0%)
2002	82(20.7%)	315(79.3%)	0(0%)	0(0%)	2(100%)	0(0%)
2003	106(31.7%)	228(68.3%)	0(0%)	0(0%)	0(0%)	0(0%)
2004	115(31.2%)	254(68.8%)	4(80%)	1(20%)	1(100%)	0(0%)
2005	111(31.5%)	241(68.5%)	0(0%)	0(0%)	1(100%)	0(0%)
2006	84(30.9%)	188(69.1%)	4(80%)	1(20%)	0(0%)	1(100%)
2007	113(34.3%)	216(65.7%)	1(100%)	0(0%)	0(0%)	0(0%)
2008	117(33.5%)	232(66.5%)	1(33.3%)	2(66.7%)	1(100%)	0(0%)
2009	92(30.3%)	212(69.7%)	9(100%)	0(0%)	4(57.1%)	3(42.9%)
2010	121(35.6%)	219(64.4%)	5(100%)	0(0%)	0(0%)	1(100%)

Court of Final Appeal (CFA)

<i>Year*</i>	<i>Appeal by the Defendants</i>				<i>Appeal by the Prosecutions</i>			
	<i>Application for leave to appeal to CFA</i>		<i>Appeal before CFA</i>		<i>Application for leave to appeal to CFA</i>		<i>Appeal before CFA</i>	
	<i>Allowed</i>	<i>Dismissed</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Allowed</i>	<i>Dismissed</i>	<i>Allowed</i>	<i>Dismissed</i>
2001	6 (16.7%)	30 (83.3%)	2 (50%)	2 (50%)	-	-	3 (100%)	0 (0%)
2002	5 (14.3%)	30 (85.7%)	1 (20%)	4 (80%)	1 (100%)	0 (0%)	0 (0%)	1 (100%)
2003	6 (14.0%)	37 (86.0%)	6 (85.7%)	1 (14.3%)	1 (100%)	0 (0%)	1 (100%)	0 (0%)
2004	19 (28.4%)	48 (71.6%)	9 (81.8%)	2 (18.2%)	-	-	-	-
2005	12 (15.2%)	67 (84.8%)	10 (76.9%)	3 (23.1%)	2 (100%)	0 (0%)	-	-
2006	10 (13.2%)	66 (86.8%)	8 (66.7%)	4 (33.3%)	2 (100%)	0 (0%)	1 (33.3%)	2 (66.7%)
2007	8 (14.3%)	48 (85.7%)	5 (45.5%)	6 (54.5%)	2 (66.7%)	1 (33.3%)	1 (100%)	0 (0%)
2008	9 (13.8%)	56 (86.2%)	3 (50%)	3 (50%)	2 (50%)	2 (50%)	0 (0%)	2 (100%)
2009	9 (12.9%)	61 (87.1%)	2 (25%)	6 (75%)	2 (100%)	0 (0%)	1 (100%)	0 (0%)
2010	12 (15%)	68 (85%)	6 (60%)	4 (40%)	2 (50%)	2 (50%)	1 (33.3%)	2 (66.7%)

Note:

* denotes period from 1 January to 31 December for each year

JR cases

(Notes:

- "In favour" denotes outcome in favour of the Government
- "Not in favour" denotes outcome not in favour of the Government)

<i>Year*</i>	<i>Court of First Instance</i>			<i>Court of Appeal</i>			<i>Court of Final Appeal</i>			<i>Grand Total</i>	<i>Average Rate</i>	
	<i>In favour</i>	<i>Not in favour</i>	<i>Sub-Total</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Sub-Total</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Sub-Total</i>		<i>In favour</i>	<i>Not in favour</i>
2001	80 (62%)	49 (38%)	129	22 (71%)	9 (29%)	31	4 (80%)	1 (20%)	5	165	64%	36%
2002	71 (85%)	13 (15%)	84	4 561 (99.8)	7 (0.2%)	4 568	7 (70%)	3 (30%)	10	4 662	99.5%	0.5%

Year*	Court of First Instance			Court of Appeal			Court of Final Appeal			Grand Total	Average Rate	
	In favour	Not in favour	Sub-Total	In favour	Not in favour	Sub-Total	In favour	Not in favour	Sub-Total		In favour	Not in favour
2003	37 (82%)	8 (18%)	45	48 (84%)	9 (16%)	57	23 (96%)	1 (4%)	24	126	86%	14%
2004	59 (91%)	6 (9%)	65	33 (80%)	8 (20%)	41	0 (0%)	4 (100%)	4	110	84%	16%
2005	65 (78%)	18 (22%)	83	17 (74%)	6 (26%)	23	6 (100%)	0 (0%)	6	112	79%	21%
2006	78 (91%)	8 (9%)	86	22 (71%)	9 (29%)	31	2 (40%)	3 (60%)	5	122	84%	6%
2007	44 (83%)	9 (17%)	53	23 (79%)	6 (21%)	29	2 (50%)	2 (50%)	4	86	80%	20%
2008	54 (71%)	22 (29%)	76	27 (73%)	10 (27%)	37	7 (78%)	2 (22%)	9	122	72%	28%
2009	45 (71%)	18 (29%)	63	16 (84%)	3 (16%)	19	4 (40%)	6 (60%)	10	92	71%	29%
2010	56 (77%)	17 (23%)	73	25 (93%)	2 (7%)	27	3 (100%)	0 (0%)	3	103	82%	18%
Total	589 (78%)	168 (22%)	757	4 794 (99%)	69 (1%)	4 863	58 (73%)	22 (28%)	80	5 700	95%	5%

Note:

* Denotes period from 1 January to 31 December for each year

Civil Cases (other than JR cases)

(Note:

- "In favour" denotes outcome in favour of the Government
- "Not in favour" denotes outcome not in favour of the Government)

Year*	Tribunals			District Court			Court of First Instance			Court of Appeal			Court of Final Appeal		
	In favour	Not in favour	Total cases	In favour	Not in favour	Total cases	In favour	Not in favour	Total cases	In favour	Not in favour	Total cases	In favour	Not in favour	Total cases
2001	664 (90%)	74 (10%)	738	363 (92%)	33 (8%)	396	101 (82%)	22 (18%)	123	12 (92%)	1 (8%)	13	2 (67%)	1 (33%)	3
2002	798 (88%)	108 (12%)	906	297 (75%)	97 (25%)	394	173 (86%)	29 (14%)	202	22 (76%)	7 (24%)	29	2 (67%)	1 (33%)	3
2003	776 (87%)	118 (13%)	894	289 (89%)	34 (11%)	323	120 (74%)	43 (26%)	163	24 (80%)	6 (20%)	30	9 (100%)	0 (0%)	9
2004	892 (88%)	116 (12%)	1 008	342 (84%)	65 (16%)	407	97 (72%)	38 (28%)	135	9 (43%)	12 (57%)	21	4 (100%)	0 (0%)	4
2005	735 (89%)	90 (11%)	825	389 (81%)	92 (19%)	481	142 (77%)	43 (23%)	185	29 (88%)	4 (12%)	33	8 (100%)	0 (0%)	8

<i>Year*</i>	<i>Tribunals</i>			<i>District Court</i>			<i>Court of First Instance</i>			<i>Court of Appeal</i>			<i>Court of Final Appeal</i>		
	<i>In favour</i>	<i>Not in favour</i>	<i>Total cases</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Total cases</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Total cases</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Total cases</i>	<i>In favour</i>	<i>Not in favour</i>	<i>Total cases</i>
2006	748 (90%)	79 (10%)	827	376 (76%)	118 (24%)	494	116 (82%)	25 (18%)	141	19 (68%)	9 (32%)	28	6 (75%)	2 (25%)	8
2007	774 (88%)	102 (12%)	876	433 (82%)	94 (18%)	527	123 (82%)	27 (18%)	150	28 (74%)	10 (26%)	38	4 (67%)	2 (33%)	6
2008	855 (92%)	72 (8%)	927	541 (88%)	72 (12%)	613	94 (74%)	33 (26%)	127	41 (89%)	5 (11%)	46	10 (71%)	4 (29%)	14
2009	1 040 (92%)	88 (8%)	1 128	504 (86%)	84 (14%)	588	117 (81%)	27 (19%)	144	33 (80%)	8 (20%)	41	8 (89%)	1 (11%)	9
2010	1 361 (93%)	105 (7%)	1 466	291 (67%)	141 (33%)	432	94 (77%)	28 (23%)	122	52 (90%)	6 (10%)	58	5 (56%)	4 (44%)	9
Average for 2001 to 2010	8 643 (90%)	952 (10%)	9 595	3 825 (82%)	830 (18%)	4 655	1 177 (79%)	315 (21%)	1 492	269 (80%)	68 (20%)	337	58 (79%)	15 (21%)	73

Note:

* Denotes period from 1 January to 31 December for each year

Annex B

Court Costs Payments (covering all court levels) (Financial Year 2001-2002 to 2010-2011)

<i>Financial Year[#]</i>	<i>Criminal Cases</i>		<i>Civil Cases (JR and non-JR)</i>	
	<i>Number of Cases</i>	<i>Actual Expenditure (\$'000)</i>	<i>Number of Cases</i>	<i>Actual Expenditure (\$'000)</i>
2001-2002	283	47,524	55	26,227
2002-2003	274	49,555	83	17,839
2003-2004	262	35,355	81	22,178
2004-2005	311	42,468	87	46,562
2005-2006	271	41,475	137	55,757
2006-2007	228	34,152	130	31,865
2007-2008	257	29,867	138	43,704
2008-2009	406	54,160	123	37,922
2009-2010	402	49,610	118	40,331
2010-2011	388	64,250	118	22,836

Note:

Running from 1 April of the prior year to 31 March of the following year

Annex C

Briefing Out Payments
(not including Magistracies cases)
(Financial Year 2001-2002 to 2010-2011)

<i>Financial Year[#]</i>	<i>Actual Expenditure (\$'000)</i>	
	<i>Criminal Cases</i>	<i>Civil Cases (JR and non-JR)</i>
2001-2002	55,241	64,677
2002-2003	58,046	57,227
2003-2004	40,244	100,613
2004-2005	35,265	85,573
2005-2006	42,465	70,504
2006-2007	47,385	94,087
2007-2008	48,426	87,814
2008-2009	57,014	77,197
2009-2010	60,359	91,332
2010-2011	58,423	84,953

Note:

Running from 1 April of the prior year to 31 March of the following year

MR RONNY TONG (in Cantonese): *President, the main point I wish to ask in the main question is the amount of money paid by the Government over the past 10 years as a result of losing court cases to the attorneys of the successful parties in compensation. But in the lengthy reply given by the Secretary for Justice, I am baffled to note that no mention is made at all of this point.*

Secretary, as seen in page 2 of Annex A given by the Secretary for Justice, with respect to appeals made by defendants, the rate in which the Court of Appeal ruled in favour of the appeals is more than one third. The rate of successful appeals in the Court of Final Appeal has risen from 20% in the past to more than 80% at present. For JR cases, the success rate of cases filed in the Court of Final Appeal and ruled not in favour of the Government remains at somewhere between 20% and 30%. I am sure the Government has to pay for the court costs in all these cases. Look at the figures provided by the Government, such as

those found in Annex B, the actual expenditure in 2010 was \$22 million. Then should we see this as: about one third of this sum of \$22 million will be paid as fees of the attorneys of the successful parties in compensation or that the amount paid to the attorneys of the successful parties is not included in the figures set out in this table?

President, I am really very disappointed. Because the Secretary for Justice has not answered the question which I am most concerned about.

SECRETARY FOR JUSTICE (in Cantonese): President, as a matter of fact, Annex B has provided information on the relevant court costs payments. I do not see why Mr Ronny TONG said that we have not provided any information in this regard. About the relevant information over the past 10 years, all the costs that the Courts had ruled that we should pay are set out in the table in Annex B and separately under civil and criminal cases with their respective numbers. Mr TONG has asked about the situation in different levels of court. President, we find that this is very difficult to make any generalization. As I said in the main reply, we have already given a general picture to Members. President, I have presented a detailed analysis of the principles underlying the situation in my main reply for fear that any misreading of the figures may convey a wrong message to Members. To my understanding, the question which Mr Ronny TONG asks is: Would the need to pay more court costs reflect any deterioration in our quality? Is there any need to raise this quality? In view of that, there is a need for me to explain the different levels and principles involved, and then bring out the idea that we should not take these figures alone as some kind of a performance indicator.

PRESIDENT (in Cantonese): Mr TONG, which part of your supplementary questioned has not been answered?

MR RONNY TONG (in Cantonese): *President, I still do not quite understand*
.....

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

MR RONNY TONG (in Cantonese): *President, my question is, are the expenses set out in Annex B incurred to the Government in losing court cases?*

PRESIDENT (in Cantonese): Secretary for Justice, are those figures expenses in court costs made by the Government as a result of losing court cases?

SECRETARY FOR JUSTICE (in Cantonese): A more accurate way of putting it would be those figures are expenses on court costs paid upon the request of the Court. Of course, in some cases, the amount is the result of negotiation made with the other party, but that is the sum we have to pay. What are set out in Annex B are expenses in court costs which we have to pay in actual fact.

PRESIDENT (in Cantonese): The figures requested by Mr TONG are the costs incurred which the Government has to pay after it has lost a court case.

SECRETARY FOR JUSTICE (in Cantonese): President, such amounts are included in those figures.

DR MARGARET NG (in Cantonese): *President, the Secretary for Justice said in part (c) of the main reply that there are many causes to litigations and these are unrelated to legal advice given and the quality of prosecution as mentioned by Mr Ronny TONG. But President, the Court of Final Appeal (CFA) has recently tried a very sensational case and it was tried previously in the District Court for as long as 95 days and the appeal trial lasted for about two weeks, then finally, the CFA ruled that all the defendants' appeals are allowed. In the view of the CFA, the prosecution in that particular case has mistakenly invoked the*

principle of using an accomplice as a prosecution witness and hence the trial conducted did not conform to the equity principle. This is the first reason.

The second reason is that all the defendants are not principal offenders but they are the accountants and lawyers of the suspects. Therefore, the Court has pointed out that if these persons are to be prosecuted, there must be clear and sufficient evidence. But this is found completely wanting in this case. From this it can be seen that, when trying this case, the CFA needed only hear the case up to the third day and the Secretary for Justice had to give up. President, losing this case means a tremendous sum of money as seen in the figures mentioned just now. And the party winning the case The Government is only concerned about the money it pays after losing a case, but as for losses on the part of the defendants in terms of money, reputation, and mental stress, and so on, and when these defendants are acquitted after serving a prison term, the kind of responsibility involved is very great indeed. This is my follow-up. Will the Secretary for Justice still put the blame on various causes leading to its losing a case? Has the Secretary for Justice ever undertaken any review of the quality of prosecution and the legal advice given? Has a review been conducted in this case in which the result is so unequivocal? If it has, what then is the reply from the Secretary for Justice?

SECRETARY FOR JUSTICE (in Cantonese): President, the reason why I gave a detailed analysis on the related principles in the main reply is to bring out a point and that is, we cannot use the final outcome of a court case, especially when, for example, the CFA has ruled that the prosecution or the government side has to pay the court costs and use that as a performance indicator for the related legal services. This is because many other factors should be considered. As I have said in the main reply, this is a fundamental principle.

Dr Margaret NG has cited a particular court case. President, I wish to clarify one point and that is, with respect to that particular court case, some of the legal proceedings regarding the costs are still in progress and so I hope the President and Members can understand that I will not comment on that case at the present moment. This is because the proceedings concerning the costs involved may touch on the way in which that case has been handled and the Court may have further comments to make on that. However, President, an outcome has

reached on that particular case and without prejudice to the major principle which I have just mentioned, I think I can make some comments in that connection. For example, at the time when the case was first tried, there were altogether seven defendants. One of these defendants pleaded guilty while the other six were convicted. At the appeal stage, of these six appellants, the appeal from one person was allowed while those from the other five were dismissed. That is to say, the trials in the Court of First Instance and in the Court of Appeal were not in favour of most of the defendants concerned and when it came to the CFA, the appeals from five defendants were allowed. Therefore, the Court ruled that we have to pay the litigation costs in all three Court levels. This ruling was made on basis of the principles concerned. The Member said earlier that due to the complexity of the case and the lengthy time involved, the costs involved are tremendous. This is a consequence we have to bear. We must point out that under the existing system, things like that will happen. And I also stated in the main reply earlier why we would adhere to such a principle.

As for the details of law involving accomplices and conspirators as mentioned by the Member earlier, as I have already said, I would not make any detailed comments now. I wish to emphasize one point and that is, this is not only the concern of the prosecution. This is because during the first trial and appeal, the Courts ruled that the persons concerned were either guilty or that their appeals were dismissed. So the circumstances are not at all one-sided. This is a clarification I wish to make with respect to the outcome. However, I wish to emphasize that I cannot make any further comments on the details of the particular case in question.

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

DR MARGARET NG (in Cantonese): *President, the Secretary for Justice has not answered my supplementary question. I have mentioned so many things about the CFA*

PRESIDENT (in Cantonese): Please repeat the part of your supplementary question which is not answered.

DR MARGARET NG (in Cantonese): and I meant to point out things like what he has said in part (c) of the main reply, that in some criminal cases, the causes for losing them are due to the fact that the evidence finally turns out to be not so strong, and so on. But in this particular case, we can see that the cause for losing it is not due to causes that he has talked about, but other factors. So my question is, with respect to this situation, has he undertaken any review of the prosecution and the quality of legal advice given to see if they are inadequate? If a review has been conducted, what are the results?

PRESIDENT (in Cantonese): Secretary for Justice, will you undertake any review?

SECRETARY FOR JUSTICE (in Cantonese): President, figures over the past 10 years show that there has not been a need for us to bear more court costs as compared to the past and to the extent of showing that our quality for that matter is in the decline and hence an overall review is necessary. I do not see such a situation. As for individual cases, as I have just said, I do not wish to attribute the outcome to any particular reason and all I wish to do is to point out that the outcome is the result of many factors and we cannot generalize them into a single cause, for in so doing, we would be making a sweeping generalization. If after a verdict is handed down, it is found that the outcome of an individual case deviates from ideas that we have all along been holding, we will certainly make a careful examination of that particular case. This will include looking at the question of whether our staff lawyers or the outside counsels have done a good job. But the most important thing is that, from the figures as a whole, we do not see any decline in quality which calls for a wholesale review.

MR PAUL TSE (in Cantonese): President, the figures given by the Secretary for Justice over the past 10 years do not show any marked change. But I wish to point out that according to Annex B, and especially for the period from 2010 to 2011, the expenses in criminal cases were \$64.25 million. The amount is quite large compared with those in other years. Even if the inflation factor is taken away, the sum is quite considerable. Can the Secretary for Justice explain the reasons for this?

SECRETARY FOR JUSTICE (in Cantonese): President, as set out in Annex B, the figure for the year 2010-2011 is \$64.25 million. Mr Paul TSE asked, compared to other years, why is the figure for that particular year higher than the others? President, I have given an explanation on that before. For the year 2010-2011, as compared to the previous year, although the number of cases is fewer, the actual outlay has increased. The main reason is that the prosecution has to pay court costs in two cases of a large scale. Without infringing on any principles concerned, I think I can talk about these two cases. One is about the case of Nancy KISSLER which Members may have heard about, and the other is about Andrew LAM Ping-cheung and Kevin Barry EGAN. About these two cases, what I can disclose now is that — I will not talk about the details but only the outcome — they are related to rulings made by the CFA. The parties concerned faced an unfavourable outcome in the first trial and in the appeal. I wish to stress that they had lost their cases in the first trial and in the appeal. But their final appeals were allowed in the CFA. So in the end we have to pay legal costs at all three levels of court. Also, owing to the reasons which I have talked about, due to the great complexity of these cases, the very long trial time and the defendants having hired very experienced counsels, the court costs in the end were very high. President, this is why figures for that particular year have risen.

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

Fuel Prices

4. **MR CHAN KAM-LAM** (in Cantonese): *President, it has been reported that the Consumer Council completed a Study on Diesel Retail Market in September this year, which revealed that the gross margin earned by oil companies for every litre of diesel sold at the retail market had soared by 46.4% within a period of five years since 2005. The study report pointed out that adjustments made to the retail price of diesel by oil companies showed the situation of "more going up, less coming down"; the study also revealed that oil companies failed to reward consumers with rebates after the Government had waived the diesel duty in phases. In this connection, will the Government inform this Council:*

- (a) *in monitoring the auto-fuel retail market in the past five years, whether the Government had found the situation of "quick going up, slow going down", as well as "more going up, less coming down" in respect of the retail prices for gasoline and diesel;*
- (b) *whether the Government has examined if various oil companies have rewarded consumers by reducing the retail price for diesel after the diesel duty has been waived by the Government; and*
- (c) *apart from publishing information on fuels, such as import prices, retail prices and promotional offers, and so on, whether the Government has considered setting up a new regulatory mechanism, so as to more effectively maintain true competition in the fuel retail market?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President,

- (a) As in other places in the world, there are few fuel suppliers in Hong Kong, and this has, to a certain extent, limited the development of and competition within the market. At the same time, the supply of fuel is closely related to the daily life of the public in particular the driving community. It is even an important cost component of many businesses. This is why the Government has paid close attention to the market development and price movements of fuel products, and strived to work out a monitoring mechanism within market structure constraints that best fits the local circumstances and helps protect consumers from unfair treatment. In recent years, with continuous fluctuation in international fuel prices, oil companies have been criticized for manipulating prices in the directions of "quick going up, slow coming down" or "more going up, less coming down". The Government attaches much importance to such criticism. We have been closely tracking the price movements, and enhancing monitoring on and competition in the market through various measures.

The Government's focus is on whether changes in local retail prices of auto-fuel are in line with the trend movements of international oil

prices and of import prices. We have a dedicated team of colleagues to monitor the market closely and in a timely manner. When there are signs of a widening gap between retail prices and international oil prices or import prices, we would urge oil companies to promptly reduce the retail prices. In the past two years (that is, since early 2010), for instance, we have raised with oil companies our concerns over oil prices many times, including urging them to promptly reduce the retail prices. This, we believe, has made an impact in preventing oil companies from practising "quick going up, slow coming down" in price adjustments.

I have noted that the Consumer Council (CC) has looked into this issue in the study report of diesel prices. The CC has been our close partner in monitoring fuel prices, and we attach much importance to the findings of the study. The report pointed out that there was no evidence of "quick going up, slow coming down" on retail diesel prices, but noted the occurrence of "more going up, less coming down". Yet, the report also quoted responses from oil companies that over 90% of commercial transactions had been enjoying "commercial fleet discount". The remaining 10% of transactions were eligible for various discounts in the market, including walk-in discounts for all customers, or retail discounts applicable to credit card holders or members of oil companies' loyalty schemes. In other words, most consumers have been paying prices lower or much lower than the retail price shown at filling stations. This observation provides a perspective for understanding more comprehensively the pricing practices in the diesel market. However, regardless of the number of consumers being affected by such "quick going up, slow coming down" pricing practice, we will not take this lightly. Apart from tracking price movements, we are also implementing a number of measures to be explained in my reply to part (c) of the question.

- (b) The Government reduced the tax for diesel from \$1.11 per litre to \$0.56 per litre in December 2007, and then exempted the tax in full in July 2008. As pointed out by the CC in the study report, in these two rounds of tax cut, all oil companies had reduced the diesel prices immediately by the same amount of the tax cut.

- (c) In monitoring the operation of the fuel products market, apart from price tracking as I have just mentioned, more fundamental measures have been introduced to remove barriers to market entry, promote competition, and enhance fuel price transparency, so as to facilitate consumers in making suitable choices.

To enhance price transparency, starting from October 2008, we have been posting onto the website of the Environment Bureau on a weekly basis the movements in local import prices and retail prices of auto-fuel in comparison with movements in free on board prices of Singapore unleaded petrol and motor vehicle diesel. Apart from urging oil companies to enhance price transparency, we have also commissioned the CC to post onto its website, starting from November 2008 and on a weekly basis, the local auto-fuel retail prices and information on various types of cash and non-cash discounts offered by oil companies. In addition, we launched in February 2009 the "Auto-fuel Price Calculator" to promote price competition among oil companies and to facilitate consumers in making choices clearly among the various discounts and benefits offered by oil companies.

To preserve an open market and remove market entry barriers, we have implemented a series of measures in the past few years to facilitate new players in entering the market, as follows:

- (i) removing the requirement for bidders of petrol filling station sites to hold import licence or supply contract;
- (ii) re-tendering all existing petrol filling station sites upon expiry of their leases, instead of automatically renewing such leases; and
- (iii) depending on the land supply situation, tendering petrol filling station sites in batches consisting of two to five sites per batch. The new tendering arrangement facilitates the new entrants in acquiring a critical mass of petrol filling station within a shorter time to achieve economy of scale for effective competition in the market.

Since introduction of the new tendering arrangements in June 2003, two new operators have obtained 28 out of the 41 petrol filling station sites put up for tender and successfully entered the market. The share of the three biggest operators in terms of the number of petrol filling station has dropped from over 93% to 74%. These figures demonstrate that the new tendering arrangements have effectively enhanced competition in the market.

The public is also very concerned about whether there are cases of price-fixing by suppliers. The first conduct rule of the Competition Bill (the Bill) under scrutiny expressly prohibits anti-competitive agreements, concerted practices and decisions including price-fixing agreements. According to the Bill, the Competition Commission (the Commission) will have powers to investigate anti-competitive behaviour which is of public concern. If substantiated, the Commission may institute legal proceedings before the Competition Tribunal, which will make adjudication and order punishment against contravening companies. Certainly, we hope that a competition law can be enacted early. The Administration is working closely with the Legislative Council to strive for the enactment of the Bill in the current Legislative Session this year, with a view to combating these anti-competitive activities.

MR CHAN KAM-LAM (in Cantonese): *President, the profit made by oil companies from the retail sales of diesel can be said to have increased by 27 times as it has risen from \$0.03 per litre to \$0.83 per litre over the past five years. The Government has also directly admitted that during this period of time, oil companies were found to have practised "more going up, less coming down" in retail pricing. I would like to know what measures the Government has implemented in the process of monitoring to ensure that consumers will not suffer losses due to price hikes resulted from price-fixing by oil companies.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr CHAN Kam-lam for his question. With regard to the question of whether the profit of oil companies has increased during this period of time as a result of

"more going up, less coming down" or "quick going up, slow coming down" in retail prices, I have noticed that the CC mentioned in its report and also in page 36 of the *CHOICE* magazine that according to available data, the estimated profit of some oil companies might have increased as a result. But as I said in the main reply, since the two prices used for comparison are not the prices paid by all patrons of filling stations, if the certain discounts offered by oil companies are deducted, some oil companies may turn out to have suffered a loss in the same period of time. For this reason, the report of the CC has not drawn a conclusion on whether or not oil companies have made more profit as a result.

Having said that, the point made by Mr CHAN is an issue of concern to us. I think the public are most concerned about several issues. First, they are concerned about whether, in times of price fluctuations, there is the case of "quick going up, slow coming down" in the retail prices of oil companies, that is, whether they have acted speedily in increasing the price but deliberately delaying price reduction in an attempt to profit from the price gap. For this reason, through discussions in this Council at end-2008, we decided to publish these prices on the Bureau's website in an open and transparent manner and the CC was subsequently commissioned to publish the relevant information to enable consumers (especially the driving community) to access clear information when they patronize filling stations

Second, we found that the industry has indeed offered many different discounts for auto-diesel, and such discounts may sometimes be so high that they are offered even at a double digit percentage. So, consumers are actually offered various discounts in different ways and if price transparency can be enhanced, it will help consumers make a comparison. We also hope that oil companies can set out their prices and if discounts are offered, they all the more should explain them clearly.

Third, concerning the development of the overall fuel products market, we ultimately wish that through the promotion of competition and implementation of additional measures, the situation of price-fixing mentioned by Mr CHAN Kam-lam just now can be pre-empted. To this end, we will need to devise measures in the competition law, and we are very glad to see that the Bill has made express provisions targeting collusive pricing.

MR JAMES TO (in Cantonese): *President, of the many unscrupulous business practices adopted by oil companies, "more going up, less coming down" may enable oil companies to reap more profit than "quick going up, slow coming down".*

In the main reply the Government has made just two points. First, as pointed out in part (2) of the reply, many consumers can now enjoy various discounts. But these discounts are, in fact, linked to the standard price at the time. In other words, if there is really a case of "more going up, less coming down" and even though many customers can enjoy a discount, that is still an attempt of oil companies to feather their own nests by trickery.

Moreover, in part (3) of the main reply the Government pointed out that competition has been greatly enhanced in different ways since 2003. But if, after the introduction of measures to promote competition, "more going up, less coming down" still remains a common phenomenon, must the Government wait until the enactment of the competition law and deal with the situation only when cases requiring investigation have arisen then? During this period of perhaps a year or so to two years before the enactment of this law, are there other ways to address the situation?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, with regard to the first part of the supplementary question raised by Mr James TO, I have actually said in the main reply of the Government that I entirely share this view.

In the first place, the situation of the commercial diesel market and that of the fuel market for private cars are indeed different. In this connection, the CC pointed out in its report that 90% of the commercial transactions can enjoy "commercial fleet discount". It means that they can directly bargain with oil companies to obtain discounts and may even be offered greater discounts. Only about 10% of the transactions cannot enjoy "commercial fleet discount" but in spite of this, these 10% transactions may still enjoy various other discounts. For instance, every walk-in consumer at a filling station can basically enjoy a discount of nearly \$2, which is applicable to all customers, and additional discounts may also be offered to holders of membership cards of oil companies or credit cards. However, I agree with the view of Mr James TO and as I also

stated in the main reply, even though not a large number of transactions are involved, from the perspective of consumers, the practices of "more going up, less coming down" and "quick going up, slow coming down" are still inappropriate. Besides, the greater the degree of transparency in the market, the more it will benefit consumers.

In the second part of his supplementary question Mr TO asked what measures could be taken before the enactment of the competition law. Apart from promoting competition and removing market entry barriers, we have, over the past two years, actually kept in view the price changes on a daily basis by using the published data as indicators for monitoring purposes. During fluctuations of market prices and when we consider that "more going up, less coming down" or "quick going up, slow coming down" has occurred, we will discuss with oil companies on whether there is a case of "quick going up, slow coming down" and give them our views. We also hope oil companies will understand that the criteria adopted by us for evaluation can at the same time be used by members of the public or consumers.

Moreover, we also hope to do more through the CC. Since oil companies are able to offer so many discounts which can indeed benefit most consumers, can these discounts be offered more by way of clearly setting out the actual prices? I believe this would be helpful to consumers.

MS MIRIAM LAU (in Cantonese): *President, apart from an increase of 27 times in the net profit from diesel sales over the past five years as mentioned by Mr CHAN Kam-lam earlier on, the report of the CC also provided two other items of data. First, the price gap between the import price and retail price of diesel was \$3 before July 2008, and it is \$5 now. Second, from July 2009 to June this year, there were 31 increases in the retail price of diesel but only 19 instances of reduction. In view of these most unusual phenomena and situation, the Government has always said that this is not a problem because oil companies have been providing various kinds of promotional offers and discounts. In saying so, the Government seems to be trying to absolve oil companies from responsibility by telling us that the situation is actually not that bad. The transport industry is extremely enraged by these practices of oil companies which are almost like playing tricks on consumers, and the industry is very disappointed with the Government's inability to monitor oil companies.*

In fact, the CC has also pointed out that the current situation shows that oil companies have seized the opportunity offered by fluctuations in import prices to reap more profit. The CC has also suggested that oil companies should set out clearly the actual retail prices and the discounts offered, rather than making various "small gestures" to confuse consumers. Will the Government take on board the suggestion made by the CC and discuss this with oil companies, asking them not to fool consumers by first inflating the prices and then offering a host of specious discounts to consumers but instead, to state clearly the actual price in selling diesel or other fuels, so that the public do not have to go to great pains to make all kinds of calculation? Because according to Mr Ambrose HO who chaired the relevant study group under the CC, consumers basically cannot make analyses on the various types of discounts; nor is there a way for them to find out about the details. In view of this, I think it is imperative for the Government to address the situation. Can the Government give a reply on whether it will take on board the suggestion made by the CC? Will the authorities adopt other effective means to prevent oil companies from reaping additional profits by taking advantage of such factors as market conditions, fluctuations in fuel prices, and so on, which will otherwise cause consumers to suffer losses?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Thanks to Ms Miriam LAU for her supplementary question. I think Ms LAU should know best the situation of the auto-diesel market, especially the diesel market for commercial vehicles.

As I said in reply to Mr James TO's supplementary question earlier on, the Government's position is that it would certainly be best if prices can carry a higher degree of transparency or be even set in the direction of "clearly disclosing the actual prices", as I mentioned just now. This is also why we have commissioned the CC to publish the prices over the past two years, rather than just publishing such information on the website, and we have even introduced the "Auto-fuel-price Calculator", and the relevant information can also be obtained by mobile phones.

But in respect of the market, we found that in the auto-diesel commercial market, it is true that most consumers can directly negotiate with oil companies as commercial fleets, with a view to securing discounts. This is, of course, a good thing, but as such discounts are often offered only in contracts signed between oil

companies and commercial fleets, this may result in a lack of transparency in prices. That said, I think in the present circumstances, although non-commercial fleet discounts cover comparatively less transactions, the number of which accounts for only less than 10% according to the report of the CC, these discounts are applicable to all and there for the taking. In this respect, we have all along considered that oil companies should indicate the prices direct and even set out the prices clearly at the entrance of filling stations, so that consumers will not have a wrong impression that the prices are high and they do not have to make enquiries in order to be offered a different price.

On the other hand, I think Ms LAU and the industry have a clearer picture of this point, that is, can the commercial fleet discount be offered in a more open way, so that everyone can benefit from it? This is also worthy of studies. But the bottom line of the Government is that if oil companies engage in collusive pricing in their operation, I believe neither the Government nor the public would wish to see it or consider it acceptable. At present, there is no legislation which directly imposes regulation on such practice, but the competition law has made it clear at the outset that this problem will have to be tackled and that the regulatory authorities shall be given investigative and adjudication powers through the establishment of the Commission.

I believe that under a multi-pronged approach, oil companies can clearly understand the situation of consumers and unnecessary allegations can also be avoided, because to all Hong Kong people, oil prices are actually a very sensitive issue and also an issue of grave public concern.

DR PAN PEY-CHYOU (in Cantonese): *President, I thank the Secretary for pointing out that the Government has actually noticed the situation of "quick going up, slow coming down" and is aware of such practice which is tantamount to a "blatant robbery". A reason for this phenomenon is, I think, inadequate publicity by the Government. For example, concerning the information published on the website of the CC as mentioned earlier, I learnt about it only today, and this is not at all mentioned in normal radio broadcasts. So, I hope that the Government can step up publicity in the future.*

Another problem is that petrol filling stations are far too few in number. Drivers actually have no choice as they usually drive on fixed routes. Can the

Government promote competition among oil companies by, for instance, increasing the supply of petrol filling station sites, in order to achieve this objective? No filling station is provided in many places in the New Territories and this is inconvenient to drivers when they need to top up their tanks.

Moreover, when tendering the petrol filling station sites, can the information regularly obtained by the CC on past pricing records of oil companies be included in the terms of tender? Can the Government consider allowing oil companies which offer particularly low fuel prices to stand a greater chance of success in their bids?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Dr PAN Pey-chyou for his supplementary question and opinions. I agree that there is a need to step up publicity. In commissioning the CC to conduct this study and to carry out work in other areas over the past two years, our objective is to enable consumers to make informed choices. For this reason, I am very glad that the CC can conduct studies on these issues and I hope that such information will be promoted in the future.

As regards increasing the number of petro filling stations or promoting competition, this is also in line with the existing policies of the authorities. As I pointed out in part (3) of the main reply earlier on, through various means that we have adopted over the past few years, the number of suppliers has increased from the original four to six at present, and most importantly, in terms of market share, the three biggest suppliers used to take up a share of almost 93%, which means that basically there were only three choices, and their share has now dropped to 74% after the implementation of these measures. We will continue to take forward this policy.

In identifying petrol filling station sites, we all know that this is no easy task in a place with scarcity of land and a dense population. That said, Dr PAN's proposal to promote competition when existing filling stations need to be re-tendered is actually in line with our current policy. We may not necessarily be able to use the past pricing records of oil companies as the criteria for evaluation, but with those measures that have been implemented, new operators

are now subject to less market entry barriers and, as a matter of fact, there has already been more competition. I have also noticed that recently, some oil companies have more often adopted the pricing practice of clearly setting out the actual prices to attract consumers. I hope that these various measures can help improve the current situation.

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

Review of Standard Employment Contract for Foreign Domestic Helpers

5. **MRS REGINA IP** (in Cantonese): *President, at present, as the husbands and wives in quite a number of dual-income families in Hong Kong have to go out to work, they need to employ foreign domestic helpers (FDHs) to take care of the elderly and young children at home. According to the information of the Registration of Persons Office, there were only 881 FDHs in Hong Kong in 1974, but by the end of 2010, there were already more than 285 000 FDHs and among them, 117 000 FDHs had continuously worked in Hong Kong for more than seven years. In this connection, will the Government inform this Council:*

- (a) *given that the Standard Employment Contract (SEC) for FDHs stipulates that the contract period is two years, which does not include a probation period, quite a number of dual-income families have relayed to me that: unlike employer-employee relationship in general, FDHs have to integrate themselves into their employers' families, and during the initial period of the contract, newly employed FDHs may have problems getting along with their employers due to the differences in living habits and customs, whether the authorities will reconsider including in SEC a provision for a probation period, so as to enable both the employer and the employee to terminate the contract as soon as possible during the probation period, with the cost of passage for the FDH to return to his/her place of origin being borne by the employer; and*
- (b) *given that under SEC, employers are required to provide free medical treatment in case of illnesses or personal injuries of FDHs*

during the employment period, but SEC has not prescribed an upper limit with regard to medical expenses; at present, the certificates of the medical examinations undertaken by FDHs before they take up employment in Hong Kong are mostly provided by FDH employment agencies to the employers, and such certificates are normally issued by the authorities in the place of origin of FDHs; when the employer finds out that the FDH suffers from serious illness or is pregnant only after her arrival in Hong Kong, apart from taking care of the FDH, the employer is also required to pay for her medical expenses, making it difficult for dual-income families to afford the expenses, whether the Government will require that the certificates of medical examinations for newly employed FDHs be provided by designated and quality assured medical institutions in the territory or in the place of origin of FDHs, so as to ensure the credibility and reliability of such medical certificates, and to safeguard the interests of the employers; if there are difficulties in implementing such a proposal, whether the Government will consider prescribing an upper limit of the medical expenses to be borne by the employers for their FDHs, so that the employers can budget for that?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to Mrs Regina IP's question is set out below:

- (a) According to the "Employment Contract (for a domestic helper recruited from abroad)" (SEC), either the employer or the employee may terminate the contract by giving not less than one month's notice in writing or by paying one month's wages to the other party. The purpose of this arrangement is to strike a balance between the interests of employers and FDHs, and to offer both parties a degree of flexibility.

The existing arrangement for FDHs already requires that they must have at least two years' working experience as a domestic helper before coming to Hong Kong, thus reducing the chance of an FDH failing to settle into the job. However, some employers have indicated that owing to differences in culture or living habits, their FDHs were unable to adjust to the new work environment within a

short period. These employers have therefore proposed the introduction of a probation period to shorten the time required for them to terminate the contract with these FDHs. We understand the situation and concern of these employers, and are prepared to conduct an in-depth study on the suggestion. However, the introduction of a probation period for FDHs involves complicated issues. For example, FDHs can also seek early termination of the contract during the probation; FDHs' desire to come to Hong Kong may be dampened out of concerns over the serious losses in costs and expenses resulting from their not passing the probation; and the need to prevent employers or FDHs from abusing the probation period, and so on. We must therefore handle the matter carefully and consult relevant employer and FDH groups as well as other stakeholders at an appropriate juncture to decide if the idea is feasible.

- (b) According to the SEC, FDHs should have been medically examined on their fitness for employment as domestic helpers. An employer, before sponsoring an FDH's application for an employment visa for Hong Kong, should scrutinize the certificate for the medical examination. Given that FDHs can be living or working in their place of origin or different places in other countries, requiring a medical certificate to be provided by designated medical institutions is operationally not feasible.

Currently, the SEC does not set a specified upper limit on the expenses of free medical treatment that an employer must provide for the FDH. As it is an employer's decision to employ an FDH to come to Hong Kong to take care of household duties based on the employer's family circumstances and needs, the employer has the responsibility to ensure that public money would not be required to pay for the outstanding costs should the FDH fail to fully settle the costs incurred for using public medical services as a result of sickness and injuries during employment (except for the period during which the FDH leaves Hong Kong voluntarily and for personal purposes). For the above reason, we consider it inappropriate to set an upper limit on the medical expenses borne by employers. To minimize the unexpected costs arising from medical

expenses incurred by their FDHs who are ill or suffer from personal injury, employers are encouraged to purchase suitable medical insurance for their FDHs. Indeed, there are already various insurance products targeting at the medical needs of FDHs in the market.

MRS REGINA IP (in Cantonese): *President, concerning the many problems encountered by dual-income families in the employment of FDHs, I have in fact continuously reflected to the Secretary for Labour and Welfare and held a number of meetings with him in the past five years. Regarding the probation period, for instance, I have also explained to the Secretary that, although there is a provision in the contract that the contract may be terminated by giving one month's notice to the other party, it is different from the probation period because the FDHs concerned will often lodge complaints with the Labour Tribunal during this one-month notice period so that they can stay in Hong Kong. During the period for hearing their appeals, they can travel to Macao before coming back to take up other jobs in Hong Kong. The Secretary is well aware that abuses of this procedure are prevalent. I was told by some employers that, had a one- or two-month probation period been provided in the contract, there would be no more disputes over the termination of contracts and it would be more convenient. These employers have no intention to exploit the FDHs and are prepared to pay for the costs of their air tickets. May I ask the Secretary whether a specific time frame can be provided concerning when a consultation will be launched and when details of implementation can be provided since the issue has been considered for a long period of time? I asked this question for I have reflected the problem to the Secretary on a continued basis in the past five years.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Mrs Regina IP for her views. In fact, we have had discussions on this issue and I sent her a detailed reply in May or June this year. Now, we are prepared to reconsider the issue. I have clearly explained in the main reply that the issue is very complicated because the probation period can be a "double-edged blade", meaning that it can be used by both the employers and the employees. How can abuses be prevented? An employer will also run into trouble if his newly arrived FDH serves him a notice to terminate the contract. There are merits and demerits for both sides.

Therefore, we have to consider a number of points in our study: First, what will the situation be if FDHs may also invoke the probation period? Second, as I pointed out clearly in my main reply just now, will this dampen the FDHs' desire to come to work in Hong Kong as they will also bear risks? Given that they have paid for the training costs and employment agencies' commission, if they are served a notice of termination all of a sudden, will this deal a blow to them? These are the questions that we have to consider. Therefore I have undertaken that we will conduct an in-depth study on the proposal. In this process, I will, as a matter of course, discuss the issue with the relevant stakeholders, including relevant employer and FDH groups and the industry, if necessary. I hope we can determine the way forward as soon as possible and give an account to Members.

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

MRS REGINA IP (in Cantonese): *The Secretary has not answered my supplementary question. He has not given me a specific timetable under the repeated excuse of study; the matter has been studied for five years.*

PRESIDENT (in Cantonese): Secretary, can you provide a timetable.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, just now I have given an unequivocal reply. According to our preliminary opinion, there are difficulties in implementing the suggestion. At Mrs Regina IP's request for reconsideration of this issue, I am prepared to reconsider the issue seriously and make an in-depth study. After an initial analysis, we find that a series of problems need to be resolved. For example, as I said earlier, both sides can invoke the probation period, not only employers. So, how can abuses be pre-empted? Meanwhile, we have to take other factors into account while considering the views of the industry, employer groups and trade unions before conducting an assessment. So, President, we will launch an in-depth study as soon as possible in the hope that we can give an account to the Legislative Council expeditiously.

MR CHAN KIN-POR (in Cantonese): *President, FDHs are employed by families in Hong Kong to help with household chores, taking care of children or the elderly. However, I am aware that in some cases, FDHs are found to be pregnant soon after arriving in Hong Kong. According to the legislation, the employer cannot terminate her employment contract, and as a result, the employer has to take care of her. Let us imagine the situation of a family when a pregnant woman has suddenly come to them. The employer originally wanted to find someone to take care of his children and elders, but now he has to take care of a pregnant woman. Obviously, this will impose great pressure on the family. Such families have to face a predicament because they have to render assistance to others due to some unexpected incident despite their original intention of seeking some helpers. May I ask the Secretary how the Government can help these families so that they will avert such a situation?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Mr CHAN for his supplementary question. Many people have also reflected such a problem to us in the past. From the perspective of employment protection, employers are not permitted to dismiss pregnant workers and maternity protection under the legislation is well known to us. In this case, employers and employees should really maintain communication so that they can reach a mutual understanding. I think the problem should be dealt with on the basis of mutual understanding. For instance, the FDH concerned would not be asked to perform any strenuous duties, however, she may still be able to take up other duties such as cooking and taking care of children. We all know that pregnancy does not mean unfitness to work. Many pregnant housewives are still required to take care of their children and buy food for their families. Of course, they have to be careful when performing strenuous duties. This is the first point.

I have also done an analysis. The number of FDHs who gave births in public hospitals last year is 231. It is not a great number, only 231 cases. While there are more than 297 700 FDHs in Hong Kong, there are only 231 cases involving FDHs giving births here. I believe this is a very small number. I know that the families facing such a problem will certainly be thrown into a plight. However, I remain of the view that the legislation must protect workers and both the employer and employee should reach a mutual understanding and deal with the problem in a flexible manner.

MS LI FUNG-YING (in Cantonese): *President, under the existing Employment Ordinance, an employee should have worked for the same employer for at least 40 weeks before she can be entitled to four-fifths of her daily wage during maternity leave. According to the Secretary, there were 231 cases involving pregnant FDHs last year. Under such circumstances, the family hiring her will doubtlessly be thrown into unexpected difficulties. It has hired a FDH because it needs someone to take care of the old, the young, the injured or the weak. But now, the situation has reversed, as Mr CHAN Kin-por said. The family has to take care of a FDH who is pregnant and going to give birth to a child. Being caught in unexpected difficulties, it has to bear a very heavy burden. So, may I ask the Secretary whether he will give priority to a review of the SEC before conducting a comprehensive review afresh?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Ms LI for her question. FDHs, imported workers or any foreign employees in Hong Kong, regardless of their nationality, are under the full protection of the Employment Ordinance. Hong Kong's success lies in the fact that our labour law applies to all those who work in Hong Kong, regardless of whether they are professionals or elementary workers. This has been highly acclaimed by the International Labour Organization which considers this a fair and equitable practice. We cannot exclude a FDH from the protection on the ground that she is a FDH and will be unable to perform household chores if she is pregnant. This can hardly be justified because, at the end of the day, the employer has hired an employee who is entitled to the relevant protection. This is a highly sensitive issue. It is also a proven practice in Hong Kong. Any proposal for changes will lead to repercussions in the international community in my opinion.

As I mentioned just now, there were 231 cases last year. Compared with the 297 000-odd FDHs — surely, each of these families who have been affected will feel being caught in trouble and very anxious. However, I remain of the view that both the employers and employees should reach a mutual understanding and keep communicating with each other so that such individual problems can be dealt with in a flexible manner. Should anyone face a problem or difficulty and need mediation of the Labour Department, we are most happy to provide mediation services or help assess whether the problem can be resolved by consultation.

MS STARRY LEE (in Cantonese): *President, in his reply to part (b) of Mrs Regina IP's main question, the Secretary said that "requiring a medical certificate to be provided by designated medical institutions is operationally not feasible." President, I am sure that you must have also heard of complaints by many employers in local communities who have hired FDHs about the unreliable quality of medical certificates. The Secretary, in his reply, said that employers should scrutinize the certificate for the medical examination. In my opinion, it is not that the employers do not want to do so, but in reality it is quite difficult to do so. May I ask the Secretary whether he will consider setting out in the SEC in the course of review that employers have the right to require the FDHs to undergo medical examinations again after arriving in Hong Kong and the right to dismiss the FDHs if material discrepancies are found between the physical fitness of the FDHs and the information presented in the original medical certificate, including serious illnesses suffered by the FDHs? I have another question for the Secretary. How many complaints concerning possible frauds in respect of FDHs' medical examinations have been received by the Immigration Department and Labour Department (LD) in the last year?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, Ms LEE's supplementary question consists of two parts, with the first part concerning whether complaints have been received. We handle quite a number of claims on labour relations every year. But regarding the number of claims concerning FDHs, there is no breakdown of disputes on medical examination. Nor did we receive a large number of complaints of this nature. Last year, we dealt with 3 180 claims involving FDHs which required conciliation by the LD. Most of these claims are related to compensation upon termination of contract. This is the first point.

Secondly, just now Ms LEE asked whether employers could have the right to request FDHs to undergo medical examinations again after arriving in Hong Kong. According to my understanding, larger-scale employment agencies will arrange basic medical examination for FDHs after their arrival in Hong Kong. They do have made such an arrangement in order to check whether the FDHs are pregnant, for instance. However, there are difficulties to explicitly provide for this in the contract. Why? Because it has been stipulated under the existing arrangement that FDHs must be medically examined for fitness for employment as domestic helpers before coming to Hong Kong. This is one of our

requirements and employers are also reminded to scrutinize medical certificates carefully.

In her supplementary question, Ms LEE asked what the employers could do if the medical certificate was found to be fake or unreliable. Are the employers totally devoid of protection? In some cases, the employers can get protection. But it is my constant belief that sanction should not be imposed arbitrarily unless the employers are forced to and unless it is highly necessary to do so. If an employer found that the FDH's medical certificate was deliberately falsified by the FDH and there is evidence — the burden of proof rests with the employer who must have the evidence — if it can be proved that it is a deliberate falsification by the FDH, the employer may consider exercising summary dismissal under section 9 of the Employment Ordinance. However, summary dismissal is a serious disciplinary action and should not be used arbitrarily under normal circumstances unless the employer has sufficient evidence to prove that the FDH has committed fraudulent acts such as misconduct or dishonest conduct. However, FDHs can also seek legal protection through civil proceedings by arguing that it has nothing to do with her and that the data may be due to errors on the part of the laboratory concerned rather than her fault. So, given the burden of proof, the employers must have hard evidence. In such cases, both parties, if necessary, can approach the LD to seek mediation services provided by us. Most importantly, we have to verify the information carefully in order to find out the cause of the problem. Regarding Ms LEE's question as to whether a provision in this regard can be stipulated in the contract, we think there are some difficulties because of this reason.

MR PAUL TSE (in Cantonese): *President, the Secretary just now mentioned that there were 231 cases. I would like to know how many of these cases involving FDHs who had been pregnant before coming to Hong Kong because this is an issue involving not only the protection of workers, but also great unfairness to the employers. I would like to take this opportunity to ask the Secretary an associated question. Will he consider imposing a levy on all employers similar to the cost of travel insurance so that a fund can be set up? With this fund, an employer who has been thrown into such a situation may avoid incurring a heavy financial loss on immediate dismissal of his FDH as the cost arising from such an arrangement can be partially subsidized by the fund?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Mr TSE for his supplementary question. First of all, we do not have relevant data indicating how many FDHs among the 230-odd cases had been pregnant before coming to Hong Kong. We do not have such figures. Neither do I have any such data on hand. Perhaps I will check this up with the Hospital Authority (HA) to see if it can provide the relevant data later on. But I believe the HA will have some difficulties in this aspect because it may not be able to check up such data. (Appendix I)

Secondly, as to the question of whether a fund should be set up with levies collected, I think there are also certain difficulties. Although we say that this is a small amount, if employers are required to pay a levy, as we know, levy collection is a sensitive issue. The Employees Retraining Levy, which amounts to \$400 on each of the FDH employers, has been suspended for some time. If the levy is resumed, it may also be very disturbing to people. I remain of the view that we should deal with problems in a pragmatic and flexible manner. We understand the impact of such problems on families in Hong Kong. However, FDHs cannot be excluded from the Employment Ordinance and labour law as this is hardly justified. Moreover, the system has operated for many years, making Hong Kong an example in this aspect. For all these factors, I hope Members will understand the limitation of our policy.

Nevertheless, I would like to reiterate that, as I mentioned in my reply, I would encourage employers, particularly in respect of medical insurance premiums, if they are worried about a possible additional burden or unexpected losses — under the existing legislation, employers are required to take out an employees' compensation insurance policy, which is their obligation. Many of these policies will include medical protection for employees as well. I suggest that employers may increase the insured amount instead of taking out a policy providing the minimum amount of insurance cover since labour insurance plus medical protection is generally the most basic insurance cover. Some of these policies will allow employers to increase the insurance cover by paying an additional premium which may be just a few hundred dollars. With a substantially increased amount of insurance cover, the employers can set their minds at ease for they do not have to worry about unexpected expenses.

PRESIDENT (in Cantonese): We have spent almost 20 minutes on this question. Last oral question.

Regulation of Pesticides

6. **MR ALBERT CHAN** (in Cantonese): *President, residents of Mui Wo and Lamma Island have sought assistance from me recently, pointing out that pesticides (commonly known as agricultural pesticides) such as Paraquat, and so on, may adversely affect the health of residents and dogs. Some residents have pointed out that quite a number of people sprayed toxic pesticides in the vicinity of kindergartens, primary schools and residential areas in the past few years, and they are worried that such pesticides may pose health hazard to them, especially young children. Worse still, at least 10 dogs were killed in September this year after coming into contact with Paraquat. Among them, some were killed after eating baits poisoned with Paraquat, while some were poisoned to death after only touching plants sprayed with Paraquat. As far as I know, this problem is also found in quite a number of districts in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of dogs poisoned to death in each of the past three years; among these cases, of the number of those in which dogs were killed after taking in or coming into contact with Paraquat; and the channels through which they came into contact with it;*
- (b) *whether the authorities have assessed how the spraying of pesticides such as Paraquat, and so on, in the vicinity of residential areas, kindergartens and primary schools will adversely affect the health of residents, especially young children; if they have, of the details; if not, the reasons for that; and*
- (c) *given that I have learnt that developed countries such as Finland, Sweden and Austria, and so on, have prohibited the use of Paraquat, whether the authorities will consider stepping up the regulation of pesticides, including banning the sale of highly toxic pesticides such as Paraquat, and so on, and restricting their use by licensed persons only; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, the Administration attaches importance to the safe and proper use of pesticides. At*

present, the import, manufacture, sale and supply of pesticides in Hong Kong are regulated by the Pesticides Ordinance (Cap. 133). The Agriculture, Fisheries and Conservation Department (AFCD) is responsible for enforcing the relevant provisions. All pesticides for sale in Hong Kong must be registered with the Director of Agriculture, Fisheries and Conservation (DAFC).

The AFCD would only register pesticides categorized as slightly or moderately hazardous by the World Health Organization (WHO), and would impose restrictions on the formulation and concentration of the pesticides for retail sale. Pesticides categorized as extremely hazardous by the WHO are not allowed to be registered. The AFCD regularly reviews all the registered pesticides, taking into account the impact posed to the environment and human beings.

Apart from the registration system, DAFC also exercises strict control on pesticides through a licence and permit system under Cap. 133.

For registered pesticides, under section 7(1) of Cap. 133, except with a licence issued by DAFC, no person shall import, manufacture, sell or supply such pesticides. As regards unregistered pesticides, a person shall apply for a permit from DAFC under section 9 of Cap. 133 before he could import, manufacture, sell, supply or have in his possession such pesticides.

In assessing an application for a permit, the AFCD would take into account various factors including the danger and mode of use of the pesticide concerned. If the application is approved, the AFCD may impose conditions to strictly regulate the use of the pesticide to ensure the safety of users and the public.

My replies to each part of the question are as follows:

- (a) From 2009 to October 2011, the police had referred 32 cases of dogs suspected to be poisoned to death, involving a total of 64 dogs, to the AFCD. None was related to Paraquat. Details are at the Annex.

The police did not receive any cases of dogs suspected to be poisoned to death in Mui Wo in September and October this year. Separately, the police is investigating the death of a dog in Lamma Island in September. The dog owner concerned suspected that her

dog was poisoned to death. In order to find out the cause of the death, the police have sent samples to the Government Laboratory for toxicological tests. The test results confirm that the samples contain no Paraquat or any other common drugs and poisons. During the above investigation, the police discovered that there were eight other dogs in Lamma Island which died in September and had started investigation. However, as the carcasses concerned had been disposed of by the respective dog owners, the police was unable to take samples for further testing.

- (b) All pesticides registered in Hong Kong are safe if they are used in accordance with the instructions on the labels. Paraquat, which is categorized as moderately hazardous by the WHO, is a registered pesticide in Hong Kong. To ensure safety of the public including users and persons nearby, the AFCD has imposed restrictions on the concentration and formulation of the pesticide when approving its registration. Paraquat must be diluted before use. The toxicity of Paraquat will decrease significantly after dilution.

Moreover, when approving the registration of Paraquat, the AFCD has stipulated that a stinking agent, a colourant and an emetic have to be added in order to prevent accidental intake. The stinking agent is added so that the pesticide will emit a strong odour to serve as a warning; the colourant is added to give the pesticide a strange colour to distinguish it from drinks; and the emetic is added to induce vomiting and discharging from the body in case the pesticide has been taken accidentally.

The AFCD has spared no effort in educating the public on the safe and proper use of pesticides. To remind users of the importance of safety measures, appropriate instructions have been put on the labels of all pesticides including Paraquat. In general, if the pesticide is used in accordance with the instructions on the label, it should be safe. That said, we would remind adults to look after children under their care to avoid contact with areas that have been treated with pesticides. In the event of contacting Paraquat-tainted vegetation accidentally, washing with clean water will suffice.

- (c) Paraquat is a fast acting and effective herbicide. It plays a major role in local agriculture, land management and mosquito control. At present, more than a hundred countries in the world still allow the use of Paraquat, including most of the tropical and subtropical countries and some developed countries such as the United States, Canada, Australia, Japan, Singapore and the Mainland, and so on.

To ensure the safety of users and the public, the AFCD will continue to closely monitor regulation of pesticides in the international arena, and will conduct regular reviews on all registered pesticides including Paraquat.

Annex

Cases of dogs suspected to be poisoned to death
from 2009 to October 2011

<i>Year</i>	<i>Number of cases of dogs suspected to be poisoned to death</i>	<i>Number of dogs involved</i>
2009	12	33
2010	13	16
2011 (as at 31 October)	7	15

MR ALBERT CHAN (in Cantonese): *President, the Secretary pointed out in his reply to part (c) that Paraquat is still used in some places, including the United States, Canada and Australia. However, I have to tell the Secretary that the municipal governments in many places have already enacted subsidiary legislation to ban the use of many such toxic agricultural pesticides, and many cities in Canada have also banned their use.*

President, I wish to ask further questions about regulation. Earlier on, a journalist easily bought Paraquat from a sales point. This proves that there is no specific regulation on the sale of Paraquat. If the Secretary wishes to read the coverage, he can refer to the Oriental Daily. The interviews and news stories broadly published in the newspaper have proven that the regulation is but an empty shell.

Moreover, in many villages, residents use and spray concentrated Paraquat in the vicinity of their homes, especially in the vicinity of kindergartens and primary schools. Medical research has proven that if young children inhale a large quantity of toxic air, their body will be severely affected, and some young children will have to take leave, thus being unable to attend school.

Will the Secretary conduct a comprehensive review of the issue of regulation and step up regulation to ensure the proper use of such agricultural pesticides? In the autumn, the practice of spraying agricultural pesticides will become most rampant in the villages. Will the Secretary further review and look into the gravity of the problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, if the poisoning of any person is related to some chemicals, including insecticides or pesticides, we will certainly be very concerned. Our data show that there were 15 cases of poisoning due to Paraquat in the past six years, and all the severe cases were related to drinking pesticides, such as suicide attempts, rather than caused by ordinary contact.

According to expert opinions, firstly, after this kind of pesticide is diluted and sprayed, its toxicity will have been greatly reduced. Meanwhile, after being sprayed onto soil, it will be depurated. It will neither move in soil nor contaminate underground water sources. Therefore, it will not harm any non-target plants, and its efficacy will remain for a relatively short period of time before fast fading.

In this regard, we must take a targeted approach as far as practicable to deal with such pesticides, and see which aspects bear higher risks. However, sometimes we have to check as well whether other pesticides are the causes for such situations as children feeling sick as mentioned by Mr CHAN.

At this stage, we hold that Paraquat plays a certain role in weeding in Hong Kong, and this pesticide is also used in many sub-tropical or tropical areas, given its very special property of eliminating weeds without affecting the plants and the soil beneath them. So, it is safe to say that Paraquat allows targeted weeding. Therefore, we need to enhance public education on the one hand, and provide on

the other sufficient guidance as far as practicable to all users who buy Paraquat at sales points.

MR TAM YIU-CHUNG (in Cantonese): *President, to my understanding, the use of natural ways to repel pests has emerged throughout the world. These methods are non-toxic, and natural pesticide products are also gaining popularity. May I ask the Government whether it has carried out research to study if Hong Kong can adopt more natural and organic methods of pest control? Has the Government obtained any information and conducted any study in this regard?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the AFCD experts often read international literature to keep pace with new developments in pesticides. Certainly, some organic substances can replace certain pesticides, but as regards their performance and whether there are other problems Although they are organic substances, they may not be totally free of other toxicity. We also need to analyse the safety in respect of users and the overall operation.

Therefore, we will continue to note the international developments in this regard, in particular legislation. Most importantly, anyone using pesticides should pay attention to the scope of application, and ensure that no humans or organisms are affected.

MR ALBERT CHAN (in Cantonese): *President, I am following up the question on prohibition. The Secretary said just now that Paraquat is still used in many parts of Southeast Asia, which is understandable to me. However, I also mentioned earlier that many advanced countries, such as the United States, Canada, Australia and New Zealand, have totally banned the sale of Paraquat in cities, because medical research has proven that after agricultural pesticides like Paraquat are sprayed, if their particles remain in the air, then children with respiratory conditions, especially children with asthma, may face life-threatening risks upon inhalation of the air.*

I think the Secretary should be fully aware of the existence of such literature. If what such literature says is true, and the sale and use have been totally banned in many places, why is the Secretary still so passive in this regard, and why does he still observe the standard of Southeast Asia instead of those of some more advanced places?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I think this is not the standard of Southeast Asia, but rather the world standard, including the one adopted by the WHO. Regarding the use of all pesticides, standards have been set in terms of concentration, application and toxicity. Meanwhile, if other pesticides are used instead of certain pesticides, we must also understand whether their toxicity is stronger or milder? We must make a comparison.

As I have just mentioned, AFCD experts have also explained to us that at present there are no other chemicals more effective than Paraquat in weeding. In particular, Paraquat can eliminate weeds shortly after spraying. In addition, the general practice in other countries is to spray herbicides before the weeds grow, so that weeds will not grow in soil. This is a practice adopted in colder places, that is, spraying is effective after weeds wither every year, but as weeds grow 12 months a year in Hong Kong, we must use an effective herbicide.

We all agree that public health is our concern, but we also have the responsibility to pay attention to dealing with the growth of weeds and other consequential problems, including the nuisance of mosquitoes. Therefore, we must balance all aspects when addressing the issue. Most importantly, these herbicides and other pesticides must be applied safely in full accordance with the instructions.

MR ALBERT CHAN (in Cantonese): *President, the agricultural pesticides dispersed in the air would pose life-threatening risks to children with respiratory conditions, especially children with asthma, upon inhalation. I asked just now whether the Secretary can clearly answer if he thinks that the problem does not exist, and that children's health is totally unaffected where agricultural pesticide is sprayed, including primary schools and kindergartens.*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, poisoning is certainly related to the concentration of the substance and the channel through which it enters the body. In the past six years, among the 15 poisoning cases related to Paraquat in Hong Kong, all the severe cases involve contact through the mouth, and one case is due to the Paraquat building up a very high concentration in a room on application.

Mr CHAN asked just now whether there are cases involving inhalation by children. I can say that we had no such record in these six years. Of course, we do not rule out its possibility in principle, but we have no record of report of such cases. Therefore, I cannot say 100%, but I think insofar as the risk is concerned, we have enough evidence to show that if pesticides are applied safely, the neighbours and children would not be easily affected.

PRESIDENT (in Cantonese): Members' motions.

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): *President, there is still time. May I ask a further follow-up?*

PRESIDENT (in Cantonese): Please raise your question.

MR ALBERT CHAN (in Cantonese): *President, the Secretary said just now that there were no past examples, but let me tell the Secretary that some foreign residents whom I contacted said that their children had to take leave from school because they felt sick after inhaling such air. Of course, medical evidence may not be available if so required. However, President, I reiterate that according to foreign literature, it is proven that inhalation of agricultural pesticide will affect health.*

I also mentioned earlier that the regulation on the use of agricultural pesticides in Hong Kong is extremely loose. Anybody can very easily buy agricultural pesticides in agricultural pesticides shops

PRESIDENT (in Cantonese): Please raise your question.

MR ALBERT CHAN (in Cantonese): *Well, just now the Secretary said that if applied properly, it will not cause any impact. However, it has been proven by facts that the regulation is very loose, and there were past examples of such agricultural pesticides being often sprayed in the vicinity of primary schools and kindergartens, leading to the existence of agricultural pesticides in the air. Would the Secretary really*

PRESIDENT (in Cantonese): What is your question?

MR ALBERT CHAN (in Cantonese): *not address the problem before someone dies?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, there are many toxic materials on the market, for example, pesticides, rat poisons, and so on. All can be fatal at any time, but people will not ingest them. So, under what circumstances will it lead to poisoning? The most important point is the proper application of insecticides and pesticides.

We are certainly concerned about the issue related to children as mentioned by Mr CHAN. However, if we have not clearly identified what triggers medical conditions among children, we cannot simply allege its direct relevance to Paraquat.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Promoting Use of Solar-powered Air-conditioning System in Vehicles**

7. **MR ABRAHAM SHEK:** *President, it has been reported that a solar-powered air-conditioning system, which is pending approval from the Government, was retrofitted into 10 vehicles of different types for road tests in this summer. It is found, according to the tests, that a taxi using the system could save 21% in fuel and a minibus 27%; the charging for less than seven hours could provide more than two hours of air-conditioning. As the system is still at an early stage of commercialization, it will cost about \$40,000 for a taxi and up to \$120,000 for a minibus to retrofit. In this connection, will the Government inform this Council:*

- (a) whether it has considered introducing and applying the system to government vehicles as a pilot scheme; if yes, of the details concerning the total estimated retrofitting cost and the timetable for implementation; if not, the reasons for that;*
- (b) whether it has considered subsidizing public transport companies for retrofitting the system into their vehicles; if yes, of the criteria for determining the provision of different levels of subsidies with reference to the energy saved and carbon emissions reduced; if not, the reasons for that;*
- (c) given that a setup cost and an increase in the maintenance cost will be involved in retrofitting the system, whether it has assessed if the additional costs may be passed onto the passengers of the public vehicles concerned; if the costs will be passed onto the passengers, whether the Government will consider introducing any transport cost stabilization measure;*
- (d) whether it has considered increasing the availability of the charging facilities and providing sufficient maintenance services for the vehicles concerned in the face of a possible surge in the number of vehicles retrofitted with the system and the demand for its charging services; if yes, of the details; if not, the reasons for that; and*

- (e) *whether it will consider stepping up public education and publicity on the wider use of solar-powered air-conditioning systems; if yes, of the details?*

SECRETARY FOR THE ENVIRONMENT: President, The Hong Kong Polytechnic University and a private company have jointly developed a solar-powered air-conditioning system. They have installed the system on vehicles for trial this summer and are analysing the operational data collected for further improvement. Our replies to the questions are set out below:

- (a) The Government has been implementing various green measures in the government vehicle fleet, for example, giving priority to procuring environment-friendly vehicles such as electric vehicles when existing vehicles are due for replacement. We welcome the application of renewable energy in the transportation. While the solar-powered air-conditioning system is still under trial, we will closely monitor the development and consider its applicability in the government fleet.
- (b) The Government has set up a Pilot Green Transport Fund to provide subsidies for the public transport sector and goods vehicles owners to test out green and innovative transport technologies. The Fund covers new vehicle types, emission reduction or fuel-saving devices that have yet to be widely adopted in Hong Kong. Public transport companies could apply for subsidy under the Fund for trial on the solar-powered air-conditioning system. The level of subsidy for retrofit devices amounts to 75% of their hardware and installation costs. Successful applicants will have to share the trial findings with other members of the transport trades.
- (c) As the system is still under trial, it is premature to assess at this stage the potential cost implication on the public transport operators if such a system is installed on their vehicles.
- (d) We understand that the vehicle's air-conditioner is powered through solar panels and battery system installed in the vehicle. Separate charging facilities and infrastructure support are not required.

- (e) The Government has been promoting wider adoption of renewable energy in public and private sectors. For instance, we have taken the lead to install photovoltaic (PVC) systems in government buildings and public facilities. One of the local power companies has also set up a PVC system at its power station to generate electricity of about 620 000 kWh every year. On the other hand, we have been promoting the use of green transportation technologies through various funding initiatives, pilot schemes and publicity programmes. We will closely monitor the development of the solar-powered air-conditioning system, and would promote wider adoption of relevant green transportation technologies through various channels.

Measures to Tackle Under-occupation in Public Rental Housing

8. **MR LEUNG YIU-CHUNG** (in Chinese): *President, given that public housing resources are heavily subsidized by public funds, the Hong Kong Housing Authority (HA), in an effort to rationalize the use of such resources, has adopted a more stringent yardstick for dealing with under-occupation households since 1 November 2010 by narrowing the definition of serious cases of under-occupation households from that of an average living density of 35 sq m per person to 34 sq m per person. According to the information of the Housing Department (HD), the majority of the under-occupation households are one-person households living in two-bedroom flats. In this connection, will the Government inform this Council:*

- (a) *given that in response to the recommendations of the Report No. 48 of the Director of Audit (the Report) published in 2007, the Director of Housing (D of H) indicated that "since 2000, the HA has converted approximately 49 000 flats originally intended for sale to rental flats, many of which are large flats. In order to rent out these large flats, the HA has relaxed the allocation standards so that these flats could be allocated to families with fewer members. They would become under-occupied households once there is a small change in the number of family members (for example, when a three-person household becomes a two-person one)", whether the authorities have compiled statistics on the number of households*

which have been allocated larger flats as a result of the relaxation of allocation standards by the HA since 2000; and of the number of one-bedroom or two-bedroom flats exceeding 34 sq m that have been allocated to two-person families as a result of this, instead of being allocated to three to four-person families according to the original standards;

- (b) *given that in response to the recommendations of the Report, the D of H also indicated that the HD planned to tackle the issue of under-occupation households on the basis of the following guiding principle: "to avoid more acute shortage of small flats, instead of taking action to demand under-occupied households to move from large flats to small flats under the tenancy agreements, priority should be given to allocating flats to applicants on the waiting list and clearerees (that is, people affected by clearance operations and redevelopment projects)", whether the HD has tackled the issue of under-occupation households in accordance with this guiding principle; if it has, of the details; if not, the reasons for that; in addition, given that the D of H on the one hand stated that "with nearly 70 000 applicants on the waiting list (two thirds of total) being one-person or two-person families [in 2007], and the phasing out of the converted one-person flats (commonly known as 'split flats') and old-style Housing for Senior Citizens flats, the problem of inadequate supply has become more serious", and on the other hand transferred under-occupation households to one-person flats, whether this is inconsistent with that guiding principle; and*
- (c) *given that in response to the recommendations of the Report, the D of H also indicated that "single-person households who are awaiting reunion with their family members from Mainland China are allowed to continue to reside in their flats even in the case of under-occupation", whether the authorities have compiled statistics on the current number of such households; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, to rationalize the use of limited public housing resources, the HA has put in place

an under-occupation policy to require a household with excessive living space to move to another public rental housing (PRH) flat of an appropriate size.

In Chapter 5 of Report No. 48, the Audit Commission commented, among others, in paragraph 4.12 that "it is not an optimal use of public housing resources for flats to remain under-occupied for a prolonged period. The HD needs to expedite action to deal with the problem of under-occupied flats so as to make them available to households in need", and recommended in paragraph 4.22(b) that the HD should "formulate a long-term strategy to address the problem of a large number of PRH flats which are under-occupied". In view of Audit Commission's recommendations, the HA endorsed a phased approach to address the problem of under-occupation in May 2007. Due to the limited supply of small flats for allocating to various categories of PRH applicants (including under-occupation households) at that time, the HA decided to give priority to handle the most serious under-occupation cases at living density exceeding 35 sq m per person and without elderly and disabled family members in the first two years.

To encourage under-occupation households to accept transfer arrangements, the HA decided to offer the affected households a total of four housing offers in their residing estate or an estate in the same District Council constituency, Domestic Removal Allowance and an opportunity for transfer to new estates, subject to availability of housing resources.

After implementation of the first phase, it was found that not all most serious under-occupation households needed to transfer to small PRH flats, as some of them moved out of their PRH flats voluntarily, or they were no longer most serious under-occupation households through the addition of new family members.

Since the first phase achieved satisfactory results and taking into account the number of small flats available for transfer of most serious under-occupation households at that time, the HA further endorsed in 2010 to redefine the most serious under-occupation cases as those with living density above 34 sq m per person and without elderly or disabled family members.

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

- (a) The HA converted 49 000 flats originally intended for sale to rental flats in 2000 in response to the then policy to cease the sale of Home Ownership Scheme flats. These flats are located in various districts (such as Urban, Tung Chung, Tin Shui Wai, Islands) and are in different types of buildings (such as new cruciform, concord and non-standard). Their areas range from small flats of around 17 sq m to three-bedroom flats that are larger than 54 sq m. In view that the household size of Waiting List applicants was decreasing, and their demand for larger flats in both Tin Shui Wai and Tung Chung were generally not strong then, the HA decided to relax the allocation standard of some 3 600 three-bedroom flats in new cruciform blocks with an internal floor area (IFA) of 53.76 to 54.25 sq m to households of five persons or above, instead of six persons or above as originally intended; and some 4 900 three-bedroom flats with an IFA exceeding 49 sq m in Tin Shui Wai and Tung Chung to households of four persons or above instead of five or above, but priority was still accorded to households of five or more persons to ensure effective allocation of larger PRH flats. A total of about 1 270 five-person households were allocated three-bedroom flats in the new cruciform blocks and 1 960 four-person households were allocated three-bedroom flats in Tin Shui Wai and Tung Chung as at end March 2011. The allocation standards for other PRH flats including one-bedroom and two-bedroom flats have not been relaxed. Therefore, no one-bedroom and two-bedroom flats with an IFA exceeding 34 sq m have been allocated to two-person households through this relaxation arrangement.
- (b) In handling allocation of PRH, the HA has all along been adopting a flexible approach to ensure the effective use of limited public housing resources. The guiding principle adopted in 2007 is in line with the then situation of supply of small flats. Based on the existing situation, the Waiting List applicants have a strong demand for larger flats that exceed 34 sq m and can cater for three to four person households. According to our experience in handling under-occupation cases, the flats recovered from the

under-occupation households were mostly one-bedroom flats suitable for three to four person households. Therefore, we need to continue our efforts in handling under-occupation cases to recover more large flats for re-allocation.

- (c) The HA has all along adopted a practical, compassionate and rational approach to handle each case when implementing the under-occupation policy. For tenants who are expecting reunion with their family members from the Mainland in the near future, or who need to stay in the existing flat on medical or social grounds, and so on, the HA will consider their individual merits subject to valid documentary proof. As the circumstances and reasons of affected tenants asking to stay on in their existing flats differ and their individual circumstances may also change at times, the HA does not have the statistics asked in this question.

Preparation for Possible Policy Changes to be Introduced by New Chief Executive

9. **MR PAUL CHAN** (in Chinese): *President, the Chief Executive indicated after delivering the Policy Address that good policies would definitely continue to be implemented. Yet, the new SAR Government will be formed in July next year and the persons who intend to run in the Chief Executive Election have respectively expressed their views on different policies, some of which are different in varying degrees from the existing government policies (including education, the Civil Service and poverty alleviation, and so on). In this connection, will the Government inform this Council:*

- (a) *whether a mechanism is in place at present for making preparation for the possible policy changes brought by the change of government; if so, of the specific contents; if not, the reasons for that, and whether it will begin to establish such a mechanism now;*
- (b) *after establishing the mechanism concerned, how the Government will calculate the manpower and resources involved in carrying out the relevant work; and whether it will consult the public on this; and*

- (c) *whether a study has been conducted on the views on policies put forth by the persons who intend to run in the 2012 Chief Executive Election; if so, when the study has begun and is anticipated to be completed, of its specific contents and findings and whether the findings will be made public; if it has not conducted such a study, the reasons for that, and whether it will initiate the study?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President,

- (a) On 12 October, the Chief Executive delivered the last Policy Address within his term of office which covered different policy areas. It takes time for any policy to be implemented. Just as the Chief Executive stated in the press conference after delivering the Policy Address, good policies which receive public support would continue to be implemented by any Administration. On the other hand, any Chief Executive may adjust those policies which have room for improvement.
- (b) After the fourth term Chief Executive is elected in March next year, the current term Government will consult the Chief Executive designate and provide him/her with the necessary support to ensure that the formation of the political team, the implementation of the election platform and the handing over to the next term Government proceed smoothly. The manpower and resources involved will be met by internal redeployment where possible.
- (c) The HKSAR Government hold high regard for suggestions of the community and the public in respect of various policy areas. We will study carefully proposals put forth by any organization or individual for promoting community development and raising the quality of life of the general public. We shall deal with the policy transition issues as necessary after the election of the fourth term Chief Executive.

Educational Support for Ethnic Minority Students

10. **MS STARRY LEE** (in Chinese): *President, according to the Report on the Working Group on Education for Ethnic Minorities published by the Equal Opportunities Commission earlier, the number of ethnic minority (EM) students in Hong Kong has increased from about 10 000 three years ago to about 12 000 at present; and having held a series of meetings to exchange views with stakeholders and the Education Bureau, the Working Group noted that there are various challenges to the academic pursuit of EM students, of which learning Chinese remains the greatest. Regarding the enhancement of the educational support for EM students, will the Government inform this Council:*

- (a) of the number of EM students in Hong Kong as at September this year, broken down by the level in kindergartens, primary and secondary schools as well as tertiary institutions; the details of various educational support measures and funding currently provided to them by the authorities;*
- (b) with a view to encouraging EM students to integrate into the mainstream education system as early as possible, whether it will consider providing language and manpower support to pre-school education institutions, so as to assist such institutions in admitting EM children; if it will, of the details; if not, the reasons for that;*
- (c) whether it will consider implementing a pilot scheme to offer Chinese language "immersion classes" for EM students studying in mainstream schools, so as to ensure that they understand and comprehend the course contents taught in class; if it will, of the details; if not, the reasons for that;*
- (d) given that at present the commercial market lacks Chinese language teaching materials suitable for EM students, whether the authorities will consider publishing relevant teaching materials to provide adequate and appropriate Chinese language teaching support for these students as well as the schools concerned; if they will, of the details; if not, the reasons for that;*

- (e) *whether it will consider subsidizing teachers in mainstream schools to take some advanced courses on EM's cultural background, so as to enhance their awareness of cultural diversity; if it will, of the details; if not, the reasons for that;*
- (f) *what measures the authorities have in place to enhance EM parents' understanding of mainstream schools, and provide adequate information to help them choose the schools for their children; and*
- (g) *whether it will consider setting up a database covering the education, vocational training and employment situations of EMs, so as to facilitate the formulation of appropriate strategies on educational and youth support for EMs; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, the Government is committed to supporting non-Chinese speaking (NCS) students' learning of the Chinese language to facilitate their early adaptation to the local education system and integration into the community. Support measures for NCS students, which are developmental in nature, have been progressively implemented since 2006. With more NCS students enrolling in local schools, we are now examining the support measures, taking into account stakeholders' views, in order to enhance the learning effectiveness of NCS students. My reply to the question raised by Mr LEE is as follows:

- (a) We have been collecting student information about NCS students through the annual Enrolment Survey to formulate support measures, making reference to other information. Relevant statistics including information on the number of NCS students in the 2011-2012 school year are being collected and verified. As usual, it is expected that relevant statistics will be finalized by the end of this year. Admission to post-secondary programmes, including certificate/diploma, higher diploma, sub-degree and undergraduate courses, is offered to eligible applicants, irrespective of their race and language spoken at home. Normally, the concerned institutions do not require applicants to indicate their ethnic origin or first

language. Hence, comprehensive statistics on the number of NCS students receiving tertiary education are not available.

Details of support measures for NCS students and the additional funding incurred in the 2010-2011 school year are tabulated at Annex.

- (b) To facilitate NCS children's early adaptation to the local education system, we will continue to encourage NCS parents to send their children to receive local pre-primary education, and render professional support to pre-primary institutions to help NCS students lay a solid foundation for their learning.

(c) and (d)

To address the practical needs of NCS students, we issued the Supplementary Guide to the Chinese Language Curriculum for NCS Students and dispatched a series of learning and teaching materials to schools in late 2008. The Supplementary Guide, which includes four curriculum modes of "immersion in Chinese language lessons", "bridging/transition", "specific learning purposes" and "integration", enables schools to help their NCS students learn progressively based on their diverse aspirations, needs and learning pace, with a view to attaining different recognized qualifications for articulation to multiple progression pathways.

Through collection, adaption and consolidation of relevant learning and teaching materials, we have compiled two sets of "textbooks" in Chinese language for NCS students, covering different learning stages of the primary and secondary levels. These "textbooks" were dispatched free of charge to schools in 2009 and 2010 for use by teachers and NCS students. We have also commissioned a university to develop assessment tools covering the dimensions of characters recognition, characters writing, listening, speaking, reading and writing for schools' internal use. These assessment tools have been uploaded onto the Education Bureau's website for schools to assess the learning outcome of Chinese Language of their NCS students, with a view to setting specific learning targets so as to

enhance the effectiveness of learning and teaching with reference to the assessment results.

Besides, in order to enhance the Chinese proficiency of NCS students, we have commissioned a university to operate the Chinese Language Learning Support Centres, provided funding to non-designated schools to put in place diversified extended Chinese learning programmes and organized Summer Bridging Programmes for NCS students in primary schools. These measures serve to reinforce what the NCS students have learnt in Chinese language classes at schools.

- (e) Various modes of professional training have been organized for teachers teaching NCS students, including commissioning tertiary institutions to operate relevant programmes and inviting experienced school professionals and experts in relevant fields to share their experiences on racial harmony in school and equality in education with schools and teachers.
- (f) Basic information, such as the NCS Parent Information Package: Your Guide to Education in Hong Kong, leaflets on the Pre-primary Education Voucher Scheme (PEVS), explanatory pamphlets on the Primary One Admission (POA) and Secondary School Places Allocation (SSPA) systems, and so on, is provided in major EM languages for NCS parents. Besides, briefing sessions with interpretation service are organized to familiarize NCS parents with the arrangements of PEVS, POA, SSPA and our support measures so as to encourage them to send their children to schools offering local curriculum. We have also set up a hotline to answer enquiries from NCS parents and students.
- (g) Regarding the support for vocational training and employment, the Government, through the Vocational Training Council (VTC), will continue to provide vocational education and training to eligible persons. NCS students may also apply for the specially-designed vocational education and training programmes offered by the Institutes of Vocational Education and Youth Colleges of VTC.

The Employees Retraining Board (ERB) has offered dedicated courses in English to meet specific training and employment needs since 2007. The ERB's appointed training bodies will also provide trainees of full-time dedicated courses with a six-month placement service which offers close follow-ups, assistance and support in their job search. To further strengthen the service for clients moving on from training to employment, the ERB has put in place a collaboration mechanism on the provision of job vacancies with the Labour Department (LD). With the consent of the related employers, the ERB and the LD regularly exchange information on job vacancies to enhance the employment opportunities of the ERB trainees and other job seekers. The ERB also seeks views from its Industry Consultative Networks and the focus groups set up for ethnic minorities to devise training programmes to meet the needs of its trainees and different industries.

Annex

Support Measures for NCS Students
and Additional Funding Incurred in 2010-2011

<i>Support measures</i>	<i>Expenditure \$ million (about)</i>
School-based support to designated schools for NCS students	*
Provision of cash grant to designated schools so as to support them to develop school-based support measures to further help their NCS students in learning and integration	15.6
Continual development of a series of teaching reference materials and assessment tools for distribution to schools and NCS students and organization of workshops for teachers to tie in with the issue of the Supplementary Guide to the Chinese Language Curriculum for NCS students	2*

<i>Support measures</i>	<i>Expenditure \$ million (about)</i>
Provision of training programmes for Chinese language teachers in primary schools with NCS students	The programmes are subsumed in the overall professional development programme of the Education Bureau and a breakdown of expenditure by item is not available.
Chinese Language Learning Support Centres to provide remedial programmes after school hours or during holidays for NCS students particularly those who have a late start in the learning of the Chinese language and also to assist in the development of teaching resources and organization of professional development workshops to render support to teachers of NCS students	2.9
Implementation of a three-year pilot project of After-school Extended Chinese Learning under which non-designated schools may seek funds to put in place diversified extended Chinese learning programmes for NCS students	10.5
Summer Bridging Programmes for NCS students in primary schools	1.4
Subsidizing eligible school candidates sitting for the General Certificate of Secondary Education (GCSE) (Chinese) Examination to the effect that the fee level of GCSE (Chinese) Examination is on par with the Chinese language paper in the Hong Kong Certificate of Education Examination or Hong Kong Diploma of Secondary Education	0.26

Note:

- * These measures are provided by different sections of the Education Bureau and deployment of staff may be adjusted having regard to the needs of individual schools. The relevant manpower resources and expenses are subsumed in the overall expenditure of the Education Bureau and a breakdown of expenditure by item is not available.

Redevelopment of Kwong Wah Hospital

11. **MR JAMES TO** (in Chinese): *President, the Tung Wah Group of Hospitals has been striving for the redevelopment of the Kwong Wah Hospital (KWH) and signed a Memorandum of Understanding for the redevelopment project with the Hospital Authority (HA) in 2009, but the redevelopment project has yet to commence. The Chief Executive has also not mentioned the redevelopment of the hospital in his 2011-2012 Policy Address. As far as I know, KWH is in urgent need of redevelopment, and also requires regular building safety inspections and maintenance (including annual inspection and engagement of overseas consultants to carry out a comprehensive structural inspection every five years to ensure building safety). In reply to a Member's question earlier, the Government said that in the redevelopment of hospitals, it would take into account "the future population growth and ageing in the region, the demand for healthcare services, the overall provision of healthcare services in the various clusters under the HA, as well as the development of public and private healthcare services". As KWH cannot be redeveloped in the near future and the population of Kowloon West continues to grow, will the Government inform this Council whether it knows:*

- (a) *the respective amounts of expenses (by year) incurred by KWH in the past five year on the engagement of consultants and maintenance for the two types of building inspections (annual inspection and five-yearly comprehensive structural inspection); whether any major structural safety problem has been identified; if so, of the details; the estimated amount of expense on the comprehensive structural inspection to be conducted next year;*
- (b) *given that I have learnt that KWH has invited tenders for services of a consultant relating to the preliminary work of the redevelopment project (including traffic and heritage assessments), the current progress of the preliminary work and when it is expected to be completed;*
- (c) *given that when briefing this Council on the proposed redevelopment of Caritas Medical Centre (CMC) in 2007, the Government indicated that as CMC had been in use for more than 40 years, its*

facilities were inadequate and outdated, and the population in the region was ageing, it was in urgent need of redevelopment, and as KWH is facing similar problems, whether the Government has made any relevant assessment of KWH (including the current utilization rates and waiting times for various services and the impact of a growing elderly population in the region on the demand for medical services);

- (d) given that the Government indicated in its reply to my earlier inquiry that the facilities of KWH had failed to adequately meet the modern operation needs and the increasing demand of the community for medical services, when the Government expects to seek funds from this Council to kick off the redevelopment of KWH; whether the Government has assessed the redevelopment costs; if so, of the amount involved; what measures it will adopt prior to the completion of the KWH redevelopment project to compensate for the current inadequate services in KWH; and*
- (e) what measures the Government will put in place to improve the overall hospital services in Kowloon West, apart from the soon-to-be-completed redevelopment project of CMC and the plan to develop the Centre of Excellence in Paediatrics in Kai Tak Development Area?*

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

- (a) KWH would conduct annual review on the conditions of the hospital structure and facilities every year and carry out various minor maintenance and improvements works based on the review results. Currently, the annual expenditure on minor maintenance works for the 41 public hospitals under the HA is about \$310 million, of which about \$18 million is for works in respect of KWH. Besides, KWH would commission a professional architectural consultancy firm through open tender to conduct a comprehensive inspection every four to five years. When the last comprehensive inspection was completed in late 2008, the report generally indicated that there was

no structural problem. The next major structural check will commence next year. The expenditure incurred by such check can only be confirmed after the tendering exercise has been completed.

- (b) The Traffic Impact Assessment and the Heritage Impact Assessment conducted for the KWH redevelopment project are underway and will be completed in early 2012. Other preliminary work including preparation of the Schedule of Accommodation and the Functional Brief has also commenced and is expected to be completed within 2012.
- (c) Given that most of the buildings of KWH are over 50 years old, the HA has earlier submitted a proposal on the KWH redevelopment project to the Government for consideration. It has also conducted various preliminary preparatory work, including preparation of the "Project Definition Statement", "Clinical Service Plan", "Master Development Plan" and "Technical Feasibility Statement", and so on. In the planning process, the Administration has taken into consideration a number of factors, such as the projected demand for healthcare services having regard to population growth and demographic changes in the district, the utilization and estimated growth rate of services of individual specialties, and the possible changes in healthcare services utilization pattern, and so on.

In 2010-2011, the bed occupancy rate in KWH was 71%, and the median waiting time for first appointment at its specialist out-patient clinics was 10 weeks. The HA will regularly monitor the utilization rate and trend of demand for various healthcare services and ensure that the services can meet public demand through continued restructuring of service delivery mode of hospitals, hospital development projects and implementation of other suitable measures.

- (d) The Government will process the funding application for redevelopment of KWH in accordance with the established procedures to facilitate an early commencement of the project. According to the preliminary estimate, the entire redevelopment

project will cost over \$8 billion. We will make a more detailed estimate before seeking funding approval. KWH will maintain a series of maintenance and repair measures before implementation of the redevelopment project. It will also make service adjustments having regard to the utilization of and demand for its services, so as to ensure that it can provide safe and appropriate healthcare services to the patients.

- (e) To meet the increasing service needs and shorten the waiting time in the West Kowloon District, the HA will strengthen its inpatient and integrated care services, including providing additional Haemodialysis places for renal patients, and extending the service hours of emergent coronary artery catheterization surgery, and so on. Furthermore, to enhance service quality, the HA will optimize the thoracic, rheumatic, ophthalmic and prenatal care services and implement a series of integrated care service programmes, such as the integrated chronic obstructive pulmonary disease management programme, the integrated care services for elderly patients and the integrated mental health programme, and so on.

Short-term Tenancies and Waivers

12. **DR DAVID LI:** *President, it has been learnt that from time to time investigative reports appear in the press about individual short-term tenancies (STTs) and waivers issued by the Lands Department (LandsD) that grant a private party the temporary right to use Government land or property, or to change land use. These reports often highlight an alleged special privilege or benefit gained by the party that holds the STT or waiver, and regardless of whether such claims are true or not, they invariably raise public concern. In this regard, will the Government inform this Council:*

- (a) *of the government policy in respect of the release of information to the public on STTs and waivers not subject to tender in advance of issuance and renewal;*

- (b) *whether the LandsD will consider publishing a database of all pending and existing STTs and waivers not subject to tender on its website in order to increase transparency and clarify the public's doubts;*
- (c) *whether the LandsD will consider making it a requirement for the holder of an STT or waiver not subject to tender to register the document granting the STT or waiver with the Land Registry; and*
- (d) *whether the LandsD will consider publishing on its website the details of any STT or waiver granted at a nominal charge or a charge at non-market rate?*

SECRETARY FOR DEVELOPMENT: President, the Government may put vacant land to temporary uses by granting STTs through open tender or directly to applicants normally on support from the relevant Policy Bureau on policy grounds. For land already subject to leases granted by the Government, waivers may be granted by the Government on application by the lessees for waiving certain specific conditions under the leases. Such STTs and waivers are processed by the LandsD according to the applicable procedures.

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

- (a) The LandsD is acting in the landlord capacity in negotiating and settling the terms with a prospective tenant for a direct grant of STT or with a lessee in respect of a waiver application. At the moment, we do not have a policy to release information in relation to such STT or waiver applications in advance of issue or renewal having regard to the considerations referred to in part (b) below.
- (b) Direct grants of STT are normally granted on support from the relevant Policy Bureaux on policy grounds and there are no plans to disclose details of such applications pending consideration by the relevant Bureaux and Departments. Further, information provided by the applicants during the application stage is primarily intended for the processing of their applications and the applicants may make changes in the process. It is considered not appropriate to publish

the concerned information when an application is being considered. The waiver documents, once approved and executed, will be registered at the Land Registry and interested persons may inspect such information at the Land Registry.

- (c) A main reason for registration of land documents at the Land Registry is to provide intending purchasers or mortgagees with access to information on the ownership of or encumbrance upon the land and/or the property. The Government normally prohibits alienation of STTs and hence registration of STTs is not considered necessary. As for the waiver documents, they will be registered in the Land Registry after execution.
- (d) In recent years, we attach importance to increasing transparency in our land administration work, for example, publishing and updating on a regular basis information concerning Public Open Space in Private Developments and private columbaria. I have asked the LandsD to consider, taking account of workload implications on the department, how we may release information on new STTs granted directly to an organization at a nominal charge. As explained above, the waiver documents, once executed, will be registered in the Land Registry and separate disclosure by the LandsD of waiver applications approved is not considered necessary.

Noises Emanated from Schools

13. **MISS TANYA CHAN** (in Chinese): *President, an international school on Lantau Island received noise abatement notices (NANs) issued by the Noise Control Authority (NCA) (that is, Director of Environmental Protection) as noise emanated from the school was said to have reached 62 decibels (dB), which exceeded the statutory level of 60 dB for rural area. The school considered the issuance of NANs by the authorities unreasonable, and appealed to the Noise Control Appeal Board and then applied to the High Court for a judicial review, but both cases were dismissed. In this connection, will the Government inform this Council:*

- (a) *when the NCA issues NANs, apart from considering the measurement of the noise levels taken during his investigation of complaints about noises, whether he will also take into consideration other factors (including the use of the premises emanating the noises, sources of the noises, how long the noises persist as well as at what time the noises are emanated, and so on); if he will, how he decides whether to issue NANs according to such factors; if he will not consider such factors, of the reasons for that;*
- (b) *given that during school recesses, students will all gather in the outdoor areas of their schools to relax and play and will cause some noises, whether the Government will, in view of the special nature of school environment, consider reviewing the noise level limit applicable to schools, so as to strike a fine balance between minimizing the noise nuisance caused to residents in the vicinity and maintaining a pleasant learning environment in school; if it will, of the details; if not, the reasons for that; and*
- (c) *with a view to preventing noises that may be emanated from schools from affecting residents in the vicinity, whether the Government will consider making adjustments in selecting sites for schools during planning, or assisting schools in installing noise control facilities to reduce noises; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, environmental noise is controlled under Noise Control Ordinance (Cap. 400) and the Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Site (Technical Memorandum) issued pursuant to the Ordinance. The Technical Memorandum sets out the noise control standards, measurement procedures and other technical details. The enforcement personnel must follow the provisions of the Technical Memorandum to assess whether noise emanated from the relevant premises exceeds the "Acceptable Noise Level", and whether a NANs should be issued. Our replies to the three specific questions are given below:

- (a) In the course of enforcement, the enforcement staff of Environmental Protection Department (EPD) will consider the

relevant factors in accordance to the aforementioned Technical Memorandum. Firstly, the enforcement staff will determine whether the use of the premises where noise is emanated falls within the scope of the Technical Memorandum. If it does, the enforcement staff should then consider the type of the affected area, whether it is affected by factors such as industrial areas and major roads, and the time when noise is emanated. With reference to these factors and following the Technical Memorandum, an appropriate "Acceptable Noise Level" will be adopted.

- (b) Upon receiving complaints against noise caused by students inside schools during recess or after school hours, the EPD would first assist the schools to review their operation and their noise situation to facilitate the schools taking appropriate measures to abate the noise. For example, schools may consider installing noise barrier or cover in areas close to the affected residents, or relocating certain activities to other places inside the schools. These allow the schools maintaining normal students' activities during recess or after school hours, while preventing the noise caused by schools from affecting the nearby residents. According to past experience, the schools under complaint, upon realizing the noise problem, in general responded positively and implemented effective mitigation measures to satisfactorily resolve the problem without affecting students' normal studies and activities in schools. The EPD considers that the existing control regime in handling students' noise has been working effectively, and it is capable of achieving a reasonable balance between minimizing the noise nuisance caused to residents in the vicinity and maintaining a pleasant learning environment in school.
- (c) In deciding on the location of land uses for schools, Planning Department would consult relevant government departments, and would refer to the environmental guidelines as stated in Chapter 9 of the Hong Kong Planning Standards and Guidelines. Schools should be sited away from noise sensitive areas. If the conditions do not allow or there are unavoidable circumstances resulting in situations that noise caused by schools may lead to disturbance to

nearby residents, depending on the circumstances of individual cases, Education Bureau will suggest schools to install noise abatement facilities or implement appropriate administrative measures.

Accidents Involving Pedestrian Refuges

14. **MR CHEUNG HOK-MING** (in Chinese): *President, accidents involving vehicles crashing into pedestrian refuges and resulting in casualties occur from time to time. Regarding the safety issues of pedestrian refuges, will the Government inform this Council:*

- (a) of the number of traffic accidents involving pedestrian refuges in the past three years, the casualties involved and the locations where such accidents occurred; and*
- (b) whether it will consider improving the installation of traffic light signals and removing pedestrian refuges gradually, so that pedestrians do not have to stop and stay in the middle of a road when they are crossing the road?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, pedestrian refuge is a facility that assists pedestrians to cross a road. When crossing a wider or two-way road via pedestrian crossing facilities such as zebra crossings and cautionary crossings, the pedestrians may not know at the time when they start crossing the road the traffic condition on the other side of the road. The Transport Department (TD) usually provides central refuges at such crossings for pedestrians to stop midway and check the traffic condition, and if it is safe, continue to cross the road. As regards signalized pedestrian crossings, it is sometimes necessary to provide central refuge for pedestrians to stop and check the signals and traffic condition at the other side of the road before continuing to cross the roads. The TD will take into account pedestrian flow in designing refuges to provide adequate space for accommodating pedestrians waiting to cross the roads. Reflective or illuminated bollards will also be installed to direct motorists to pass either on the left or right side of the refuges. Without such

refuges, pedestrians will have to stand and wait in the middle of a road or between traffic lanes without any protection, which may easily result in traffic accidents. For the sake of pedestrian safety, it is undesirable to remove the refuges.

Apart from some busier locations where pedestrian crossings have to be staggered in order to ease traffic congestion, other signalized crossings are now designed in such a way as to provide pedestrians with sufficient time as far as possible to reach the other side of the road without having to stay and wait at central refuges. The TD will review the operation of individual pedestrian crossings from time to time for continual improvement in road design and traffic signal control so as to cater for the needs of road users and ensure road safety.

During the period from January 2008 to September 2011, there was no traffic accident involving pedestrians being hit and killed on refuges. Over the same period, there was one traffic accident involving one person who was seriously injured on a refuge in Kwai Tsing District. The accident involved a motorist driving too close to the refuge. There is no information at this stage which suggests that refuges will result in serious traffic accidents. The Administration will enhance publicity and education efforts to promote safe driving among motorists.

Vacant Government Quarters

15. **DR PRISCILLA LEUNG** (in Chinese): *President, it has been learnt that the number of expatriate senior civil servants employed in various departments of the Government of the Hong Kong Special Administrative Region (SAR) has been decreasing since the establishment of SAR, and local senior civil servants may buy their own homes in the private property market by means of applying for a housing allowance; the overall demand of the Civil Service for government quarters has been declining, and the vacancy rate of civil servant quarters in various districts across the territory which are within the purview of the Government Property Agency (Agency) stands high. In this connection, will the Government inform this Council:*

- (a) *of the total number of units and the total floor area (in terms of square feet) of the aforesaid properties currently held by the*

Government; the overall vacancy rate of such properties in each of the past three years;

- (b) whether the authorities had leased out such vacant property units to the public or to private organizations in the past three years; if they had, of the respective number of units which had been leased out each year; if not, the reasons for that;*
- (c) of the expenditure incurred for the repair and maintenance of such vacant properties by the authorities in each of the past three financial years, including internal decoration of the units, as well as the overall maintenance of the building structure and common parts; and*
- (d) whether it has estimated the loss in government rental income in each of the past three financial years calculated using the prevailing market rent for the same period, as a result of such units being vacant for a prolonged period?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, government quarters are provided for allocation to eligible civil servants to meet their housing needs. Our long-term goal is to sell the surplus government quarters or use them for other development purposes. As a transitional arrangement, the Agency will lease out suitable units at market rent so as to make the best use of public resources. Individual government quarters may be temporarily vacant for various reasons. For example, the units are undergoing internal refurbishment or maintenance works; the units will shortly be allocated to eligible civil servants; preparatory work, including rental assessment, has to be done on the units before they are leased out, sold or used for other development purposes.

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

- (a) The total number of units, total saleable areas and overall temporary vacancy rates of non-departmental quarters (NDQs) in the current year and the past three years are set out below:

<i>Year</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011 (as at October)</i>
Total Number of Units*	1 363	1 353	1 165	1 141
Total Saleable Area (Square Feet)	About 2 968 000	About 2 760 000	About 2 549 000	About 2 479 000
Overall Temporary Vacancy Rate (as at 31 December)	3.7%	6.7%	5.6%	1.8% (as at 31 October)

Note:

- * "Total Number of Units" includes NDQs provided by the Civil Service Bureau for allocation to eligible civil servants, as well as surplus NDQs to be leased out, sold or used for other development purposes by the Agency.

- (b) The total number of NDQs leased out in the current year and the past three years are as follows:

<i>Year</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011 (as at October)</i>
Total Number of Units Leased Out	410	293	283	309

- (c) The estimated expenditure incurred for maintenance and repair of temporarily vacant NDQs (including the interior areas of the units, as well as the common parts and structure of the buildings) by the Government in the past three financial years are as follows:

<i>Financial Year</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>
Amount ⁺	About \$1.1 million	About \$1.9 million	About \$2.0 million

Note:

- + The Government has not kept separate records of expenditure incurred for the ongoing maintenance and repair of temporarily vacant NDQs. The above figures are derived on the basis of the overall temporary vacancy rates.

- (d) As explained above, as a transitional arrangement, the Agency will lease out surplus NDQs before they are sold or used for other development purposes. Therefore no unit will be vacant for a prolonged period of time, resulting in loss in rental income.

International Cuisine College

16. **DR LAM TAI-FAI** (in Chinese): *President, in the 2011-2012 Policy Address, the Chief Executive proposed to set up an International Cuisine College (hereinafter called "the new college") under the Vocational Training Council (VTC), with an aim to provide training for people aspiring to become professional chefs proficient in international cuisines, and attract outstanding members of the culinary profession from around the world to Hong Kong to promote the development of related sectors, such as tourism, catering, retail and wine trading, and so on. The new college is expected to be established in 2014 to provide 2 000 places. In this connection, will the Government inform this Council:*

- (a) *whether it has reviewed the differences between the existing Chinese Cuisine Training Institute (CCTI) and the new college to be established in terms of curriculum design and development positioning; if it has, of the details; if not, the reasons for that;*
- (b) *whether it will plan to merge the development of the new college with that of the CCTI; if it will, of the details; if not, the reasons for that;*
- (c) *of the planned numbers of certificate, diploma, advanced diploma or degree programmes to be provided by the new college each year, as well as the subject categories and duration of these programmes (set out in table form);*
- (d) *of the admission requirements of the new college, as well as the respective percentages of the number of places for local students and those for overseas students in the total number of places; the factors considered by the VTC for setting the annual number of places provided at the new college;*

- (e) *whether the training courses offered by the new college can align with the courses offered by the premier culinary colleges on the Mainland and overseas and can be accredited; if they can, of the details; if not, the reasons for that;*
- (f) *of the qualifications and experience of the teachers of the new college, as well as the teacher-to-student ratio;*
- (g) *of the annual costs for running the new college, together with a detailed breakdown of the estimated expenditure by item; the amount of subsidies to be provided to the new college each year as estimated by the Government, together with a detailed breakdown of estimated expenditure by item; the criteria based on which the Government calculated these estimates, and whether the Government will provide such subsidies by phases; if it will, of the details; if not, the reasons for that;*
- (h) *of the estimated fees at different levels of the programmes offered by the new college each year; whether tuition remission plans will be provided to low-income persons; if so, of the details; if not, the reasons for that;*
- (i) *whether it has assessed the future manpower needs in the catering industry, and the career prospects of the graduates of the new college; if it has, of the details; if not, the reasons for that; and*
- (j) *as it has been reported that the VTC is currently considering several sites for the new college with the Government, of the details of the site selection, as well as the area of the new college and the facilities to be provided therein?*

SECRETARY FOR EDUCATION (in Chinese): President,

(a) and (b)

The CCTI, established under the VTC in 2000, aims to provide Chinese cuisine training and implement a trade test system for the

Chinese catering industry. The mission is to establish Hong Kong as a training base and accreditation centre in Chinese cuisine in the Asian Pacific Region and meet the manpower requirements of the Chinese catering industry. In addition, the CCTI aspires to promote the Chinese culinary culture and assist in the promotion of the tourism industry of Hong Kong. In just a decade, the CCTI has already established its brand name in the international arena.

Building on the success of the CCTI, the Policy Address proposed to establish the new college to provide culinary programmes of other regions, including European, the Mediterranean, Latin American, Middle Eastern and Asian, and so on. To cope with the development of the wine industry in Hong Kong, the new college will also provide training programmes on food and wine pairing, sommelier, as well as trade, storage and sale of wine, and so on. Besides, the new college will develop training programmes related to the meetings, incentives, conventions and exhibitions (MICE) industry. The new college will provide quality development opportunities for the young people and nurture excellent talents for the community in support of the development of tourism and catering industries in Hong Kong. The new college will also buttress Hong Kong's position as the Gourmets' Paradise and a regional education hub.

As the focuses of the two colleges are not the same, the VTC has no plan to merge the two colleges at this stage. However, the two colleges will try their best to share and manage the resources and part of the training facilities to achieve synergy.

(c) and (d)

The new college will provide different programmes at various levels, including higher or professional diploma, diploma and certificate, and so on, to secondary school students and in-service personnel. The curriculum will cover cuisines of various regions (including European, the Mediterranean, Latin American, Middle Eastern and Asian), food and wine pairing, sommelier and other wine-related businesses, as well as MICE and entertainment. Taking into

account the needs of the industries and the past admission records of similar programmes, the new college plans to provide 2 000 training places (about 660 000 training hours) annually, including 400 full-time pre-employment and 1 600 in-service training places. A small number of these training places may be offered to overseas students.

The training boards set up under the VTC are composed of experts of the industries, who help advise the Council on the development and manpower needs of the industries. They conduct manpower survey every two years to collect data on the projection of manpower and training needs, with a view to assisting the VTC to develop suitable training programmes to meet the needs of the industries in a timely manner. The VTC will consult the training boards on the specific programme areas, course contents, training places and entry requirements, and so on, to ensure that the learning outcomes of the programmes meet the requirements of the industries.

- (e) The VTC has signed co-operation agreements with a number of cuisine colleges and catering organizations of Germany, Bordeaux of France, Italy, Japan and the United States to strengthen co-operation and exchange of idea. In particular, the VTC has a long history of co-operation with the Education Centre of the Hospitality Industry for Business and Management of Koblenz of Germany. They jointly organize Western Cuisine Trade Tests which are recognized by the member states of the European Union, and leading to Western cuisine qualifications including certified cook, trainer chef, master chef and pastry chef. They have also put in place exchange programmes for teaching staff and students. In addition, the VTC is authorized by the National Ministry of Human Resources and Social Security to jointly implement the "PRC Chinese Cook Trade Test" system with the Department of Human Resources and Social Security of Guangdong Province, which is the first nationally recognized assessment centre outside the Mainland. Through the "One Trade Test Two Certificates System", in-service chefs and students can acquire two qualifications in one single assessment, namely the Professional Qualification of Chinese Chef awarded by the CCTI, and the National Occupational Qualification of Chinese

Cook awarded by the National Ministry of Human Resources and Social Security. Such an arrangement also helps align the qualifications of Hong Kong and the Mainland.

Building on the above competitive advantages, the new college will actively seek further collaboration with renowned catering organizations of the Mainland and overseas with a view to developing internationally recognized assessments, as well as mutual recognition and articulation of qualifications. In designing the curriculum, the new college will make reference to the programmes of overseas cuisine colleges, and take into consideration local academic structure, market demand, and future development of the industry. It will also enhance recognition of its programmes by alignment with the requirements of international assessments and standards.

- (f) As a member institution of the VTC, the new college will adopt the Council's established appointment policy and procedures in the recruitment of teaching and supporting staff. The entry requirements of the teaching and supporting staff, including academic qualifications, professional qualifications and working experience in the industries, will depend on the content and exit level of the programmes concerned. The preliminary estimate is that 70 additional teaching and supporting staff will be required for the new programmes. In addition to recruiting overseas professional culinary teaching staff, the new college will invite overseas culinary professionals as visiting professors for demonstration, emulation and exchange in Hong Kong through its extensive network of consulates. At present, the teaching team of the VTC has already included recruits from Germany, Switzerland, Australia, India and Japan.
- (g) With reference to the expenditure of the VTC's relevant operation units, the annual operating cost of the new college is estimated to be about \$50 million. These include staff salary (accounting for 60%), administrative costs, maintenance fees and other operating expenses. The Government will take into account the number of intake, training hours, expenditure and the income from tuition fees to

determine the level of annual subvention to the new college. It is estimated that the annual recurrent subvention is about \$41 million.

- (h) The tuition fees of the new college will be determined by the training hours and content of the programmes, and will be comparable to the other member institutions of the VTC. The VTC will ensure that no student will be deprived of the opportunity to study due to the lack of means. Students with financial needs can apply for grants and loans under schemes administrated by the Student Financial Assistance Agency or the VTC. In addition, the VTC has in place scholarships and bursary schemes for outstanding students.
- (i) As mentioned in replies part (c) and (d), training boards under the VTC will advise the Council on the development and manpower needs of the industries. They conduct manpower surveys every two years to collect data on the projection of manpower and training needs. The employment rate of the graduates of the CCTI and the training centre is almost 100%, which reflects the pressing demand for manpower in the hotel and catering industries. As such, the VTC is very optimistic on the career development opportunities of the graduates of the new college.
- (j) The VTC is looking for a suitable site for the construction of the new college, and hope that the new college could be located near the CCTI and the Hospitality Industry Training and Development Centre in Pokfulam to share resources and achieve synergy.

At this stage, it is estimated that the campus of the new college would require a construction floor area at about 12 500 sq m to provide training kitchens for different cuisines (such as specifically for the cuisines of Japanese, Indian, the Mediterranean, Middle Eastern, Muslim, Jewish food and Latin American, and so on), demonstration kitchen, multi-purpose teaching rooms and training restaurant. It would also provide training facilities for the wine and related training, including seminar rooms, training bar and wine cellar, and so on.

Traffic Lights

17. **MR KAM NAI-WAI** (in Chinese): *President, it has been reported that the traffic lights at Jordan Road and Lin Cheung Road of Yau Ma Tei were blown askew by strong winds when a storm hit Hong Kong recently, and as a result, the traffic signals had confused drivers and caused collisions involving several taxis. It has also been reported that the traffic lights involved were of the design of "one pole with three groups of traffic lights", that is, three groups of traffic lights are mounted on a pole by cable wires. Regarding the design as well as repair and maintenance for traffic lights and other road facilities in Hong Kong, will the Government inform this Council:*

- (a) of the number of traffic lights in Hong Kong at present; whether a system is in place for conducting regular inspection, repair and maintenance for traffic lights and other road facilities (such as zebra crossings, pedestrian signals and buttons on traffic light poles, electronic audible traffic signals, footbridge, and pedestrian subways, and so on); if so, of the details as well as the manpower and resources involved; if not, the reasons for that;*
- (b) of the number of traffic accidents caused by the failure of traffic lights due to insufficient repair and maintenance in each of the past five years; whether there were cases of members of the public instituting civil actions for compensation; if so, of the details;*
- (c) of the number and percentage of traffic lights using compact fluorescent lamps at present; whether the authorities have plans to replace the lamps in all the traffic lights in Hong Kong with more energy-efficient types of lamps; if so, of the implementation timetable; if not, the reasons for that;*
- (d) of the number of traffic lights of the design of "one pole with three groups of traffic lights" or "one pole with several groups of traffic lights" and the number of accidents similar to the aforesaid accident caused by "traffic lights blown askew by strong winds", in each of the past five years, broken down by the number of light signals on the pole and the 18 District Council districts; and*

- (e) *whether the authorities have reviewed if the design of "one pole with three groups of traffic lights" or "one pole with several groups of traffic lights" can facilitate road users to cross the roads and ensure their safety (including conducting tests on the resistance of the design of cable wire fixture in the "one pole with three groups of traffic lights" design to strong winds); given the suggestion by some experts that the occurrence of similar accidents can be avoided by welding an "iron fixture" onto the poles and using screws to fix the traffic lights firmly on the poles, whether the authorities will accept such a suggestion; if so, whether there is a timetable in this respect?*

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

- (a) There are 1 807 road junctions in the territory with traffic lights. The Electrical and Mechanical Services Department (EMSD) is responsible for the maintenance of traffic lights and other electrical and mechanical facilities on the roads. The maintenance services cover all traffic lights, belisha beacons at zebra crossings, push buttons for signal lights at pedestrian crossings, electronic audio traffic signals and traffic surveillance closed circuit television camera systems (CCTV). The EMSD inspects traffic signal heads and CCTV cameras once every six months, and other facilities once a year. Relevant expenses on maintenance were about \$53.3 million in the 2010-2011 financial year. As regards manpower resources, apart from some 50 EMSD staff, maintenance services are also outsourced to contractors.
- (b) All traffic lights are being regularly inspected and maintained to ensure that they are functioning properly. Traffic accidents involved various factors. The Transport Department (TD) had no record of traffic accident arising from delay in repair and maintenance of traffic light and had not handled any compensation requests thereof.
- (c) Traffic light operation requires immediate switching from black out to maximum brightness. Compact fluorescent lamp cannot meet this requirement, while light emitting diode (LED) lamp can meet

the requirement with compatible energy efficiency. We have implemented a project to replace all the incandescent lamp traffic lights with LED throughout the territory. Out of the 1 807 road junctions with traffic lights, traffic lights at about 1 300 (about 72%) junctions have been replaced with LED. We estimate that the whole replacement exercise will complete in end 2012.

(d) and (e)

The design of "one pole with several groups of traffic lights" provides proper indications to motorists and pedestrians coming from different directions on the same road section. This is a safe design. The traffic lights are designed in such a way to allow rotation of signal heads when a traffic light is subject to external force beyond a certain level. In case the traffic light is hit by a vehicle in accident, the rotation of signal heads can absorb part of the impact force to reduce direct damage to the vehicle and injury caused to passengers. This is a commonly adopted safety design. The current signal heads can at least withstand a wind speed of 160 km/hr, and are capable of withstanding gale or storm, but the possibility where a sudden gust exceeding the design limit causing traffic signal heads askew cannot be ruled out. In order to reduce the possibility of such occurrence, the EMSD pays particular attention when inspecting the traffic signal heads during the routine maintenance of traffic signals equipment. The TD will review the design of traffic signals and related maintenance arrangement from time to time to consider whether there is room for improvement.

At present, all traffic light poles are structurally safe and, whether adopting the design of one pole with one group of traffic lights or several groups of traffic lights, are capable of bearing the loading of all signal heads and withstanding a certain degree of wind force. Therefore, the TD does not have statistics breakdown of the number of traffic lights by their designs, nor statistics breakdown of the number of incidents of and accidents caused by "traffic lights blown askew by strong winds". The number of incidents where traffic lights were blown askew by strong winds in the past five years is listed in the Table.

Table

Number of incidents of traffic lights blown askew by strong winds

<i>District</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011 (up to 2 October)</i>
Hong Kong Island					
Central and Western District	1	2	1		
Eastern District	1	9	9		
Southern District		3	1		
Wan Chai District		5	3		
Kowloon					
Kowloon City District					1
Kwun Tong District					1
Sham Shui Po District			3		4
Wong Tai Sin District					1
Yau Tsim Mong District					4
New Territories					
Islands District		10	3		
Kwai Tsing District					1
North District	3	2	5		2
Sai Kung District		14	9		
Sha Tin District	5	20	21		3
Tai Po District		11	6		1
Tsuen Wan District		1			
Tuen Mun District	3	8	9		1
Yuen Long District	1	4	7		3
Total	14	89	77	0	22

Measures to Reduce Risks Faced by Local Banks

18. **MR FREDERICK FUNG** (in Chinese): *President, it has been pointed out in a report issued earlier by a credit rating agency that Mainland credit exposures have been accounting for an increasing percentage of local banking sector's total assets, and the uncertain operating environment in China will increase the risk profile of local banks. The report has also pointed out that the*

growing influence of Mainland's banks on their subsidiaries in Hong Kong could adversely affect the productivity and risk management capacity of these subsidiaries, thereby raising the prospect of local banks' outlook ratings being downgraded. In this connection, will the Government inform this Council:

- (a) whether it knows the particulars of the Mainland-related loans approved by local banks (including credit amounts, growth rate, and the percentage of such loans in the local banking sector's total assets, and so on); the work of the Hong Kong Monetary Authority (HKMA) in supervising the Mainland-related lending business of local banks, and whether any problem with the loan approval criteria adopted by banks has been uncovered; and*
- (b) given that local banks are expanding their Mainland-related businesses and their Mainland credit exposures are on the rise, whether the authorities have assessed and analysed the risks so derived and formulated corresponding measures, so as to minimize the risk exposure of local banks; whether the authorities have assessed the impact of Mainland's increasing demand for loans on Hong Kong (including local banks' raising deposit rates to attract capital to cater for the demand for loans on the Mainland, thereby pressing the local lending rate to adjust upwards, thus increasing the borrowing cost of local small and medium enterprises and adding burden on home mortgagors); if so, of the corresponding measures the authorities have in place to minimize the adverse impact on the local economy?*

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

- (a) The aggregate exposure of Hong Kong's banking sector to non-bank Chinese entities (including loans granted by Mainland subsidiaries of local banks) rose from HK\$1,014 billion (8.3% of total assets) at the end of 2009 to HK\$1,622 billion (11.6% of total assets) at the end of 2010, representing an increase of 60%. The rising trend continues into 2011, albeit at a slower pace. The aggregate exposure grew

further by 25% from the end of 2010 to HK\$2,034 billion (13.3% of total assets) at the end of June 2011.

With the economic integration between the two places, Hong Kong banks engaging in Mainland-related business has become a natural trend. The HKMA has been aware of this trend and has stepped up its monitoring of banks' business in this area, including more frequent on-site examinations, to assess whether there is any deterioration in banks' underwriting standards and their concentration risk. The HKMA has not identified major problems in banks' underwriting standards through these on-site examinations.

- (b) In response to rapid development of the operations of Hong Kong banks on the Mainland, the HKMA has required banks to make regular submissions of more comprehensive and detailed information for risk analysis. The HKMA has also increased the number and frequency of regular and thematic on-site examinations of banks. In addition, the HKMA has required banks to increase their regulatory reserve to build up a bigger cushion against possible deterioration in asset quality in future.

One of the HKMA's main functions as the regulator of the banking sector is to maintain stability of the banking system. The HKMA has always required banks to conduct their business prudently and ensure proper risk management. The HKMA has also repeatedly reminded borrowers to manage their interest rate risk properly and guard against the shock arising from an increase in interest rate from an exceptionally low level.

As regards the lending rates and the distribution between loans for use in and outside Hong Kong, these are commercial decisions of individual banks depending on various factors such as credit demand of customers, risks, limits set by banks on their individual loan portfolios, availability of collaterals or guarantees, and funding cost. It is not appropriate for the HKMA to intervene in these commercial activities.

Supporting Facilities for Tourists in Repulse Bay

19. **MR PAUL TSE** (in Chinese): *President, regarding the shopping centre redeveloped from the shopping mall on the Remaining Portion of Rural Building Lot No. 368 in Repulse Bay, will the Government inform this Council:*

- (a) if it has conducted any assessment on the inconvenience caused to tourists by the prolonged idling of the aforesaid shopping centre and their dissatisfaction; if it has, of the assessment results; if not, whether such an assessment can be conducted immediately;*
- (b) of the estimated time required for ultimately settling the Court case and dispute between the Government and the consortium which built the shopping centre; and*
- (c) of the approaches adopted by the Government before settlement of the Court case and dispute to address the prolonged lack of supporting facilities in Repulse Bay which cater for tourists' needs?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the shopping centre referred to in the question involves matters concerning the Development Bureau on land administration as well as the Commerce and Economic Development Bureau on tourism ancillaries. I now offer a general reply in response to the three parts of the question in accordance with the relevant policy areas.

The shopping centre (that is, The Pulse) is situated at the Remaining Portion of Rural Building Lot No. 368. The owner completed the building on the lot without the consent of the Government as the lessor acting in the landlord capacity, which is in breach of lease conditions. Notwithstanding that the building plans were disapproved by the Lands Department (LandsD), the owner chose to build the subject building without the consent despite the Government's repeated warnings. The owner has initiated legal proceedings. By judgment handed down in December 2009, the Court of First Instance dismissed the owner's claims against the Government. Subsequently in January 2010, the owner's solicitors lodged a Notice of Appeal with the Court, but to date they have failed to fix a date for hearing the appeal.

In the meantime, the owner has submitted to the LandsD an application for consent under the lease subject to payment of premium without prejudice to its appeal with the Court. Regarding the negotiation on premium, the LandsD has recently been notified by the owner that it will further appeal against the premium assessed by the LandsD after it has responded earlier to the first premium appeal lodged by the owner.

I wish to reiterate that any owner who wishes to redevelop a lot must obtain the Government's consent under the lease before commencing any redevelopment. In this case, the LandsD is acting in the landlord capacity to process the owner's redevelopment matters.

There is an established procedure for the LandsD to deal with appeals against premium and the associated premium negotiations. Premium appeal is a lessor and lessee issue and can only be resolved until the lessee is willing to come to agreement with the LandsD. The Government is not in a position to unilaterally prejudge when the issue will be settled.

The Commerce and Economic Development Bureau indicated that they are aware that the Repulse Bay is one of the tourist hot spots in the Southern District. The natural scenic environment of the beaches in the area is very attractive to the tourists. The facilities, retail shops and restaurants in the area have been providing appropriate services for visitors. Effective management and maintenance service for the beach is provided by the Leisure and Cultural Services Department (LCSD). The LCSD has also enhanced the facilities and environment at the beach from time to time. To facilitate visitors visiting the Repulse Bay, the Tourism Commission has installed a network of visitor signage in the area. Relevant departments will also continue to liaise with local personalities to provide adequate and convenient loading and unloading facilities for visitors.

According to the feedback from the tourism sector, the supporting facilities at the Repulse Bay is sufficient to meet the demands of our visitors, and the attraction has remained as one of the most popular tourist spots in Hong Kong. The Commerce and Economic Development Bureau has not received any complaints from visitors regarding the lack of supporting facilities at the Repulse Bay area in the past few years.

The Government will continue to closely monitor the conditions in major tourist districts and attractions, while maintaining close liaison and

communication with the tourism sector for feedback. Relevant government departments would also co-ordinate with the management of individual attractions to ensure that the facilities and services offered by the attraction would meet the needs and expectation of our visitors.

Provision of 15-year Free Education

20. **MR FREDERICK FUNG** (in Chinese): *President, although the Chief Executive had not responded to society's aspiration for the provision of 15-year free education in his newly delivered final policy address in office, the Secretary for Education subsequently revealed at a meeting of the Panel on Education of this Council that the authorities were conducting a study on the provision of 15-year free education. Recently, those persons who intend to stand in the Chief Executive Election have also expressed their support for the provision of 15-year free education. In this connection, will the Government inform this Council:*

- (a) of the reasons why the authorities have suddenly indicated that they are conducting a relevant study when for so many years they had refused to provide 15-year free education; the latest policy direction of the authorities on the provision of 15-year free education;*
- (b) of the details such as the objectives, scope and completion time, and so on, of the ongoing study on the provision of 15-year free education, as well as the resources and manpower deployed for it; the preliminary findings of the study; the anticipated difficulties and technical problems which may be encountered in implementing the policy of providing 15-year free education; and*
- (c) whether the authorities will conduct public consultation on the provision of 15-year free education expeditiously and hold discussions with the education sector as well as formulate an implementation timetable as early as possible?*

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

On 28 October 2011 at the debate on the Motion of Thanks on the Chief Executive's Policy Address, I responded to Members' suggestions of implementing 15-year free education, advising that we would continue to communicate with the stakeholders and study the implications of the suggestions and ways to address them. At the present stage, as a consensus on the ways to address the issues has not yet been reached, we are not able to draw up a timetable.

The Government has been providing nine-year free and universal basic education (six years of primary education and three years of junior secondary education) since 1978. Starting from the 2008-2009 school year, free education has been extended to include three years of senior secondary education. Attaching great importance to pre-primary education, the Government has devoted substantial resources to this sector through the non-means tested Pre-primary Education Voucher Scheme (PEVS) since the 2007-2008 school year, with about \$2.05 billion allocated in 2011-2012. Through the PEVS and fee remission, the Government ensures that no children will be deprived of kindergarten (KG) education due to lack of financial means and parents will be offered a wide choice of KGs. In fact, KG education in Hong Kong has now become more accessible and is developing steadily. For instance, about 80% of KGs have joined the PEVS in the current school year, benefiting over 80% of KG students. The amount of fee subsidy under the PEVS for the current school year is \$16,000 per student per annum, covering over 80% of the average tuition fee of a half-day KG.

Subsequent to the implementation of the PEVS, the Education Commission set up a Working Group on Review of Pre-primary Education Voucher Scheme in October 2009. In its report submitted to the Administration in December 2010, the Working Group recognized the diversity and vibrancy of our pre-primary education system as strengths to be maintained and built on. The Education Bureau agrees that access to affordable and quality pre-primary education by needy families should be enhanced within the PEVS framework, as recommended in the report. On 8 July 2011, the Education Bureau obtained funding approval from the Finance Committee of the Legislative Council for implementing enhancement measures for the PEVS and the KG fee remission.

We have been listening carefully to the views of the public on the implementation of 15-year free education. To our understanding, the public generally agree that parents should be offered a wide choice of KGs and an

environment conducive to the diversified development of KG education should be provided. The PEVS, which provides direct subsidies for parents, is exactly designed to maintain the flexibility and diversity of Hong Kong's pre-primary education system and offer a wide choice of KGs to parents. Should 15-year free education be implemented, standardization in areas such as student admission, tuition fees, course contents in pre-primary education would be inevitable. If tuition fees were to be standardized or fully covered by public money, how should we maintain the flexibility and diversity of pre-primary education on the one hand and address properly the remaining issues on the other? The number of KG students currently accounts for less than 80% of the total number of places in the KG sector, and the number of students in each KG varies from less than 10 to over 1 000. Apart from the maximum and minimum class sizes, we also need to address a host of issues concerning tuition fees, modes of operation, admission procedures, school facilities, supply and demand of places in different districts, and so on.

In short, we will continue to communicate with the stakeholders, listen to the views of the public and examine the far-reaching implications of different suggestions, with a view to setting the direction for sustaining quality pre-primary education.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011.

I now call upon Mr James TO to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

At the House Committee meeting on 4 November 2011, Members agreed to form a subcommittee to study the Companies Ordinance (Exemption of

Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 tabled in the Legislative Council on 26 October. In order to allow the Subcommittee sufficient time to carry out the scrutiny and to report the results of the scrutiny to the House Committee, in my capacity as Chairman of the relevant Subcommittee, I move that the scrutiny period of the subsidiary legislation be extended to 14 December 2011.

Mr James TO moved the following motion:

"RESOLVED that in relation to the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011, published in the Gazette as Legal Notice No. 143 of 2011, and laid on the table of the Legislative Council on 26 October 2011, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 14 December 2011."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO 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 and that is: That the motion moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): 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 motion: Comprehensively improving the water quality of the Victoria Harbour.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Priscilla LEUNG to speak and move the motion.

COMPREHENSIVELY IMPROVING THE WATER QUALITY OF THE VICTORIA HARBOUR

DR PRISCILLA LEUNG (in Cantonese): President, in the British-Hong Kong era, the former Governor, Sir Murray MacLehose, left a MacLehose Trail to Hong Kong people and over the years, it has benefited innumerable young people. To the Chief Executive, Donald TSANG, and the host of possible candidates for the office of the Chief Executive, I wish to tell them here that they should leave Hong Kong people an even more meritorious measure, that is, to improve the water quality of the Victoria Harbour. In that case, Hong Kong people will surely be very grateful to them.

President, in recent years, Hong Kong has been fraught with various types of political wrangles and Hong Kong is seriously fragmented. It looks as though

no consensus can be reached on anything. However, on this subject of improving the water quality of the Victoria Harbour, be it men or women, the young or the old, the rich or the poor, they would probably all concur that the Government should take actions immediately. The Chinese say that "water is wealth" and the Victoria Harbour is the most precious and important natural resource jointly owned by all Hong Kong people.

The cross harbour swimming race held recently attracted over 1 400 participants amidst the doubts voiced over the water quality. This bears testimony to the eagerness and expectation of the Hong Kong public for the resumption of the cross harbour swimming race. Mr CHONG, an elderly man aged 68 years, was one of the oldest participants. He told the mass media that he had looked forward to the race very much, hoping to relive again the days when he took part in the cross harbour swimming race back then. In view of this, the cross harbour swimming race is surely part of the important and precious collective memory of Hong Kong people. I hope the next cross harbour swimming race can be held in a Victoria Harbour with even better water quality.

The former Governor of Guangdong, Mr HUANG Huahua, once openly invited Chief Executive Donald TSANG to a swim together with him in the Pearl River to experience first-hand the water quality there, but the Chief Executive declined politely on the ground that he was not a good swimmer. I wonder if Chief Executive Donald TSANG or the possible Chief Executive candidates would consider having a swim in the Victoria Harbour together with Hong Kong people to experience personally whether or not the water quality in a place of our own has really, as government departments claim, improved significantly.

President, with the rapid development of the urban areas on Hong Kong Island and in Kowloon and an ever-increasing population, the effluents discharged are also ever-increasing, so the water quality of the Victoria Harbour is getting from bad to worse. Do Members know how much water a standard Olympic swimming pool can hold? Do Members know how much sewage is generated in Hong Kong every day? According to the figures from experts, the sewage generated in Hong Kong every day is enough to fill 1 400 standard Olympic swimming pools, that is, as much as 2.6 million cu m. I learnt to swim at a beach when I was seven years old, but that beach is no longer suitable for swims. In a short span of several decades, marine water quality has deteriorated to such an extent and this is really quite astonishing.

Although the Government says that the chemical enhanced treatment at the Stonecutters Island removes 80% of the suspended solids, 60% of the heavy metals and 50% of the bacteria, according to the results of the water quality test conducted by the Green Harbour Actions in conjunction with The Open University of Hong Kong and released by them, the E. coli counts in the seawater collected at a number of locations in the Victoria Harbour were still quite high. For example, the E. coli level in the seawater at the Tsim Sha Tsui promenade was as high as 10 000 per 100 ml. Although the water quality at the Tsim Sha Tsui East promenade is like this, it is still graded as "fair", so one can image how serious the pollution is at locations where the water quality is graded as "unsatisfactory" or "poor".

The section of the promenade from Hung Hom to the Avenue of Stars was opened for public use only recently. It is scenic and pleasant, so it is very popular. However, if one walks from Hung Hom to the footbridge in Tsim Sha Tsui East, one can smell a stench which is most incongruent. For this reason, I hope the Secretary can help tackle this. As the saying goes, "do not put a flower on cow droppings", so I hope the scenic waterfront will not exist side by side with a stretch of stinking water.

Next, let us look at East Kowloon. The Policy Address talks about kick-starting the development of East Kowloon. According to tests, the seawater near the Kwun Tong ferry pier has an E. coli count of as high as 33 000 and is graded as "poor", whereas that of the Causeway Bay Typhoon Shelter is 30 000. This is many times higher than the E. coli count of 610 recommended by the Environmental Protection Department (EPD) for beaches, so it is evident that the situation leaves much to be desired. This figure means that not only is the sea in these areas not suitable for any kind of water sports, even if one just jogs at the seaside and it so happens that the waves splash onto one's face, one may still fall sick as a result. Therefore, regarding the Government's claim that the water quality of the Victoria Harbour has improved significantly over the past decade, that organic pollutants have been drastically reduced by 70% and that the E. coli count has dropped 50%, I cannot help but ask why, despite such a significant improvement in water quality, the problem of stench from seawater can still be found along the shores of various parts of Hong Kong?

Even if the water quality of the Victoria Harbour meets the standard of less than 610 E. coli in every 100 ml of seawater, only the standard of a Grade 3 beach

is attained and the water quality can only be considered marginal. Experts point out that if people swim at a Grade 3 beach, on average, 15 in every 10 000 people may get sick within two days. Given the present speed at which the Government tackles the water quality issue, it will take a long time before the standard of the water quality of the Victoria Harbour will enable the public to take part in cross harbour swimming races with peace of mind and without ultimately developing health problems.

Why has the water quality deteriorated so drastically? This is related to the speed of our development. Although the advance disinfection facilities at the Stonecutters Island Sewage Treatment Works was commissioned in March this year, I am afraid the water quality of the Victoria Harbour will see a marked improvement only after the completion of the works on Stage 2 of the Harbour Area Treatment Scheme (HATS).

The urban area in Hong Kong is a maze of old buildings and many households have made illegal connection of sewers or misconnection of trunk sewers. Sewage is discharged directly into the harbour and over time, this will lead to the problem of pollutants depositing at the bottom of the sea and giving rise to odour. I have visited Tai Kok Tsui a number of times with Prof HO Kin-chung and many friends concerned about water quality. Last year, when we conducted a survey in the area, 80% of the residents said they had to put up with the odour from the typhoon shelter, 70% of the residents were not satisfied with the cleanliness of the afore-mentioned waters and 90% of the residents were concerned about the impact of poor water quality on their health. In addition, 70% of the residents were not satisfied with the speed at which the Government improves the water quality and eliminates the odour from the afore-mentioned waters.

The Government once claimed that the EDP often inspected private buildings to investigate the misconnection of sewers to stormwater drains. However, the figures released by the authorities indicate that from 1999 to 2011, for a decade, the EDP has managed to make rectifications in about 500 cases only. In the case of West Kowloon, from 2008 to 2010, the EDP only detected 40 cases of misconnection of sewers to stormwater drains, so it is obvious that this figure does not reflect the reality. Moreover, according to figures, if we only take into account old buildings that are over 50 years old throughout Hong Kong, there are over 4 000 such cases and this number is increasing by 600 cases each year. In

addition, there are also many buildings with "three no's" in Hong Kong. Old buildings are a disaster zone in respect of the misconnection of sewers, so does the Government have any specific policy to help old buildings discharge their sewage?

In addition, according to our record, apart from the E. coli readings recommended by the EDP for beaches, all along, the Government has not formally prescribed any reference indicators for the water quality of the Victoria Harbour. This precisely reflects the limited importance attached by the authorities to water quality in the harbour. In order to plug this loophole, the Green Harbour Actions founded by civil groups have compiled an easily comprehensible and scientific grading index for water quality in the harbour suited to local conditions by making reference to internationally accepted standards. In fact, our standard is not the most stringent. As I said just now, even though the standard could not be met, we still graded the water quality as "fair". We will publish this index on the Internet regularly, in the hope that through this approach, the Government will be compelled to take the issue of water quality at the policy level seriously. Although we learnt that the Government had begun to review the grading of marine water quality, it is said that the scope of the review does not cover the water quality along seashores, which is a matter of grave concern to us. I have some doubts about this, so I wish to listen to the Secretary's explanation.

President, the Environment Bureau once pointed out that since the uses of typhoon shelters do not include marine culture and such recreational activities as swimming, the present legislation regulating water quality — the Water Pollution Control Ordinance (WPCO) — is not applicable to typhoon shelters. Meanwhile, although the Government introduced schemes to collect the sewage charge and trade effluent surcharge, there are still many loopholes in the existing legislation and law enforcement is also lax. I will read out one of the loopholes in the WPCO. It is stated in section 8(3) that the WPCO does not apply to a discharge which is made by way of a communal sewer or communal drain as well as a discharge incidental to, or derived from, the normal operation of a vessel or of its equipment. Another section states that a person commits an offence when he discharges any matter into a communal sewer or communal drain in a water control zone and the penalty is a maximum fine of \$200,000 and imprisonment for six months; so this appears to be quite strict.

However, there are many exceptions in the legislation, one of them being discharging "any matter into a communal sewer or communal drain in a water control zone other than a discharge of domestic sewage into a communal sewer or communal drain that is vested in and maintained by the Government as a sewer or drain for the carriage of foul water". I believe a review of this piece of legislation is in order because it must be clear and achieve a deterrent effect, so that residents know that one will really be penalized for the expedient misconnection of sewers. In addition, many car wash shops have not applied for this kind of effluent discharge licence and often, they just discharge the sewage from car washes into the harbour direct. Moreover, there is hardly any record showing that anybody has been held responsible for doing so.

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

In addition, from my experience, I found that in fact, we cannot just blame the EDP all the time. In the past, when we went to Tai Kok Tsui to follow up the water quality problem, we learnt that the colleagues in the EDP actually wanted very much to make the water clean but they were helpless because it turned out this matter involved the purview of the Marine Department and was also related to the District Offices. Moreover, matters involving discharge through sewers also involve the Drainage Services Department. If the water quality in the vicinity of the West Kowloon Cultural District is involved, even the West Kowloon Cultural District Authority will be involved. Therefore, last year, we met with the former Chief Secretary for Administration, Mr Henry TANG, in the hope that he could establish an inter-departmental group to effect co-ordination among these departments, so as to improve water quality in Hong Kong.

On this issue, we hope very much that the Government can formulate planning for the short, medium and long terms. I know that it would be more difficult to formulate long-term planning because existing commercial or public activities may be involved. However, take the Yau Ma Tei Typhoon Shelter as an example, in the long run, should a marine industrial zone be established in Hong Kong, so that the loading/unloading areas in these typhoon shelters can be relocated to the planned sites? The existing typhoon shelters close to residential areas can be converted into water sports centres. On medium-term planning, the Government should consider how to improve sewage discharge through sewers.

On short-term planning, I believe that after the meeting last year, the Government is now really expediting and intensifying the efforts in desludging and increasing the oxygen content of seawater. I believe the Government will respond to this issue later on.

Concerning the several amendments, having taken an initial look at their wordings, I found that Mr KAM Nai-wai proposes the establishment of a harbour management authority but I have yet to hear what he thinks its duties should be. I remember that last year, Prof Patrick LAU and I jointly proposed the establishment of a harbourfront authority in the Legislative Council and this won the support of many Honourable colleagues. In July last year, I also agreed with the establishment of a harbourfront authority, so I do not know if this idea is any different from the harbour management authority proposed by Mr KAM Nai-wai, nor do I know if the duties of the harbour management authority conceived by him will overlap with those of the Marine Department. I wish to listen to his views. I think co-ordination is very important and it is necessary for the Chief Secretary for Administration to co-ordinate the efforts of various departments because the problem of water pollution involves not just the harbour management authority but also a number of departments mentioned by me just now.

Concerning Stage 2B of the HATS mentioned by Ms Audrey EU, I do not know if she wants it to be implemented concurrently with Stage 2A. I hope very much to listen to the Government's response. From my standpoint, of course, the faster the HATS is implemented, the better, and I think that even waiting for another minute is too long. However, what are the procedures and planning of the Government? I wish to listen to the speeches of other Members before commenting on them in one go later.

I so submit, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Dr LEUNG, please move your motion.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

Dr Priscilla LEUNG moved the following motion: (Translation)

"That, given that the 'cross harbour swimming race' was resumed on 16 October this year after a suspension of 33 years; the West Kowloon Cultural District project has entered Stage 3 of the consultation process and will soon be finalized and commenced; the first berth of Kai Tak Cruise Terminal will be commissioned in 2013; the Government is also developing continuous waterfront promenades along waterfront areas on both sides of the Victoria Harbour, and such works and projects are all closely related to the Victoria Harbour; and, as the water quality of the Victoria Harbour has all along been criticized by environmentalists, academics and the public, this Council urges the Government to formulate long-term proposals for improving the water quality of the Victoria Harbour, so as to truly realize the objective of 'returning the harbour to the people'; the relevant improvement proposals should include the following measures:

- (a) to immediately investigate and stop the pollution sources of the Victoria Harbour;
- (b) to identify misconnection of sewers in the urban areas;
- (c) to increase the existing penalties to punish individuals or enterprises who pollute the harbour;
- (d) to rectify the current situation of fragmentation of responsibilities among government departments for managing the water quality of the Victoria Harbour, and to study establishing a higher-level department to co-ordinate and follow up the relevant matters;
- (e) to draw reference from international experience, so as to formulate water quality objectives specifically for the Victoria Harbour;
- (f) to report to the public on the water quality of the various parts of the Victoria Harbour at half-yearly intervals;
- (g) to study removing polluting facilities in the vicinity of the Victoria Harbour, such as typhoon shelters, cargo working areas and polluting industrial plants, etc.; and

- (h) to make the 'cross harbour swimming race' an annual gala in Hong Kong and organize it regularly every year at different locations in the Victoria Harbour, so as to press the relevant departments to seriously improve the water quality of the Victoria Harbour."

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

DEPUTY PRESIDENT (in Cantonese): Three Members will move amendments to the motion respectively. We will now have a joint debate on the motion and the three amendments.

I will first call upon Mr KAM Nai-wai to speak, to be followed by Dr PAN Pey-chyou and Ms Audrey EU respectively; but they may not move the amendments at this stage.

MR KAM NAI-WAI (in Cantonese): Deputy President, recently, a cross harbour swimming race was held in the Victoria Harbour, so this makes the public wonder if the water quality of the Victoria Harbour has improved significantly. Of course, some participants thought that the water quality of the Victoria Harbour is quite good and perhaps, compared with the situation in the past, actual improvements may have been made. I cannot swim but I could see that participants of the cross harbour swimming race thought that the water quality had improved. Judging with the naked eye, the surface of the Victoria Harbour was not strewn with rubbish but whether or not there has been a marked improvement in water quality in Hong Kong must be judged by the figures.

Just now, Dr Priscilla LEUNG said that due to the increase in population, the sewage generated daily stood at millions of cubic metres. In terms of the overall Water Quality Objectives (WQOs) compliance rate for marine water quality in Hong Kong, the rate was 80% in 2010 but 87% in 2009. I think that compared with 2009, the WQO compliance rate this year will show a trend of decrease. The overall WQO compliance rate cited by me just now is based on the four major marine WQOs as measured by all the water quality monitoring

stations in Hong Kong. I am not going to spell them out one by one, but one of them is dissolved oxygen.

Members can see that the water quality in Hong Kong is not in a stable and improved condition. The overall WQO compliance rate fluctuates. The subject of the motion debate today is the water quality of the Victoria Harbour. Of the 7 million people living in Hong Kong, nearly 5 million live on the two sides of the Victoria Harbour. How is the water quality in the Victoria Harbour actually like? According to the information for 2010, in the water control zone in the Victoria Harbour, the compliance rate was 77%, lower than 93% in 2009. As I said just now, on the overall water quality, I cannot see a trend of continual decline in the maintenance of good water quality. Maybe the Secretary has to respond later on why the present situation has arisen. Although it is not going from bad to worse, in fact, continuous improvements ought to be seen, so why are there fluctuations? Are we not doing a good enough job in improving water quality?

We can see from some figures that ever since the full commissioning of the Advance Disinfection Facilities at the Stonecutters Island Sewage Treatment Works in March 2010, the E. coli count in the western part of the Victoria Harbour fell from 68% to 47% in 2009. However, as the water treatment facilities in the northern part of the Victoria Harbour have not yet been put in place properly, the E. coli count in that part of the sea has not shown any sign of decrease. Dr Priscilla LEUNG said just now that only Stage 1 of the Harbour Area Treatment Scheme had been completed and Stage 2 had just started. Stage 2A is now being implemented and there is no knowing when Stage 2B will be launched. If Stage 2B can be launched smoothly, I believe this will definitely be helpful to improving the water quality of the Victoria Harbour.

I mentioned in the amendment to this motion that apart from the arrangements for sewage treatment, stepping up publicity and public education is also very important to improving the water quality of the Victoria Harbour. At present, we can find many instances of the so-called misconnection of sewers. Some of them are unintentional and some are intentional. Such illegal connection of sewers is a major cause of the unsatisfactory treatment of sewage. The original motion proposes an increase in penalty, but I believe it is also very important to step up publicity and public education. I wonder if Members know — although this bears little relevance to the water quality of the Victoria Harbour

— that there is this organization called the Society for Protection of the Harbour which organizes the "Walk For The Harbour" annually. I believe similar activities can strike home the message of protecting the shores of the Victoria Harbour and even the importance of improving water quality. I think the Government has to organize more public education activities. At present, this kind of activities is limited and the Government only says that putting in place sewage treatment facilities properly will reduce marine water pollution. However, how can the public make personal efforts to improve water quality? I hope the Secretary can do more in this regard and make greater efforts in education in the future.

Second, I mention the establishment of a harbour management authority in my amendment because such an authority can enable the public to enjoy the shores and the sea in the Victoria Harbour. This is very important. I hope such a harbour management authority will be a high-level and inter-bureau management authority. Apart from advocating policies and making efforts in publicity, education and actual enforcement, if possible, I hope that one more item will be included in the duties of the harbour management authority, that is, monitoring the water quality of the Victoria Harbour. This is because even if we enable the public to share the shores of the Victoria Harbour, I believe we will not enjoy using its shores should a great deal of odour come from the Victoria Harbour. Initially, I thought that it is only a matter of course that the water quality will be improved but in reality, after looking at some figures, we can see that the water quality of the Victoria Harbour has not seen any steady improvement. After establishment, the harbour management authority will be responsible for monitoring the water quality of the Victoria Harbour and requesting government departments to conduct reviews to refine their policies in this regard. In addition, I think it is also suitable for the harbour management authority to take charge of co-ordination, so that a better job can be done at the policy level.

On water quality, we hope that not only can cross harbour swimming races be held in the Victoria Harbour but also it will be possible to organize some aquatic activities. How can we make good use of the shores of the Victoria Harbour? For example, on the northern shore of Hong Kong Island, which I am more familiar with, there is a continuous promenade spanning from the west to the east of the Island, from Sai Wan to Siu Sai Wan. Various kinds of activities

can be carried out there. People may go bicycling, walking or jogging there and there may also be some bazaars.

In addition, I also mention angling activities, that is, fishing, in my amendment. If Members go to the shores of the Victoria Harbour frequently, they will see many anglers there. However, according to information, the Government says that from the perspective of food safety, the public are not encouraged to fish on the shores of the Victoria Harbour. Nevertheless, we all know that in fact, there are indeed many anglers on the shores of the Victoria Harbour. I think if a good job can be done in improving the water quality, we should provide some complementary facilities to enable anglers to fish on the shores of the Victoria Harbour. I believe this will make the Victoria Harbour even more attractive. To make the fish caught comply with food safety standards, we should lose no time in improving the water quality of the Victoria Harbour. We all know that even if the water quality is not improved, a lot of people would still fish on the shores of the Victoria Harbour. Although the Government says that it does not encourage the public to eat the fish caught on the shores of the Victoria Harbour, I believe the public will exercise their own wisdom in dealing with the fish caught by them. Therefore, I hope the Government will improve the water quality of the Victoria Harbour as quickly as possible, so that angling activities will become more diversified and popular among the public.

I so submit, Deputy President.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, the cross harbour swimming race was resumed in October this year after a suspension of 33 years. I think all the people of Hong Kong are happy about it.

The annual cross harbour swimming race can be considered part of the collective memory of Hong Kong people of my generation. When I was a child and also as a young man, the cross harbour swimming race held every year was always widely reported in the newspapers or on the TV. However, it was because of the deterioration of the water quality in the Victoria Harbour that the race ceased after 1978. When the cross harbour swimming race was held this

year, it carried a certain degree of significance in that it shows the achievement of our efforts in cleaning up the harbour, and it can be regarded as a milestone.

However, it is a bit unconvincing to talk about the resumption of the cross harbour swimming race as a milestone, and there is even a sense of alienation from the reality. Why? The cross harbour swimming race this year was held in the eastern side of the Victoria Harbour and Sam Ka Chuen in Lei Yue Mun was picked as the starting point of the race while the finishing point was a public pier in Quarry Bay Park. As we all know, this part of the Victoria Harbour presents the best water quality.

Also, the organizers said that changes in water quality would be closely monitored. If it was found that water quality did not meet the standards, the race would be postponed or cancelled. This gives people an impression that it is like the case of wage earners being paid wages this month, but it is not sure whether they will be paid next month. This is most unsettling.

The Environmental Protection Department (EDP) has been using four objectives since its establishment to monitor marine water quality in Hong Kong. First, dissolved oxygen; second, unionized ammonia; third, total inorganic nitrogen; and fourth, E. coli content per 100 ml of seawater. Such objectives are largely very loose and green groups have said that they might even be outdated.

Even if the above objectives are used to assess water quality in the Victoria Harbour, the result is not satisfactory at all. Two Members have mentioned earlier the report *Marine Water Quality in Hong Kong in 2010* in which it is pointed out that "In the Victoria Harbour Water Control Zone, the 2010 compliance rate was 77%." This rate is really well, I do not think anyone would be happy with it. We hope that there can be continuous improvements in the water quality in the Victoria Harbour.

With respect to the original motion proposed by Dr Priscilla LEUNG, the Hong Kong Federation of Trade Unions (FTU) wants to make certain amendments. There is in fact a theme to our amendments and that is, we should all be cleaning up our own mess. It means that pollution must really be reduced, and we should not just be shelving the problem. To this end, we suggest that

two approaches should be taken, first, in the collection of effluents, and second, in the treatment and disinfection of effluents.

Let me first talk about the collection of effluents. In 2010, the E. coli count of water in the Victoria Harbour increased as compared to that in 2009 and it drew the attention of the authorities. A detailed survey was then undertaken. Although the causes for the increase are not known, I think that an alarm has already been sounded. Then, why is there an increase in E. coli count?

Hong Kong has a long history of using sewers to collect effluents. It has been 10 years since the Harbour Area Treatment Scheme (HATS) Stage 1 was launched. As these sewers operate under water pressure, are there any signs of cracks or leakage in them?

In view of this, the FTU has asked the Government to undertake a detailed survey to examine the sewers and ascertain the location of damage or leakage, the scale of these problems and how the effluents leaked will enter the Victoria Harbour. We know that the Water Service Department has ways to monitor leakage in the flush water mains and the fresh water mains. Can the authorities apply the relevant technologies to the sewers?

Second, we urge that the effluents collection system be improved. On Hong Kong Island, 75% of the effluents are collected by the sewers and then transferred to the Stonecutters Island Sewage Treatment Works (SCISTW) for physical and chemical treatment. However, 25% of the effluents come from places in North Point and the Western District and after discharge from the sewage screening plants, they will flow into the middle of the Victoria Harbour direct. This is a very important cause of serious pollution in the Victoria Harbour.

After the completion of HATS Stage 2A, this amount of 25% of sewage, that is, the sewage from the northern part of Hong Kong Island up to the southwestern part of Hong Kong Island will be collected and transferred to the SCISTW for treatment. We therefore urge the Government to complete the works project as soon as possible.

Third, we demand that the authorities improve the methods of sewage treatment, that is to say, the methods used to treat the sewage collected. I am

sure people who have maintained an aquarium at home must have had this experience. If physical methods like putting a layer of sand and stones as well as nylon material are used to separate the impurities and filter the wastewater, the water will never be clear again. This is because the suspended particulates in the water are so small that they can pass the filtering materials. Therefore, water in the fish tank will have to wait until micro-organisms start to grow on the nylon material before becoming clear again.

By the same theory, the filtering methods currently in use in the SCISTW are only limited to physical and chemical methods. There is a problem with chemical methods, which is the wastage of materials. This is because the production of related chemical substances would require energy consumption. Besides, as chemical substances flow into the sea, the seawater will be contaminated.

Then why do the authorities not introduce biological treatment methods? As far as I know, HATS Stage 2B will introduce biological treatment facilities. But as to when this will commence, a study is still ongoing. We hope that this study will complete very soon so that HATS Stage 2B can start soon and the sewage can be treated before discharge into the Victoria Harbour, thus restoring a clear harbour.

With respect to Dr Priscilla LEUNG's original motion, we have reservations about two points and let me explain them here.

The first point is about the suggestion "to study removing polluting facilities in the vicinity of the Victoria Harbour". Although there is nothing wrong with this suggestion and studies can be conducted on that, the question is Dr Priscilla LEUNG's suggestion includes facilities like typhoon shelters, cargo working areas and industrial plants, and so on. Come to think about this. If typhoon shelters are removed, where can fishermen go to seek a shelter from the typhoons? If they have to go elsewhere for shelter from typhoons, what would become of their life? Where should fishing vessels moor during the fishing moratorium?

Furthermore, there are about 10 000 workers engaging in recycling and logistics trades in the cargo working areas, and where should they go to work and what can they do if the cargo working areas are relocated? Who is to bear the expensive travelling expenses? Who will be responsible for the increase in

transport costs once these facilities are removed? All these have intricate connections with people's living. We think that serious consideration must be made before anything is done.

After all, the suggestion of removing polluting facilities elsewhere is like removing the problem and dumping it at other people's doorsteps. Who would like to receive these polluting facilities? Hong Kong is such a small and densely populated place, land is so scarce and highly priced and there is no vacant and unused land along the waterfront. Also, there are all sorts of water activities going on along our coastline. It is used as a fishing ground by fishermen and also as locations for marine culture. If these polluting facilities are removed, what would become of the life of the people living there? So we consider the right approach is to clean up the water.

There is another point in the original motion about which we have some reservations and that is, to organize regularly every year the cross harbour swimming race at different locations in the Victoria Harbour. Certainly, we would be happy to see this swimming race held every year. Safety is our prime concern, but pollution is only one of the many factors affecting safety, and there are other factors like the currents, wind direction, wind velocity and weather, and so on, which will affect the safety of the swimmers, too. I think that if the conditions are unfavourable, I do not see any reason to insist that the cross harbour swimming race be held regularly every year.

In any case, I do not think the Government should make those who join the cross harbour swimming race guinea pigs to test water quality in the Victoria Harbour.

I so submit.

MS AUDREY EU (in Cantonese): Deputy President, the theme of the original motion proposed by Dr Priscilla LEUNG today is about water quality in the Victoria Harbour. She has raised eight points in the original motion and as Dr PAN Pey-chyou said just now, there are a few points which are quite controversial. But, most unfortunately, her original motion has left out a very important point, which is also the most central and crucial point of all.

I listened very carefully to the speech made by Dr LEUNG a while ago. She said that when she looked at my amendment and the part about HATS Stage 2B, she did not understand what I was trying to say and she did not know the timetable I was talking about. So she would listen to my speech before making any comments. I find that rather regrettable. Had Dr LEUNG read any information concerning water quality in the Victoria Harbour before she proposed her original motion, she would have known what I was talking about.

Indeed it is a long story about that issue and one can say that we have to cry over it. The central issue about water quality in the Victoria Harbour is cleaning up the harbour. As we review the history of Hong Kong we will learn that in 1987 the Government launched the Strategic Sewage Disposal Scheme (SSDS). The SSDS is a rather simple concept, and that is to adopt the approach of primary treatment of sewage and discharge the effluents in a concentrated manner in the waters off Lamma Island into the Victoria Harbour. At that time, many green groups already said that the approach would not work and Hong Kong could not adopt the approach of primary treatment alone. But the Government did not heed this and proceeded with the SSDS. In 1999, as there was a seepage problem with the sewage tunnels in the project and this had caused ground settlement, plus the fact that there were problems with the trading fund concerned, the then Chief Executive TUNG Chee-hwa called a halt to the SSDS. An International Review Panel (IRP), that is, a panel of international experts was commissioned to undertake a study. The panel came to the view that primary treatment of effluents should not be adopted in Hong Kong and at least secondary treatment should be used. At that time people agreed to it, but because of the economic downturn, it was decided that this secondary treatment project should be carried out in two stages. These are HATS Stage 1 and Stage 2 which we are now discussing. And Stage 2 is further divided into two parts, that is, Stage 2A and Stage 2B, or simply 2A and 2B.

Then what are 2A and 2B which the Government is always talking about? Stage 2B refers to biological treatment. Deputy President, 2B is a core issue. Does the Government have any timetable and a roadmap for it? Just imagine, discussion on it has been in progress from 1999 up to now, that is, 2011. But does 2B have any timetable or a roadmap? The Government tells us that there are a timetable and a roadmap. And there is a site for it. The Stage 2B project is going to be carried out in a site on the Stonecutters Island.

But I wish to remind Honourable colleagues that the site mentioned by the Government is in fact linked to dozens of departments and each one of these departments is waiting for their turn to apply for the use of that site on Stonecutters Island. There are also other government departments eyeing this site. They want to use it as a transit railway cargo station or some port back-up facilities. And to top it all, this site may not necessarily be used to launch HATS Stage 2B.

There is another thing which enrages me and that is, in 2007, during the last term of the Legislative Council, the Government submitted some subsidiary legislation to increase the sewage charge. Deputy President, I think you may recall that according to the "polluter pays" principle, the Government at that time said that the charge would be increased for 10 years in a row. At that time I was the chairman of the subcommittee concerned and I said, okay, I would agree with the "polluter pays" principle and that the sewage charge should be increased. But should the increase be made for 10 years? At least the Government should offer something in exchange and let the Legislative Council play a gate-keeping role. It should convince us that it is really determined to go ahead with HATS Stage 2B and the related secondary treatment. The Government should tell us the timetable and the site. Deputy President, at that time the Government made out a post-dated cheque to us and said that in 2008 — you recall that it was in 2007 — a review of the land in question would be completed by 2008. And it would then tell us whether it would implement the Stage 2B project on the Stonecutters Island. In addition, the Government told us that the project concerned would be implemented in 2011 and the Legislative Council would be informed of the details. All these are the undertaking the Government made to the Legislative Council in 2007 when it wanted to increase the sewage charge for 10 years in a row.

Deputy President, at that time the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) — I think Members would still recall — Miss CHOY So-yuk was very anxious about it and she was shouting at the top of her voice and making accusations, saying that her teacher had said that 2A was useless because adding chlorine and then removing it was unable to solve the problem at root. So we had to go ahead with 2B, that is, to implement biological treatment. At that time, Miss CHOY was asking all the time when this could be done and she was rebuking people all the time. I said, "Alright, Miss CHOY, a Member from the DAB, finally we were standing on the same front. And we should tell the Government and agree that the sewage charge should be increased

for five years in a row, but after that, when the Government comes to this Council again and applies for an increase in the charge for another five years, it should show us what it has done and the post-dated cheque should then be honoured." Will the Government really complete this review of land use? Will it really take forward HATS Stage 2B on the Stonecutters Island? Moreover, what is the timetable for that? When will the project commence and finish? The Government must come here and tell us all about it.

It is because of that that at that time I proposed an amendment to allow the Government to proceed with its plan to increase the sewage charge for a period of five years and after it has honoured its pledge concerning the HATS, it can increase the charge for another five years. This is as simple as that. So I proposed an amendment like this. But the Government, as you know Deputy President, with these amendments proposed, the first thing was to vote down the original motion, for that matter, on increasing the sewage charge for 10 years in a row. It was only after this motion had been voted down that a vote could be taken on my amendment. My amendment was to let the Government increase the charge for five years first and then see if it would honour its pledge later. I was trying to coax CHOY So-yuk all the time and I said, "CHOY So-yuk, since you care so much about the HATS, water quality in the Victoria Harbour and also environmental protection, you should join me and vote down the original motion which permits the Government to increase the charge for 10 years. It is not that I do not allow the Government to increase the charge, I only want to allow an increase to be made for five years first. This is to give the Government a chance." Unfortunately, although CHOY So-yuk opposed the government motion strongly, she voted in favour of the Government. So the Government had the original motion passed and the sewage charge was increased for 10 years in a row.

So, now it is 2011, it is unfortunate that CHOY So-yuk is no longer a Member of this Council and were she a Member today, I will really have to say this to her, "Right, I told you so on that day. Why did you let the Government get away with it like that? Why are you always like that?" The Government always behaves like that and it goes back on its words. So I have to say, Dr LEUNG, before you proposed this motion, you should have reviewed the history to get a full picture of it. When we discuss issues like environmental protection, there are times when we will get upset and enraged because the Government only procrastinates. It thinks that the people will forget that the Government has not honoured its pledge and so a pledge made is never honoured.

Now she is revisiting the issue once again. I wish to point out that had we bargained with the Government at that time, Members could really play a gate-keeping role and the charge would only be increased for five years and then the Government would have been compelled to honour its pledge and undertake a land use review in 2008 and so finalize the project on the Stonecutters Island. Then now in November 2011, the Government should give us the timetable and say when Stage 2B will commence.

Deputy President, the lesson we learn from this story is that often when we negotiate with the Government or show our support for it, we should really make sure that the Government will honour its pledge before we can give it our support. The central issue about water quality in the Victoria Harbour is that we can see hundreds of thousands tonnes of sewage still pouring into the Victoria Harbour without undergoing any secondary treatment. In many neighbouring places, they are not talking about secondary treatment anymore, but tertiary treatment. So this is what I mean when I say that whenever mention is made of this issue, I am overwhelmed with both tears and rage.

Deputy President, the Government has told us that when the cross harbour swimming race was held in the Victoria Harbour, it meant that water quality has improved. This is all very complacent. However, and as a matter of fact, if we look at the middle and western parts of the Victoria Harbour, we will find water quality is still poor. We can cite some information provided by the Environmental Protection Department (EDP), which is also mentioned by Dr PAN Pey-chyou in his speech earlier, that one of the water quality objectives is to look at the E. coli count and examine its concentration in every 100 ml of water. The objective set by the EDP for beaches is that if there are 610 E. coli germs in 100 ml of water, the water quality is considered extremely poor and it is unfit for swimming. We have set up eight monitoring stations for water quality in the Victoria Harbour, so what is the E. coli count? It is 710 to 8 400 in 100 ml of seawater, which is far below the standard permitted for swimming.

So the Government must never be complacent about this. And with respect to this issue, the Civic Party understands that in the motion proposed by Dr Priscilla LEUNG, there are some suggestions which may be quite controversial, but we do not think that any detailed discussions should be held on these controversial suggestions at this stage. Overall, we will support the

original motion and all the amendments. We hope that the message can reach the Government and it can speed up HATS Stage 2B as soon as possible. I also hope that the Secretary can give us an account when he speaks later. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, Members, first of all, I wish to thank Dr Priscilla LEUNG for proposing a motion on "Comprehensively improving the water quality of the Victoria Harbour", as well as the several Members who have just spoken for proposing their respective amendments to the motion.

I remember Dr Priscilla LEUNG said in her opening speech that improvements in water quality would be welcomed by all people, be they rich or poor. However, even if people share the same goal, they may have different views on various kinds of work. Protecting the water quality of the Victoria Harbour is certainly an important task of the SAR Government. With respect to this policy objective, basically and throughout the years we have been using a two-pronged approach, that is, on the one hand we will control sources of pollution through the laws and enforcement actions, while on the other, we make substantial investments in the provision of comprehensive sewage infrastructure to treat sewage produced by urban population and businesses. After the formulation of such a sewage treatment scheme, the Government has made substantial achievements through this approach. Such achievements are, not as what some Members have said, founded on the objective of enabling the holding of a cross harbour swimming race in the Victoria Harbour. Speaking from the position of the Environmental Protection Department (EDP), we would often wear another hat, so to speak, and that is to advise the people that the actual use of the Victoria Harbour is not for people to swim like what they do at a beach but that we would on the other hand, make comparisons of data in an objective manner and over long periods of time. Regarding the objectives set down by us, there may be fluctuations in the testing results we obtained over the years. But we can see that in the past few years, like in 2010, 41 beaches in Hong Kong reached our standards in water quality and that was an achievement compared with 26 beaches in 1997. As for water quality which used to be found poor or

very poor in our monitoring stations in the rivers and streams, the situation has improved from that of 1988 in which more than a half did not reach the required standards to only 15% which do not reach such standards in recent years. We can see that overall, and speaking in terms of the relevant data and trend, water quality in the Victoria Harbour has improved as a whole. Of course, water quality has yet to reach a fully satisfactory level and it is because of this that we have introduced one scheme after another of water treatment. This includes HATS Stage 1 which commenced in 2001 and also Stage 2A with a funding of over \$17 billion.

With respect to the views expressed by Members earlier, I would first make a general response and later on, I am sure Members would express further views.

The original motion states that sources of pollution in the Victoria Harbour should be stopped and that misconnected sewers in the urban areas should be identified. We agree with these ideas completely. All along we have been following up such problems. This applies especially to areas on both sides of the Victoria Harbour and places in close proximity to residential developments. I remember in December last year when I replied to a question raised by Dr Priscilla LEUNG, I pointed out that the EPD had all along been playing a co-ordination role in improvement work. On the issue of water quality in the Yau Ma Tei typhoon shelter alone, the EDP has co-ordinated work shared by such departments as the Buildings Department, the Home Affairs Department, the Drainage Services Department, the Marine Department and the Civil Engineering and Development Department, and a number of tasks are completed through better co-operation among various departments based on the existing arrangements. And problems are tackled in a multi-pronged manner so as to reduce the misconnection of sewers and enhance enforcement action.

Certain penalties are imposed under the existing laws. The original motion has proposed that the Government should increase the existing penalties and punish individuals or enterprises who pollute the harbour. Currently, the Water Pollution Control Ordinance empowers the EDP to prosecute persons and enterprises who discharge sewage or pollutants unlawfully. Under this Ordinance, persons or enterprises found in breach of the Ordinance and have discharged sewage unlawfully are liable to a fine of \$200,000 and imprisonment for six months upon conviction. For second-time or subsequent convictions, the maximum penalty is a fine of \$400,000. Also, if the offence concerned involves

the discharge of toxic substances, the persons concerned are liable to imprisonment of two years and a fine of \$1 million.

Over the past five years, 133 cases of successful prosecution were recorded by the EDP in enforcing the Water Pollution Control Ordinance territory-wide. Of these cases, 45 are related to the Victoria Harbour Water Quality Control Zone. On the fines imposed by the Court, the maximum and average amounts are \$50,000 and \$12,000 respectively. As the prosecution statistics over the past five years do not show a marked trend of deterioration, at this stage we do not consider that the penalties should be made stiffer so as to achieve a greater deterrent effect. On the other hand, we would think that more should be done in enforcement. We are certainly glad to hear views from Members in this regard.

On the question of setting specific water quality objectives, Dr Priscilla LEUNG and other Members have advised that we should refer to international experience in this respect. We have also heard views on this. However, we should make it clear that the current objectives set by the Government with respect to water quality in the Victoria Harbour are made with reference to the practical uses of the waters concerned, that is, they are set according to the uses made of them. This is because different bodies of water may have different kinds of economic, recreational or other activities carried out in them and hence the objectives may be different. Currently, we have devised specific water quality objectives for the Victoria Harbour Water Quality Control Zone under the Water Pollution Control Ordinance. This set of water quality objectives includes various water quality parameters and we hope that from these the people can get some comprehensive information. As I said just now, different approaches may be taken according to the different practical uses in a particular water body.

Dr LEUNG suggests using a set of uniform water quality objectives, such as using the E. coli count as an objective for water quality in general in the Victoria Harbour. Such a uniform approach may not be applicable to the waters in Hong Kong. As I have said, there may be vast differences among the practical uses in the Victoria Harbour. On the beaches, as people swim there and they are open all year round, requirements of water quality are much more stringent. And Members have cited objectives in this regard earlier. However, if the waters are used for commercial purposes such as cargo working areas, typhoon shelters or fairways, the requirements in terms of water quality are of

course different. We have also draw reference from practices elsewhere in the international community. In Sydney, Australia, the local government adopts an approach like ours and devises water quality objectives based on a number of parameters and according to different uses of the waters in the harbour. For waters with a tourist purpose, the water quality parameters include those such as "no refuse should be found on the water surface", "no oil slick should be seen on the water surface", and "the amount of algae should not reach a level as to give any undesirable appearance", and so on. Various objectives are applied to waters with different uses. If the use of certain waters is for the conservation of marine organisms, the water quality parameters will include those regarding nutrients, heavy metals and other bio-parameters. In Copenhagen, Denmark, the water quality parameters devised by the local government take into account its uses as a port and the parameters concerned include bacteria count, dissolved oxygen, temperature and salinity. Such an approach is similar to the one used in Hong Kong.

Dr PAN Pey-chyou has suggested removing the polluting facilities along the Victoria Harbour. As evident in the speeches made by Members, there are two different kinds of views on that. I believe if the ground of water quality is invoked alone for removing certain facilities and regard the move as the only solution possible, a certain degree of controversy may be caused. Hong Kong is a densely populated place and the distribution of these so-called polluting facilities at planned locations is made according to different needs in society. If these facilities are completely removed from the harbourfront, I am afraid this cannot be done in a short time. Dr PAN has also mentioned in fact that there are practical needs for typhoon shelters and cargo working areas. I would think that what we should do is to take into account the needs of different users, base our action on existing laws, and try to reduce the pollution caused by the operation of such facilities. On the installation of such facilities in future, we will try as much as possible to make some suitable arrangement in planning and hope that some kind of right balance can be struck between the operation needs of the trades concerned and improvement of water quality.

Some Members have mentioned the cross harbour swimming race. I can see that this is part of the collective memory of many Members. I am very glad to see that this event which proves to be very popular with swimmers was held in October this year. But I have to stress once again, and I believe Members would also agree with me, that the question of whether a cross harbour swimming race

can be held or not should not be regarded as the only water quality objective for the Victoria Harbour. Conversely, I think members of the public would be able to get a better picture from data released on a regular basis on the other objectives which I have just listed. Irrespective of whether a cross harbour swimming race is held or not, both the people and the Government would agree that full efforts should be exerted to improve water quality in the Victoria Harbour. We expect that with the completion of HATS Stage 2A in 2014 when all the related sewers are connected and given the new and more stringent primary treatment in place, the bacteria content of the waters in the Victoria Harbour would further decline and water quality will be much better. There will be improvements in the waters in the middle parts of the Victoria Harbour near Central and Wan Chai. As Dr PAN said earlier, the sewers in the urban areas west of North Point will be connected under HATS Stage 2A.

Mr KAM Nai-wai has suggested establishing a harbour management authority to manage water quality, the environment, planning, sites and facilities in harbour areas and waterfront areas, as well as recreational activities and angling, and so on. I recall discussions were held in this Council in July this year on the development of the waterfronts, so I will not repeat the contents of the discussions. However, I am glad to hear views from Members in this respect.

On sewage infrastructure and facilities, the proposal made by Dr PAN Pey-chyou earlier on sewage treatment facilities shares a common direction with us. Now on the two sides of the Victoria Harbour, there are sound networks of sewers covering the districts and they can collect sewage effectively and transfer it to the sewage treatment works. Also, to tie in with the latest revised population projections and the new development zones along the waterfronts of the Victoria Harbour, we will conduct regular reviews of the capacity of the existing network of sewers and make improvements to the existing network according to priorities set and construct new networks. Now the Government has commenced the improvement works on the existing sewer networks on both sides of the Victoria Harbour. These include the building of new sewer networks to cope with the demand of new development zones such as the Kai Tak Development. We will also replace the aged sewers which are a concern to Dr PAN according to action required under various sewage collection schemes, as well as recommendations made in reviews and studies. The Drainage Services Department will undertake regular inspections of the conditions of sewers in various districts and repair those sewers which are damaged or found to have a

leakage problem. Such kind of work is mainly carried out in many districts on Hong Kong Island and recently also in Central and Eastern Kowloon as well as Tsuen Wan.

Lastly, I wish to respond to the question of the overall progress of the HATS. The HATS is in fact an important infrastructure project with an enormous investment and extensive coverage. It is vital to improving water quality in the Victoria Harbour. Ever since its launch in December 2001, 75% of the effluents produced in the catchment areas in the Victoria Harbour is collected every day. As regards HATS Stage 2A which is currently in progress, it seeks to collect the remaining 25% effluents and transfers them to the Stonecutters Island Sewage Treatment Works for centralized treatment. In addition, disinfection is carried out to reduce most of the pollutants found, especially *E. coli*, and so on. The capital input for HATS Stage 2A is more than \$17 billion and the project is expected to complete by 2014.

Some Members have mentioned that HATS Stage 2B should be launched immediately. Members may rest assured that once Stage 2A is completed, we will proceed with the Stage 2B works. In fact, some of the initial preparatory work for Stage 2B has commenced. Some Members have said earlier that land may have to be set aside or that certain amendments may have to be made in town planning. As Members know, such work is being prepared. Town planning work, for example, has begun. We have also done some initial study such as that on the funding required for Stage 2B and the works concerned. This would enable us to commence the works project gradually. So when Members say that the related works should commence immediately and on a gradual and orderly basis, I can inform them that such work has in fact started. Of course, I believe there would be discussions when I table the scheme before this Council and seek a greater amount of public money and recurrent expenses. As Dr Priscilla LEUNG has rightly put it, water is wealth. And so a lot of resources have to be put into the treatment of sewage. But if it is the view of Members that HATS Stage 2B should be immediately implemented, that is to say, it should be carried out concurrently with Stage 2A or even overtake it, I would think that this may not be what the Members really mean. But even so, I am sure Members can give us a lot of advice in this regard and I will be happy to hear Members' views on this motion.

Thank you, Deputy President.

MR CHAN KIN-POR (in Cantonese): Deputy President, the Victoria Harbour is the most precious natural resource of Hong Kong and even an icon of Hong Kong. Throughout the development of Hong Kong from a fishing port in the old days to an international financial centre nowadays, the sceneries on both sides of the Victoria Harbour have always been a major attraction of Hong Kong.

Waterfront facilities of an international standard will be completed one after another along the coast of Hong Kong but in our Victoria Harbour, which has a key role to play, the water quality has still failed to catch up with the international standard. They are so incompatible that they are like "a square bottom with a round cover". Despite the provision of better developed facilities, the sceneries would still be spoiled if water quality fails to catch up with the standard.

To improve the water quality of the Victoria Harbour, the Government has embarked on the Harbour Area Treatment Scheme (HATS) Stage 2A, under which the 11th works contract was signed in September this year, and the Government has all along said that the initiatives taken to improve the water quality of the Victoria Harbour have gradually produced results following the implementation of the HATS. In spite of this, the incident of the cross harbour swimming race has revealed two problems: First, there is an extremely wide gap between the criteria for assessing the public hygiene and safety standards of water quality in Hong Kong and the international thresholds (such as those in many European Union (EU) countries); second, according to the information of the Environmental Protection Department (EPD), the water quality of the Victoria Harbour fails to meet not only the international standard, but also the local standard which is far lower than the standard in Europe and the United States.

Let me cite a simple example to illustrate this point. In September, the EPD conducted sampling tests on the water along the cross harbour swimming race course and found an E. coli count of 1 200 per 100 ml of seawater. The EPD said at the time that it was only two times higher than the prescribed standard. But under the Water Pollution Control Ordinance, a level of E. coli exceeding 180 per 100 ml of seawater is already considered not up to the required standard. Compared to the standard in EU countries which stipulates that the level of E. coli should not exceed 100 per 100 ml of seawater, the finding published by the EPD has even exceeded the standard by as many as 18 times. From this we can see clearly that the water quality of the Victoria Harbour fails to

meet not only the international standard but also the local standard, and the level of pollution is still high.

Deputy President, the original motion and the amendments have all proposed to investigate and stop the pollution sources of the Victoria Harbour. In order to effectively address the problem of pollution in the Victoria Harbour, we must identify the sources and then adopt highly effective means targeting the root causes, thereby achieving effective treatment of seawater.

Regarding the pollution sources of the Victoria Harbour, is the problem the result of coastal and marine works which require extensive hill cutting and reclamation or underwater works, or is it the result of sewage treatment plants failing to take the right approach or handle their work properly, or are there other reasons that result in the serious marine pollution? The Government should earnestly conduct investigations to thoroughly find out the causes of the problem and present the supporting facts and statistics before the right cure can be prescribed to the problem.

It has been a decade since the commencement of works under Stage 1 of the HATS which has come to Stage 2A now. With continuous development in society, about 1.85 million cu m of effluent is discharged into the sea daily. No matter which type of works is the source of pollution, each and every citizen of Hong Kong actually has the same responsibility of reducing the sources of pollution.

I wish to particularly mention the practices adopted in Singapore. Singapore ranks the second last in the world in terms of the per capita possession of water resources and similar to Hong Kong, Singapore also has to purchase water from Malaysia. To open up new sources of water, Singapore has since many years ago vigorously developed "recycled water" or "NEWater". Fully capitalizing on high technology, the Singaporean Government has recovered all industrial and domestic wastewater and turned it into potable water after various processes of filtration and sanitization and through application of high technology in the process of sewage treatment. What is more worthy of our reference is that the Singaporean Government has included the measures for exploring new sources of water and achieving effective use of water resources as one of the country's most important policies and made water resource a strategic resource of the country.

In addition to strictly upholding the "user pays" principle through a progressive water tariff system to encourage conservation of water and adopting administrative means (including tax measures) to remind nationals of the precious value of water resources, the Singaporean Government has even incorporated water conservation topics into the textbooks of the primary school curriculum, making water conservation a civic responsibility.

To continuously educate its nationals to value the water resources, the Singaporean Government spends millions of Singaporean dollars annually on organizing publicity activities on water conservation and various national campaigns, such as the "10% Challenge" campaign under which a target is set to require each national to reduce their daily water consumption by 10%. The objective is to reduce the daily per capita water consumption from 155 litres to 140 litres, with a view to further reducing water consumption country-wide.

According to the information of the Water Supplies Department, in Hong Kong where purchase of water is also necessary, the daily average water consumption is as high as 220 litres per person, which is 50 litres more than the world's per capita water consumption of 170 litres, ranking the 10th in the world but our water tariff rates are the fourth lowest in world ranking. The reason is simple. It is because water has been subsidized by the Government for a long time, which has resulted in a lot of unnecessary wastage.

Deputy President, a price (including financial and human resources) has to be paid for environmental protection. The Singaporean Government has also ploughed in an enormous amount of resources to tackle the sewage problem through the application of advanced technology. Certainly, Hong Kong and Singapore have different needs and different circumstances, but it is still imperative for any government to invest resources on the development of sewage treatment and other environmental technologies and invite local and foreign experts to engage in further collaboration.

In Hong Kong, many academics and institutions have been contributing their efforts to promoting the cause of environmental protection. The Government should provide them with assistance systematically. Sewage treatment requires highly effective technologies. Apart from educating the public to value water resources and uphold the "user pays" principle, additional resources should be allocated to throw great weight behind scientific research and

studies. It is only when various sectors of the community can work in concert that the water quality of the Victoria Harbour can be improved step by step and Hong Kong can live up to its name.

I so submit.

MR IP WAI-MING (in Cantonese): Deputy President, a beautiful harbour is the common wish of all of us. My colleague, Dr PAN Pey-chyou, has already given an account of our views on this in his speech.

However, from the speech of the Secretary earlier on, I seem to have heard that HATS Stage 2A would be completed in 2014. I am not sure whether I got it wrong or not, but from the information of the Government that I have looked up, the projects will be completed only in 2016. In this connection, I would like the authorities to clarify when the projects under Stage 2A will be completed.

As regards the question of whether the projects under Stages 2A and 2B can be carried out simultaneously, we think that the answer is in the positive. We hope that the Government can carry out projects under these two stages simultaneously, in an effort to speed up the cleaning up of the Victoria Harbour. I would like the Government to tell us why projects of these two stages must be carried out separately rather than simultaneously. I hope that the Secretary will respond to this point later.

In my following speech I will focus on the amendment proposed by us to the original motion in respect of the proposal of removing polluting facilities in the vicinity of the Victoria Harbour. In proposing our amendment, we hope that the Government can study the feasibility of removing these facilities in the vicinity of the Victoria Harbour, while having regard to the people's livelihood. We do not support the hasty removal of such infrastructural facilities as typhoon shelters, cargo working areas and industrial plants. There are at present a total of eight cargo working areas which can be found in Western District, Chai Wan, Cha Kwo Ling, Kwun Tong, new Yau Ma Tei, Stonecutters Island, Rambler Channel and Tuen Mun. The Kwun Tong cargo working area alone has already played a vitally important role in addressing the problem of waste management.

According to information, the Kwun Tong cargo working area has 12 berths which are all used for export of waste paper. In 2009, over 1 million tonnes of waste paper in total were recovered in the territory, of which 60% or about 650 000 tonnes were exported via the Kwun Tong cargo working area. This shows that cargo working areas are very important to the local recycling industry and the overall policy on environmental protection. The removal of these facilities will make it necessary for the authorities to identify new sites for the continued operation of the recycling industry. But where can there be these sites? Even if sites are identified, can they accommodate all the operators? As Dr PAN has just said, is this measure realistic? Is it possible that they may not be welcomed by other districts?

According to some practitioners in the cargo working industry, if the 12 recyclers currently operating in the Kwun Tong cargo working area are forced to close down, as many as tens of thousand workers will be affected. As the external economic conditions faced by Hong Kong may take a turn for the worse, if a large part of the labour force will become unemployed, can we cope with the situation? Therefore, we hope that the Government can study the removal of polluting facilities in the vicinity of the Victoria Harbour, while having regard to the people's livelihood. No decision should be taken hastily on the removal of these facilities.

This is why we have some reservations about this proposal in the original motion. We do not wish to create a dichotomy between the environmental pollution caused by these industries and our environment. On the contrary, we consider that various sectors of the community and the Government should conduct studies to identify ways to improve these industries, so that while they make contribution to the economy of Hong Kong, they can also make contribution to the work of environmental protection in Hong Kong. We must not create a dichotomy between them.

Deputy President, the improvement of the water quality of the Victoria Harbour is a key component of our environmental policy. But let us not forget that the recycling industry also plays an important role in this policy and involves the livelihood of tens of thousand workers. For this reason, we consider that the Government must give particularly serious consideration to the views on the removal of these facilities, and it is also appropriate to draw up long-term policies

on these facilities, in order to strike a balance between environmental protection and employment, hence achieving stable development.

Deputy President, I so submit.

MS STARRY LEE (in Cantonese): Deputy President, the motion on "Comprehensively improving the water quality of the Victoria Harbour" proposed by Dr Priscilla LEUNG today is meaningful and spells out the urgency of the matter, especially at a time when the cross harbour swimming race was finally resumed last month after a 33-year suspension.

On the surface, the water quality of the Victoria harbour has indeed improved, but this remark is over generalized because the water quality in individual districts and even in most parts of the harbour area remains unsatisfactory. To some residents living on both shores of the Victoria Harbour, the stench that comes from the sea during the hot summer days is still a big headache that they must endure in their living.

How bad is the water quality problem in the Victoria Harbour? Deputy President, just look at the choice of the course for this year's cross harbour swimming race and we can have some idea about it. This year's race course no longer followed the traditional course that started from Tsim Sha Tsui Landing and finished across the harbour in Central. Rather, the course considerably shifted eastward and started at Sam Ka Tsuen Landing in Lei Yue Mun and finished at Quarry Bay Park Public Landing. Why was the swim course suddenly changed from that in the past? I believe the reason has to do with the water quality along the original course.

How is the water quality of the Victoria Harbour? Perhaps we can draw a comparison with beaches. With regard to the water quality of beaches, the Environmental Protection Department has in place a grading system, under which the water quality of a beach is considered "poor" with a E. coli count of 181 to 610 per 100 ml of seawater. As far as I understand it, if people swim in seawater of such quality, it is estimated that 11 to 15 out of 1 000 swimmers will stand a chance of falling ill from minor diseases, such as skin or gastrointestinal infection.

Last year alone, the *E. coli* count of the marine stretch from Tsim Sha Tsui to Central (that is, the traditional swim course of the cross harbour swimming race) recorded an average of 8 403 per 100 ml, which is 14 times higher than the pollution level of beaches with poor water quality, and this figure represented only the average level of the year. An academic conducted sampling tests of waters off the centre of the Victoria Harbour in October last year and recorded an *E. coli* count of 22 000 per 100 ml of seawater, which is many times higher than the level of beaches with poor water quality. This shows that there is still plenty of room for improvement in the water quality of the Victoria Harbour.

Deputy President, in his speech earlier the Secretary remarked that the water quality of the Victoria Harbour has already been greatly improved. While I do not deny this point, I think this is only part of the truth because last year, in 10 of the 17 marine water quality monitoring stations in the Victoria Harbour and the adjacent waters, the water quality was found to be even worse than that of beaches with poor water quality, with three of them (covering also the centre of the Victoria Harbour) not showing significant improvement than a decade ago before the implementation of the HATS. At present, insofar as this area of work is concerned, we still need to make more vigorous and continuous efforts.

Deputy President, the poor water quality of the Victoria Harbour will take its toll on the image of Hong Kong, and may make it impossible for the cross harbour swimming race to be held as an annual event. However, while hoping that the cross harbour swimming race can be organized annually, I think the problem that needs to be tackled most practically is to provide assistance to residents living on both sides of the Victoria Harbour, especially residents who often have to put up with the stench that comes with the sea breezes in summer, and address this actual nuisance caused to them in their living.

Deputy President, I visited the district this morning, and the first complaint that I received was about the problem of stench at the waterfront remaining unresolved. I very much would like to invite the Secretary or officials from the Bureau to join me on a visit to the district, and particularly at this time, one can really smell the stench in the morning.

This morning, I went to Hoi Sham Park in To Kwa Wan and a typhoon shelter is located opposite it. Some time ago an academic and locals took a measurement of the *E. coli* count there. If Members go there and take a look at

the sea, they will often find that many things are brought there by the currents, including packaging bags, polyethylene bowls and plates, and even excrement. The situation is particularly appalling in summer. Such unique "scenery" of the Victoria Harbour is actually not what we would wish to see.

Just look at the statistics and we can get a clearer picture of the situation. The average *E. coli* level of the seawater at the To Kwa Wan typhoon shelter was 510 last year. Although this is not considered too bad on the surface, the water quality there has shown great variations and the worst can reach a level of 5 600, which is nine times worse than beaches with poor water quality.

That said, if we look at the statistics, we will find that its water quality is not as bad as that of the Yau Ma Tei typhoon shelter where the average *E. coli* count has reached a year-round average of 2 800 and can even be as high as 35 000 in worse cases, which is 57 times worse than beaches with poor water quality. The situation has reached a state where actions can brook no delay.

The waters off the To Kwa Wan typhoon shelter always gives off a stench because of many reasons which are related to its geographical features. As it is impossible to carry out reclamation in the bay area there, a caved-in feature is thus created, resulting in very slow movements of currents, and this has directly aggravated the situation as the stench cannot be dispersed swiftly by the meeting of currents.

Insofar as this problem is concerned, we have had discussions in the District Council and even in the Legislative Council for a long time. But despite a decade of discussions, the problem has yet to be solved thoroughly.

Here, I urge the authorities once again to target actions at some black spots I think the Secretary has a point in his remarks earlier. Despite the fact that improvements have indeed been seen in some districts, there are some black spots where the problem is still serious indeed, including the waters off the To Kwa Wan typhoon shelter that I have just mentioned.

Moreover, from the relevant information and residents' views, there are also similar complaints in the vicinity of the Yau Ma Tei typhoon shelter. I hope that the Bureau can step up its efforts to fix these black spots, in order to thoroughly improve or come up with new ways to improve the water quality. It

is most important to ensure that the residents in the affected districts will not smell the stench in summer.

Deputy President, I hope that the Secretary can particularly undertake to implement initiatives at those black spots in his response later, so that we can convey this message to residents in the districts in question.

Thank you.

PROF PATRICK LAU (in Cantonese): Deputy President, the Victoria Harbour is the most important symbol of Hong Kong. Renowned for its expansive skyline and deep natural harbour, it is one of the most beautiful tourist harbours in the world. Hong Kong has developed from a small fishing village into an international metropolis because of its natural advantages bestowed by the Victoria Harbour. Its position in history is significant.

However, after a few decades' development and population growth, the water quality of the Victoria Harbour has been deteriorating, reducing Hong Kong from a fragrant harbour to a stinky port.

Fortunately, the Government formulated the Strategic Sewage Disposal Scheme in 1989 which was subsequently renamed as the Harbour Area Treatment Scheme (HATS) in 2001. Eventually, some achievements, such as the successful launch of the "cross harbour swimming race" that had been suspended for 33 years as mentioned by the Secretary and Dr Priscilla LEUNG, have been attained with the Government's commitment to improving the water quality of the Victoria Harbour.

As Chairman of the Subcommittee on Harbourfront Planning (the Subcommittee), I will certainly support the proposal on improving the water quality of the Victoria Harbour. But I would like to remind Members that the Government advised at the Subcommittee's meeting in July this year that the Development Bureau would consider the establishment of a harbourfront authority to take charge of waterfront planning, development and management. I thank Mr KAM Nai-wai for his proposal of setting up a harbour management authority. However, I think it is different from the harbourfront authority I mentioned just now.

Although water quality is of the utmost importance to the development of the Victoria Harbour, I wonder if the terms of reference of the harbour management authority proposed in his amendment will include regulation of seawater. In my opinion, there is a fundamental difference between the nature of this duty and that of waterfront planning, development and management.

I agree in principle that the current situation of fragmented responsibilities among government departments should be rectified to enhance the efficiency of water quality management. However, in my opinion, the duties of the harbour management authority are different from that of the harbourfront authority proposed by the Subcommittee.

On the other hand, I agree that the Government should expeditiously finalize the timetable for implementing HATS Stage 2B. In fact, it is proposed in this year's Policy Agenda — I wonder whether Ms Audrey EU has read it carefully in order to realize that the Government already commenced a study to review Stage 2B of the Scheme in June 2010. Based on the latest results to be obtained under the study, including the trends of water quality, population and growth in the volume of sewage, the Government will draw up a timetable for building a new biological treatment plant under Stage 2B near the Stonecutters Island Sewage Treatment Works.

Surely, we should urge the Government to speed up the project. However, I wonder if there is a need to immediately implement HATS Stage 2B because the Government has undertaken to draw up a timetable. Moreover, the Chief Executive, in his Policy Address published lately, indicated that the Government has allocated \$17 billion for a very important mission, namely, to collect and treat about as much as 450 000 cu m of sewage currently discharged into the harbour each day in order to improve water quality. This is an even more important job. We should give time to the Administration for carrying out the job and observe the effectiveness in improving water quality after the new funding has been granted for the project.

Deputy President, the Government is conducting a review of some idle piers or piers of low utilization to see if they can be put into new use. As a part of its efforts to better utilize resources, this will also be a strategy to promote waterfront tourism in the Victoria Harbour. In my opinion, attention should be paid to the development potential of typhoon shelters.

As pointed out in the original motion, typhoon shelters are polluting facilities. However, typhoon shelters bear great social, historical and cultural significance because they mark the culture of fishermen in Hong Kong and are linked with the personal sentiments of many Hong Kong people who like eating seafood there. This is a kind of tourism, as well as Hong Kong people's reminiscence of the past. In my opinion, instead of removing these typhoon shelters, the Government should improve the environment, introduce regulations on hygienic condition and sewage disposal so that typhoon shelters can be developed into a new tourists spot. Apart from improving the water quality, we have to deal with the seabed of typhoon shelters in order to address the stench problem.

On the development of Kai Tak, my understanding is that the Kai Tak Nullah has been a subject of long-standing dispute and the authorities have made a lot of efforts in the development of Kai Tak as a whole. I can also see that in the development plan for Kai Tak, biological treatment has been adopted to deal with problems of the Nullah. I think the results are good and it is not necessary to break up the runway of the old Kai Tak Airport. I strongly oppose such an idea. If good results have been achieved, why do we not improve the water quality from this angle? So, I hope the Government can continue to work on the typhoon shelters efficiently in order to help develop typhoon shelters into a new tourist attraction.

Thank you, Deputy President.

MISS TANYA CHAN (in Cantonese): Deputy President, the cross harbour swimming race is mentioned in today's original motion and many Honourable colleagues also mentioned the event just now. I am not at all qualified to participate in the race, but if attention had been paid to water pollution tests conducted by some media before it was held, they will, as I did, find the message carried in the statement of responsibility signed by participants of this gala, though the statement cannot be regarded as a "life and death agreement".

If Members have paid attention, they will find that, as some Honourable colleagues mentioned just now, the course of this cross harbour swimming race was different from that in the past in having shifted slightly eastward. Does this

course, which has been shifted eastward, guarantee better water quality? The answer is not.

As it was mentioned just now, there are several sets of water quality standards in Hong Kong. The first set is called a "zero tolerance" standard. What is a "zero tolerance" standard? It is the standard to be met by swimming pools to ensure that water for swimmers does not contain any *E. coli*. Therefore, it is called the "zero tolerance" standard, which has been provided in relevant provisions on swimming pools in Hong Kong.

Another set of standard applies to the beach water quality. As pointed out by an Honourable colleague just now, beaches in Hong Kong are classified into four grades, indicated by the number of "rabbits" awarded. A beach with a tag of two rabbits means that the water quality is good, while a tag of one rabbit means that the water quality is fair, to be followed by a lower grade which is poor. What is that quality then? If the *E. coli* level ranges from 181 to 610 counts per 100 ml of seawater, the water quality will be regarded as poor, or very poor if it exceeds 610 counts.

Sometimes, some beaches in Hong Kong will be closed as what happened to seven beaches in Tsuen Wan last year, including Anglers' Beach and Approach Bay. They were "banned" because water quality there was unsuitable for swimming as the *E. coli* level per 100 ml of seawater was over 610 counts.

Insofar as the Victoria Harbour is concerned, Members may think that as the cross harbour swimming race could be held, its water quality should not be a problem. But it is not the case actually. According to reports by Cable TV, three test points were set up along the swim course, that is, the start point, the midway point and the finish point respectively. The participants were required to swim from the start point at Sam Ka Tsuen of Lei Yue Mun to the Quarry Bay Park on the other side of the harbour. According to the test results of water samples taken at the start and midway points, the levels of *E. coli* reached 1 900 counts, exceeding the standard supper limit by 200%. Meanwhile, the level of *E. coli* present in water samples from the finish point reached 1 200 counts per 100 ml of seawater, exceeding the standard by 100%.

It is not difficult to imagine that even though the participants' lives are not at stake, it is most likely that they may be infected with bowel or skin-related

diseases given such water quality. Therefore, although the cross harbour swimming race has been held, it is believed that the water quality of the harbour has not yet reached the supposed standard. In this case, what can be done to make improvement? Is the situation really so bad?

In fact, the Environmental Protection Department has some data which show that since the advance disinfection facilities at the Stonecutters Island Sewage Treatment Works came into full operation in March 2010, the E. coli level has really dropped 60%, which is a good thing. However, as the Secretary said earlier, since the sewage discharged from the four effluent isolation plants from North Point to the Western District along the Northern shore of Hong Kong Island is not collected and transferred to Stonecutters Island for treatment, what has been carried out in these effluent isolation plants is still the very basic sewage treatment, and sewage discharged by these plants remains rather filthy. Therefore, the water quality at different points of the Victoria Harbour is also different.

Therefore, we very much hope that Stage 2B of the Harbour Area Treatment Scheme (HATS) can be implemented as soon as possible although Prof Patrick LAU just now did not agree to Ms Audrey EU's proposal that it be implemented immediately. He opined that it should be implemented after results of the study had been obtained. I am not in a position to speak on behalf of the Secretary, but as we all know, HATS Stage 1 has been implemented. Although Stage 2 is divided into two parts, namely, 2A and 2B, the authorities have planned to implement HATS Stage 2B. Given that the existing water quality is fair and improvement can be made by the HATS, why do the authorities not put in more efforts so that Stage 2B can be implemented as soon as possible? I hope the Government can give this further consideration.

As for the stench problem disturbing all typhoon shelters of the Victoria Harbour, it is in fact a problem in Kowloon and Hong Kong Island. We also have personal experience of this and it is believed that the sediments are generally polluted by heavy metals. I am neither a scientist nor a professional in this field. However, regarding this problem, which is known as the most serious problem in the Kwun Tong Typhoon Shelter, we hope that the Government will consider rolling out measures to address the water pollution problem in the typhoon shelter on the condition that not too many users of the typhoon shelter will be disturbed and the livelihood of those who are making a living there will not be affected as

this will also be very important for the residents there. I wonder whether the biological treatment approach which was adopted for dealing with the problems in Kai Tak and Shing Mun River in the past will also work. Nevertheless, I hope that the authorities will deal with the problem in this direction.

I understand why Dr Priscilla LEUNG, mover of today's original motion, is so anxious about the issue. Even though I seldom pay visits deliberately to typhoon shelters in a bid to understand the stench problem, I still have some knowledge because I can smell a strong odour when riding in a car on my way to the airport on the highway occasionally if external air is pumped in by the air-conditioning system of the vehicle. In answering my question, a taxi driver told me that such a rancid odour has existed for a long time. So, I think this is an urgent problem that should brook no delay, and I hope that the Government will give further consideration to it given that the development of the West Kowloon Cultural District will go into full swing.

I so submit.

MR WONG YUNG-KAN (in Cantonese): Deputy President, today we discuss the motion on improving the water quality of the Victoria Harbour, an issue which we are all very concerned about actually. I believe the people or users living on both sides the Victoria Harbour are also very much concerned about its water quality. I have an impression — some people think that the existing pollution in the harbour seems to have originated from typhoon shelters or public cargo working areas. I would like to ask a rhetorical question: Can the problem of odour and water pollution be resolved if all these facilities are removed? This warrants some hard thinking. If the proposal can hardly solve any problem while affecting so many people at the same time, what is the point of requiring the people working at the public cargo working areas the Government currently has yet any plan to relocate these public cargo working areas, not to mention the commencement of any new study. Does the Government have to conduct a study? I do not oppose conducting a study. But the bigger issue worthy of pondering is how the Government can do better, because it is not an issue that involves only one or two persons. Nor is it an issue that affects one or two users only. It is an issue that involves a great deal of people in the business.

Besides, the original motion or some of the amendments have regarded typhoon shelters as the black spot. I have been exposed to the typhoon shelters for quite some time, be it the Aberdeen or Yau Ma Tei Typhoon Shelter. Particularly, I wish to mention the situation in Yau Ma Tei where the coastline has bulged outward after reclamation. There used to be a typhoon shelter, but nobody, including the Government, had done anything to clear the rubbish. I believe the Government has never done anything to clean up the typhoon shelter after reclamation. What should we do? What could be done to make it better? The Government has utterly not done any thinking about it.

(THE PRESIDENT resumed the Chair)

The Causeway Bay Typhoon Shelter is another place I wish to talk about. Everybody knows that both the Shau Kei Wan and Causeway Bay Typhoon Shelters have a long history and the Government has carried out a lot of projects there. We often say that sediments will deposit in each reclamation or whenever a project is carried out, and that these sediments are the leading cause of water pollution. However, the subsequent "user pays" principle has made those living on boats in the typhoon shelters scapegoats. It seems that the Government does not have any responsibility to deal with the water quality problem at all.

Prof Patrick LAU asked just now whether typhoon shelters could be dealt with in a much better way. We feel that the situation of typhoon shelters can be improved, not that no change can be made. If it is said to be a sit it will be very difficult in future to find two typhoon shelters in the Victoria Harbour. There will no longer be any vessel upon removal of the typhoon shelter, meaning that the site will be reclaimed. These facilities will, therefore, be gone after reclamation. We often say that promenades must be built, but what is the purpose of building such facilities? The purpose is to optimize the environment for public enjoyment so that the people can go for a stroll or appreciate the beautiful seaside vista. Otherwise, what is the point of naming them promenades? Now we label typhoon shelters as a kind of sin; I think it is a most unrealistic idea or practice.

We have been saying for years that the Victoria Harbour basically is not a harbour. I had said 10 years ago that it was a river. As it is a river, the water

runs very quickly. Now the water current has slowed down because of some inlets. I feel that the people responsible for designing those waterways should be liable. Instead of considering these factors, everyone has put the blame on the users.

Rather than taking Causeway Bay as an example, I wish to talk about the situation in Shau Kei Wan. If the typhoon shelter is closed, to where does the Government want the current boat dwellers move? The Government has indicated that a typhoon shelter would be built at Stonecutters Island. Unfortunately, there is no water, electricity or anything. Why does the Government want them to move to Stonecutters Island? Hence, I hold that this is utterly unrealistic.

We often say that each land reclamation will cause the seabed to rise because of the materials deposited there. As we have so many projects to carry out, sediments are also unavoidable. Not only the typhoon shelter, even the harbour off the Hong Kong Convention and Exhibition Centre will emanate a foul smell in future. How can there be no problem as a result of a lack of management or desludging? Therefore, the water quality problem of the Victoria Harbour must be addressed properly.

Currently, we find that vast amounts of untreated wastewater are discharged by those sewers. Over the past several years, the Government has done a lot, and this we must recognize. But is it enough? I can still remember that over a decade ago when we were taking part in the Dragon Boat race in Tsim Sha Tsui, we could all smell the extremely unpleasant odour from the wastewater whenever the tide was on the ebb. We were wondering if it was due to the typhoon shelter, or was it due to any other reason. As Members know, it is a sewage discharge problem. Therefore, I wish to tell Honourable colleagues in this Council that it is very easy to remove some facilities, but it will be very difficult to get them back, notwithstanding the heavy price.

President, I so submit.

MR ALBERT CHAN (in Cantonese): President, the concept of the Strategic Sewage Disposal Scheme (SSDS) was proposed in the 1980s in Hong Kong. If we look at the development of the SSDS thus far, we will find that we have

actually learnt a valuable lesson and taxpayers have also paid quite a lot of money.

Stage 1 of the SSDS is designed mainly to transfer sewage from the central urban areas of Kowloon to the Stonecutters Island for primary treatment. In Stage 2, a very long sewage outfall will be used to discharge the effluent in deep oceanic currents. When implementing Stage 1 of the SSDS, it was in the end decided that the sewage treatment works would be located on Stonecutters Island. However, after the sewage treatment works was commissioned, dire consequences arose because all the effluent flowed towards Tsuen Wan. Consequently, after the commissioning of the sewage treatment works, the SSDS did not improve water quality, instead, the so-called "treated sewage" was discharged in the direction of Tsuen Wan, thus resulting in the closure of seven beaches. This problem had beset us for seven years. It was not until 2011, when the *E. coli* levels at the beaches concerned had met the standards and the odour had been reduced, that the beaches were reopened. It can thus be seen that the improvement of water quality in the Victoria Harbour had led to a drastic deterioration in water quality in the Tsuen Wan and Kwai Tsing districts.

The entire SSDS is divided into two parts and one of them was related to sewage treatment works, such as the Stonecutters Island Sewage Treatment Works. Concerning the issue of sewage treatment, in fact, it is planned that secondary treatment will be introduced in 2014. I hope that when the Secretary gives his reply and explanation later, he can give us a clear account on whether or not the plan to introduce secondary treatment at Stonecutters Island will be implemented and what the timetable is. In addition, on the connection to an oceanic outfall and the completion of the outfall, can all the sewage in Hong Kong really be properly discharged into the deep ocean through this system, so that the water pollution problem in Hong Kong or in its harbour can be ameliorated?

If we look at the choice of Stonecutters Island as the site, this is perhaps a mistake because there is no reason to build a sewage treatment works at the centre of the whole harbour. If this problem had been noticed at the beginning and a more remote area had been chosen for the sewage treatment works, maybe it would have been necessary to carry out primary treatment only. At present, the core area in Hong Kong has become a place where all the sewage converges. It is perhaps due to our sole reliance on experts when choosing the site at that time

that we ran into trouble. Had we thought about this matter with common sense, we would have found that there was no reason to choose a site so close to residential areas and the city centre for the construction of a sewage treatment works.

President, the problem of water quality must be considered in conjunction with the overall strategic development of Hong Kong. Last year, Prof Patrick LAU visited the United States and Canada together with us and we found that in many cities overseas, such as New York, Vancouver and Boston, as well as Amsterdam, which we visited two years ago, planning had been carried out anew in these cities and all industrial sites were relocated away from the city centre. For example, in Amsterdam, the entire container port was relocated well away from the city centre and similar measures were also taken in New York and Boston. In these cities, the use of waterfront sites in the city centre is integrated with the recreational and daily needs of the public and all industrial uses were eliminated. Their concept was very simple, that is, to return the harbour to the people and strengthen the connection between water and people. The whole concept is to connect people to the waterfront. However, it seems that the sea in Hong Kong is still owned by the tycoons. Only the tycoons can join yacht clubs and all the places commanding the best sea views are owned by the tycoons, with the square foot price of their properties standing at tens of thousands of dollars. However, in various places in Europe and North America, the connection between water and people is being strengthened gradually — and I stress that "people" refers to the general public — and the harbour is integrated into the daily lives of the people.

Look at the present situation in Hong Kong, the problem of water quality is certainly important. In this connection, the Government should look at ways to ameliorate the problem of illegal sewer connections. Two decades ago, it was already said that there were many illegal sewer connections but nowadays, there are still many illegal sewer connections and as a result, water quality in the Victoria Harbour is affected. The second problem affecting water quality is the discharge of pollutants into stormwater drains by the public. At present, many food establishments still frequently discharge their sewage into the stormwater drains in back streets. As a result, the sewage flows into the Victoria harbour and affects the water quality. Therefore, if the problem of illegal connection of sewers is not ameliorated and more stringent regulation is not imposed, seawater will continue to be polluted.

Lastly, how can the areas that meet health standards on water quality be made available to the public for their daily use? Apart from cross harbour swimming races, do the general public also have the chance to paddle canoes or do sailing with their family members in the Victoria Harbour, rather than only tycoons owning yachts? Some time ago, I went to New Zealand to talk about the history of the 1911 Revolution. In New Zealand, one in five persons owns a pleasure vessel and even the general public can use the harbour and enjoy the beautiful sea vista. Apart from being just an environmental issue, it is also necessary to make sea changes in overall planning, concepts and principles. We cannot continue to let the privileged class control the Victoria Harbour, allow only the privileged class to use it and exclude the general public simply because technocrats insist that everything remains unchanged.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, in this motion on "Comprehensively improving the water quality of the Victoria Harbour" moved by Dr Priscilla LEUNG today, I think item (h) is very interesting. She proposes "to make the 'cross harbour swimming race' an annual gala in Hong Kong and organize it regularly every year at different locations in the Victoria Harbour, so as to press the relevant departments to seriously improve the water quality of the Victoria Harbour.". Is there any causal relationship here? Is there any cause-and-effect relationship here? Is this a necessary relationship, a rational relationship or an actual relationship? Improving the water quality of the Victoria Harbour is an environmental issue and the Government has the responsibility to do what it is supposed to do, instead of citing some figures to brag about its achievements on every occasion. However, Dr Priscilla LEUNG proposes in item (h) of the motion that in order to prod the Government into improving the water quality of the Victoria Harbour, so that the departments concerned will improve the water quality of the Victoria Harbour in earnest, it is necessary to rely on the organization of a cross harbour swimming race every year. I think this is most laughable. I dare not say that she is being absurd, but is that a causal relationship or cause-and-effect relationship?

Over the past two decades, the water quality of Hong Kong waters has deteriorated rapidly. Apart from local causes, the greatest source of pollution is the industrial and domestic effluents coming from the Pearl River Delta. In

order to ameliorate this problem at root, it is not enough to rely solely on the approach of bragging that this Secretary likes to adopt. This we all know.

At the same time, there are basically no industrial activities in Hong Kong and generally, the source of local water pollution is household sewage and the effluents discharged by food establishments. For many years, the Government has reaped quite a lot of money by introducing the policy of sewage charge. This measure is most unfair to restaurants because they are the only industry bearing the costs of sewage treatment. The whole catering industry is bearing the sewage charge, but other industries do not have such a burden.

In the past, the bleaching and dyeing industry was targeted and that was justifiable. However, where can you find any bleaching and dyeing operations in Hong Kong nowadays? Therefore, there is no other target than the catering industry. For this reason, it is actually very miserable to operate a catering business in Hong Kong. There are dozens of knives hanging over one's head and one braves all of them just for the sake of negligible profits. It can be seen from this kind of "polluter pays" policy of the Government that such a "polluter pays" principle actually makes a single industry bear all the responsibility and this has not changed even now. The Liberal Party has raised this issue for a long time, but is there any use? Therefore, being a member of the royalist camp is all useless, so one may as well be the opposition.

The Harbour Area Treatment Scheme (HATS) was launched in 2001 and so far, it has been implemented for over a decade. By how much has the water quality in the Victoria Harbour been improved? At the present stage, only 75% of the sewage can be treated and the sewage in such places as North Point and Aberdeen can be treated only after the completion of the Stage 2A works. At present, the odour that comes out of the Stonecutters Sewage Treatment Works can be detected even as far away as Cheung Sha Wan. However, in the mooring areas for the yachts owned by tycoons that Mr Albert CHAN talked about just now, one can hardly smell any odour and one can also hardly smell any odour from the sea next to luxury properties. I do not know if Members have conducted a survey on this. However, in the residential areas for ordinary people, members of the grassroots can surely smell the odour from the sea near their homes.

Another problem of water quality in the Victoria Harbour requiring urgent action is the water quality in typhoon shelters. As we all know, more than a decade ago, there was a special way of life and aura in the typhoon shelter in Causeway Bay. I wonder if the Secretary has ever been there. Food like stir-fried clams, flat rice noodle and flat rice noodle served with barbecued goose meat were served there. One can also sing Cantonese operas there, but one had to pay before doing so. At that time, many people who had gone whoring at night would bring pretty ladies onto the boats to have fun and it was all very seamy. The air was foul on the water because people were cooking. Subsequently, all these activities were banned. After the ban had been in place for some time, that place was converted into a mooring area for pleasure vessels. Can any improvement be seen? It seems there has been none.

Of course, from the angle of tourism, some people hold that the special scenes and aura in the typhoon shelter should be restored. I do not know what the Secretary thinks. I also think that they should be restored and we can turn the place into a tourist spot in Hong Kong. Tourists can board those boats to sing, eat and have excursions. However, the water quality has deteriorated so much and the water smells so foul that I believe even tourists will not have the appetite to eat flat rice noodles served with barbecued goose meat. If one wants to restore the scenes and aura in typhoon shelter found in those years, it is really necessary to make efforts. But the Government would never do such things, nor would it work in earnest for this reason. In fact, for many years, the Government has neglected the problem of water quality in typhoon shelters. In 1993, in the era of the British-Hong Kong Government, the Water Pollution Control Ordinance was amended but at that time, typhoon shelters were excluded from the ambit of the Ordinance. After the reunification, the SAR Government continued with this approach, that is, it continued to do nothing about what the Government back then had failed to do. As a result, the water quality in typhoon shelters has deteriorated further.

The works projects in the West Kowloon Cultural District and the Kai Tak Development will begin one after another and many people have also raised this issue in the motion debate today, saying that these two areas will become the tourism hub of Hong Kong in the future. However, the bacteria content of the seawater in the To Kwa Wan Typhoon Shelter and the Yau Ma Tei Typhoon Shelter have still greatly exceeded the safety standards. As a result, nearby residents often have to put up with the stench. These problems cannot be solved

simply with the Secretary bragging about some figures. If Members do not believe me, they can ask the residents there.

One of these places belongs to my constituency. I went there to have a look when I had time and found that it was really unbearable. Residents living in those places really find it utterly unbearable and Ms Starry LEE also talked about this just now. I think these problems cannot be solved by the Secretary saying a few words after the Members proposing the motion or amendments have spoken. Members would not think that this is good enough. Although this is not the first time that this subject has been raised for discussion, and even though I find item (h) of Dr Priscilla LEUNG's motion very laughable, basically, we support this motion.

Thank you, President.

MR JAMES TO (in Cantonese): President, I wish to raise some simple and basic questions, that is, if residents living by the seaside can still smell the odour but the Secretary says that many improvement measures have been taken, that such and such a percentage of improvement can be seen and that by how great an extent the water quality has improved, in the final analysis, does he mean that residents still have to endure this kind of odour, or does he mean that the Government has the fundamental responsibility in solving this problem and removing the stench?

President, in October 2010, I asked a question concerning the complaints against strong odour lodged by residents living in the area extending from Stonecutters Island to the Yau Ma Tei Typhoon Shelter. Just now, Mr WONG Yuk-man said that it seemed only the poor had to smell such an odour but richer people and those living in luxury properties did not have to smell it. However, this is not the case because as a matter of fact, such properties as the One Silversea, which can be considered a luxury property development, is also found near the Yau Ma Tei Typhoon Shelter. Of course, nowadays, it is difficult to give a definition of luxury properties because the value of a flat in that area can range from several million dollars to \$130 million. Such ultra-luxurious properties as penthouses can also be found in buildings the lower floors of which are just ordinary residential units. One can look at this from any angle one likes. It was October 2010 at that time.

Of course, the Government has taken several measures one after another over the past year or so, particularly in view of the recent District Council elections and the concerns voiced by many political parties, community leaders and owners' committees. I am not going to talk about these measures one by one but generally speaking, they include such measures as dry weather flow interceptors and desludging. On these efforts, the Government points out again that typhoon shelters are not intended for marine culture or swimming, nor can they be used for secondary contact recreation purposes, so the standards adopted are basically lower. In view of this, basically, what the Government wants to drive at is that it has done all that it can think of and nearly everything has been completed, so it points out that apparently, many improvements have been made over the past year or so. However, the actual situation is that residents can still smell a very strong odour.

Fine, I wish to raise once again the question asked by me at the beginning: If residents can still smell the odour, what is the response of the Government to this? I do not know if the Secretary will read out the oral and written replies given over the past year or so, saying that significant improvements have been made. What should we do then? Then, he will tell us Members to go back and tell the residents — and the Government can even make use of the broadcast today or the quotations that will be made of its comments — and brag about how great an improvement it has made by trotting out some figures, as pointed out by other Members, but ultimately, the stench just remains.

Of course, I wonder if I should invite the Secretary to actually make site visits to smell the odour for himself because after extending such invitations to his subordinate, the Assistant Director of Environmental Protection, and the colleagues of the Drainage Services Department and the Civil Engineering and Development Department, they could all smell the odour during their site visits and only the Secretary has not smelt it. I wonder if the Secretary should be invited to take a sniff there or it should be ensured that there is no odour when the Secretary makes a site visit because in this way, he would consent to making site visits. If not, the problem cannot be solved because, even though a so-called scientific approach has been adopted, many projects have been carried out and anything that can be thought of has been implemented, in the end, the stench remains.

Certainly, we have considered whether or not a scientific method like that used in respect of the Shing Mun River can be adopted to solve the problem, but the Secretary said that this would not work even though it had been tried before, because the pH level there was really not suitable for that kind of chemical treatment. If this method would not work, that means all conceivable means would not work either, so does that mean the Government wants residents to accept their fate? Or, if the Secretary's answer is in the negative, will he have some new ideas to offer in his reply today? Otherwise, if the Secretary only repeats the answers he has given over the past year or so, in fact, this would not work.

What do I mean in saying this? Take the issue of whether or not cross harbour swimming races can be held as an example. When we really want to organize it, and if we want to look at how great the effect on the human body will be, or the effects on fish or various types of recreational activities, there are other scientific indicators but when it comes to odour, this is really tricky because so far, there is still not any scientific method for this, for example, in capturing odour and adopting standards that can be used to measure the odour objectively, and so on. So far, there is still none. Therefore, it can be said that this would only result in interminable and inconclusive arguments between the two sides. However, the sense of smell is very real. The colleagues under the Secretary have all smelt the odour, so what should be done? Of course, we can only try our luck regularly by sniffing to see whose nose is more sensitive and who can smell the odour. If someone says that he cannot smell it, we can only invite some representatives of the residents and officials to see if they can smell the odour. If they cannot smell it on a certain day, there is simply no other scientific method.

However, I can only tell everyone, in particular, the Secretary, that there are still many complaints, in particular, in different seasons, the direction of the wind will aggravate the situation. I hope the Secretary can adopt the indicators of the highest standard for our sake, so that there will be no odour at all or the odour can be reduced to a minimum, that is, from a stench to a slight odour, or remove it altogether, rather than pointing out in his reply how many things have been done, how many indicators there are, and so on. They are useless to the residents, and it is not something that a people-oriented Government should do.

President, I hope the Government can address this issue squarely based on this fundamental attitude and position.

MR CHAN HAK-KAN (in Cantonese): President, on this topic of water quality in the Victoria Harbour, I recall a TV advertisement I saw many years ago. It began with a scene of a magnificent banquet and a waiter serving guests a dish of a mouthwatering fish. To everyone's great shock, when the belly of the fish was cut open, something disgusting swelled out of the fish. There were stinking sludge, rusted tins, toilet paper and many other kinds of sickening garbage. Those at the table quickly covered their face with their hands. The last line of the advertisement said and I still remember it, "Don't think it is none of your business, soon you will suffer for it." The advertisement was about water quality in the Victoria Harbour back in those days. Fortunately, thanks to the hard work of the people, the pressure exerted by the green groups, plus the measures taken by the Government, this monster fish does not turn up in the Victoria Harbour. But water quality in the Victoria Harbour as we see it is still far from being satisfactory. Though the cross harbour swimming race which had been suspended for 33 years was held again earlier, showing that some improvements have been made to water quality in the Victoria Harbour, we will still have to work hard on it.

In 1989 the Strategic Sewage Disposal Scheme (SSDS) was introduced and it has now been renamed the Harbour Area Treatment Scheme (HATS). In my opinion, the SSDS is an important milestone on the way towards better water quality in the Victoria Harbour. Admittedly, many different problems arouse in the course of the project and many criticisms were levelled against it, plus the fact that the project completion date has been delayed again and again, the annual reports on water quality published by the Environmental Protection Department (EPD) confirm that the HATS is successful. The annual report in 2001 describes water quality in the Victoria Harbour like this and I quote, "Characterised by low dissolved oxygen and high *E. coli* levels." But the annual report of 2010 points out that water quality of the Victoria Harbour generally meets the standards. From these two annual reports we can see that water quality in the Victoria Harbour has improved to a certain extent. But when we urge the Government to implement HATS Stage 2, we find that the Government takes on a conservative and cautious attitude. Of course, I understand that the Government has to face some problems in construction, technology, project costs

and cost-effectiveness when it implements the scheme, and there may be different views among members of the public. But we have waited for eight years and now Stage 2 is only just beginning. It will be another wait of seven years, that is, in 2016, when the project can complete. The waiting time is exasperatingly long and it is altogether 15 years.

Comes 2016, will the water quality in the Victoria Harbour see any sustainable improvement? Will the cross harbour swimming race that we are talking about be held year after year since then? Or will the monster fish from the advertisement that we have just mentioned really surface? This is the last thing I would wish to see. Therefore, I wish to say here that the DAB hopes that Stage 2A can enhance the existing sewage treatment facilities and further improve the water quality of the Victoria Harbour. We will lend our support to this project and we hope that it can be successful.

As for Stage 2B, the authorities have said that a review would be conducted in the year 2010-2011 and the timetable for construction would be determined according to the latest situation. President, but it is now the end of 2011 and we have not heard anything about it. Even if Stage 2B may be controversial, the authorities should not shut their mouths, hear nothing and do not care about it. Consultation for the project should be held as soon as possible and the views of the public should be collected. I am sure many people would agree that the scheme should proceed.

President, Dr PAN Pey-chyou mentions in his amendment allocating additional resources to study the development of reclaimed water and I wish to use some time to talk about what I think about the idea. As a matter of fact, reclaimed water is sewage treated by many disinfection and sterilization procedures and it can be reused. However, many people would have great doubts about its hygiene when they hear that reclaimed water comes from sewage originally. Of course, we would not ask people to drink reclaimed water like potable water. However, we know that reclaimed water has reached a certain hygiene standard and it is colourless, tasteless and odourless. It has extensive uses and for example, it can be used to flush toilets, cleanse streets, wash cars and even put out fires or water plants. It can ease our great demand for potable water and reduce our discharge of sewage in an indirect manner, thus bringing certain improvement to water quality in the Victoria Harbour.

President, the Chief Executive announced in his policy address of 2003 the setting up of an interdepartmental working group composed of the Water Supplies Department, Drainage Services Department and the EPD. The group was to study and implement measures of water resources management. We can see that over these years, not much has been done by this group and with respect to promoting the use of reclaimed water, the group has not made any progress at all.

Now it is only in the Ngong Ping sewage treatment works that a pilot scheme on the use of reclaimed water is being carried out. The use of reclaimed water so produced there is mainly for the facilities nearby. In February this year, the Government said that the scheme would be expanded and some application trials of a larger scale would be conducted in the Sha Tin sewage treatment works. After learning about this, I feel very surprised. It is because a similar project was launched in New Territories North in 2005 and the reclaimed water produced was supplied to the schools and elderly homes in the district for use in flushing toilets. However, the pilot scheme then practically died off. I hope very much that the Government can roll out a scheme on reclaimed water as soon as possible. It must not waste time doing one trial after another and one study after another, yet achieving no results despite the time and money spent.

President, I so submit.

MS MIRIAM LAU (in Cantonese): President, the cross harbour swimming race of the past was finally resumed on the 16th of last month. It is a happy revisit of a wonderful part of our collective memory. It is unfortunate that because of water quality problems, the cross harbour swimming race had to be held in the eastern part of the Victoria Harbour, instead of using the course from Tsim Sha Tsui to Central as in the past. The race was therefore not as sensational as well.

I believe many people would want to swim right in the middle part of the Victoria Harbour. To realize this dream, we have to rely on government efforts in improving the water quality of the Victoria Harbour. Unfortunately, there is still much to be desired insofar as water quality is concerned. Now 75% of the sewage discharged will be transferred to the Stonecutters Island Sewage Treatment Works (SCISTW) for chlorination before discharge into the harbour

after disinfection. But there is still 25% of the sewage, that is, 450 000 cu m of untreated sewage, which is directly discharged into the Victoria Harbour every day. Chlorination seems to be a good treatment method on the surface, but not all bacteria are killed in this way. Also, the sewage outfalls at the SCISTW are too short and as a result, sewage which is not completely treated will be carried by the current into the Victoria Harbour. This causes some serious impact on the western parts of the Victoria Harbour. Therefore, the Liberal Party urges the Government to improve the situation by all means.

Another major cause of this direct discharge of untreated sewage into the Victoria Harbour is the illegal connection of sewers with stormwater drains. This problem should be addressed. As we looked at the records, we found that in West Kowloon alone, there were more than 100 cases of misconnection of sewers. The Liberal Party has raised the issue with the Drainage Services Department (DSD) and a pledge was made by the latter that the problem would be addressed as soon as possible and positive steps would be taken to follow up. We hope that the DSD can honour its pledge so that residents in West Kowloon, especially those living in Jordan and Tai Kok Tsui areas, will not have to bear with the stench every day.

The government policy on sewage disposal is like many other policies in that it is plagued by the old problem of policies being enforced by too many departments. For example, permission from the DSD has to be obtained before sewage can be discharged. But before the actual step can be taken to discharge sewage, a licence has to be obtained from the Environmental Protection Department (EPD) under the Water Pollution Control Ordinance. It is a breach of the law if such a licence is not obtained and prosecution can be instigated by the EPD. However, in private residential buildings, unpermitted changes made to the drainage system are subject to enforcement by the Buildings Department. It can be seen that over the issue of sewage disposal alone, three government departments are responsible for it. This kind of overlapping and duplication will result in low efficiency. If one single department is in charge of matters concerning sewage disposal, there can be greater efficiency.

President, on the suggestion to remove polluting facilities such as typhoon shelters and cargo working areas in the vicinity of the Victoria Harbour, the Liberal Party is of the view that this move may help improve water quality. In August this year, the Liberal Party made an appointment to meet with officials

from the DSD on the problem of pollution in the typhoon shelter in Yau Ma Tei. In their reply, the officials said that they would resort to using all kinds of ways to improve water quality in that area such as making greater efforts in dredging sludge, and enhancing the functions of the dry weather flow interceptors, and so on. The Liberal Party hopes that these measures can be implemented as soon as possible in order to improve water quality in the typhoon shelters.

The original motion suggests that the Government should study removing polluting facilities. The Liberal Party thinks that the Government must be extra careful in dealing with the issue of removing these facilities. It should take into account the practical results of such a move as well as the needs of society. In the case of cargo working areas, for example, they are an important part of the logistics industry and the industry itself is a pillar industry of Hong Kong. Now the two cargo working areas in Kwun Tong and Cha Kwo Ling will be closed soon and only six cargo working areas will remain afterwards. When the abovementioned two cargo working areas are closed, the operators will have to relocate to other cargo working areas and this has already caused distress and wreaked havoc in the industry. Some of the enterprises concerned may even have to close down. This is because the relocation from Kwun Tong to Chai Wan will lead to a loss of clients who cannot possibly move with the enterprises. The enterprises will be forced out of business. This event alone has caused great problems. If all the cargo working areas were to be relocated to places far away from the urban areas, this would definitely affect the operation of the logistics industry. This is because enterprises in the industry have to bear grave consequences in costs, operation hours and even in the entire operation process. The result is likely that these enterprises may be forced to close down.

On the other hand, suppose the Government really wants to relocate these cargo working areas, I would think that the Government should hold sufficient consultations. The prerequisite is that the cargo working areas concerned must be relocated to places suitable for the operation of the trade. This will prevent any adverse impact from being caused on the business of the trade. Similar considerations also apply to the suggestion on relocating typhoon shelters as this has implications on the livelihood of the fishermen which Mr WONG Yung-kan has been talking about earlier, as well as the problem of the safety of shipping vessels sailing in Hong Kong waters with which I am quite familiar. Hence the issue must be dealt with very carefully.

In addition, the water quality objectives now in use are outdated. An example is dissolved oxygen in water. The objective used in Hong Kong is 4 mcg per litre. But in Japan, Australia, New Zealand, and so on, the objective is not less than 5 mcg. In 2011, in the consultancy report compiled by the City University of Hong Kong commissioned by the Government, it is recommended that the objective of 5 mcg should be adopted in Hong Kong. The Liberal Party does not understand why this recommendation is not accepted and in its place, the objective of 4 mcg is still in use. We think that there is obvious urgency to use this new objective.

President, the Liberal Party hopes that vigour and vitality can be restored in the Victoria Harbour early. The Victoria Harbour should not just form part of our collective memory, but it should also live on forever. It should stay forever as a beautiful harbour in the minds of both visitors to Hong Kong and the local residents.

As for the proposal made by Dr PAN Pey-chyou in his amendment to implement HATS Stage 2B expeditiously, the Liberal Party will agree to that. In fact, the "polluter pays" principle has been implemented for a long time and the sewage charge is collected. We are disappointed to see that nothing has been done to HATS Stage 2B so that it can commence or speed up.

As for Ms Audrey EU's suggestion on immediately implementing HATS Stage 2B, though this appears to be a bit in the rush, as we are anxious about it too and we hope that the project can commence soon, we will not oppose this amendment by Ms Audrey EU.

MR WONG KWOK-KIN (in Cantonese): President, Hong Kong first began as an excellent port of call and for over a century it has relied on its port development to grow into a shipping centre in Asia. No one can deny the contribution made by the Victoria Harbour to the prosperity of Hong Kong. It can also be said that the Victoria Harbour is a treasure shared by all the people of Hong Kong. So with respect to the motion proposed by Dr Priscilla LEUNG on "Comprehensively improving the water quality of the Victoria Harbour", I can say that I agree with it and I will lend it my support. However, on part (g) of the original motion in which the Government is urged to study removing polluting

facilities in the vicinity of the Victoria Harbour, such as typhoon shelters and cargo working areas, I would think that there is room for more consideration.

President, it would certainly be welcomed if promenades are built so that the people can relax and enjoy themselves by the sea. But it should be noted that the functions of a harbour are not merely for people's admiration and enjoyment. The harbour also carries many other values and needs in terms of economic development. Typhoon shelters and cargo working areas are important facilities in the operation of any harbour. They also provide tens of thousands of jobs to the people.

In Hong Kong, mid-stream operations take up a large part of the import and export of cargoes. The cargo working areas are therefore crucial facilities backing up such mid-stream operations. As for typhoon shelters, they are vital to the operation of any harbour. It is because they are safe mooring places for vessels of all kinds, from barges, ferries, small boats to ocean-going and off-shore fishing vessels. Therefore, we think that before there is any full-scale planning, these facilities should not be removed rashly from places close to the harbour.

To approach the question from another angle, as pointed out by many Honourable colleagues earlier, the fact that the water quality of the Victoria Harbour is not satisfactory is mainly due to unsound sewage disposal and so we do not think typhoon shelters and cargo working areas should be made the scapegoats for poor water quality.

President, because of my former occupation, I had been to many large ports all over the world. In these ports, the cargo working areas and the mooring areas for small vessels are indispensable facilities there. On the problem of pollution, provided that there is stringent regulation, the pollution caused can be reduced to a minimum. The fact that there is pollution in these waters is because the currents are not strong enough to carry away the sediments and pollutants. I believe in many cases, the weak currents can be attributed to years of reclamation activities in the harbour area and so water in certain parts of the harbour are stagnant or they are not strong enough to perform a cleansing function in the harbour which should otherwise be a natural process. The Government should study how this problem can be mitigated.

All in all, we think that when the authorities are to undertake any planning on both sides of the Victoria Harbour, they should refrain from focusing only on building promenades and beautifying the surroundings to the neglect of the fact that there should be diversity in the development of the harbour. We should not overlook the values of typhoon shelters and cargo working areas and eliminate the chances of survival of the trades concerned. For after all, cargo working areas and improvement of water quality of the Victoria Harbour should not be placed in a dichotomy. We advocate more action from the Government to enhance the facilities used in cleaning up the harbour, that planning in the harbour should be re-examined and that a consensus should be forged in the community. This will enable diversified development in the harbour and the reaching of a win-win situation for all.

President, I so submit.

DR RAYMOND HO (in Cantonese): President, our Victoria Harbour is one of the three best ports in the world. It is a beautiful port which is deep and wide. However, because of rapid developments in the past half a century, plus the neglect of the authorities of the water quality of the Victoria Harbour, there has been a long-standing problem of water quality, and with this came the problem of odour. Hong Kong is fast turning into a stinking harbour. It is ironical that Hong Kong should come to this pass.

Some time ago, I founded the Green Harbour Actions together with a number of Members, experts and scholars. They include Dr Priscilla LEUNG and a few members from the Association of Engineering Professionals in Society Limited. Prof HO Kin-chung, Dean of the School of Science and Technology at The Open University of Hong Kong is the convenor. In September this year, we published the findings of our first survey on water quality in the Victoria Harbour. With reference made to internationally recognized standards, we graded water quality in five levels. They are very good, average, acceptable, not satisfactory and bad. The results of the quality survey show that in the eight locations tested, four locations including the typhoon shelter in Yau Ma Tei, Hoi Sum Park in To Kwa Wan, Kwun Tong pier and the Causeway Bay typhoon shelter are graded "not satisfactory". For the other four locations, that is, the Tai Kok Tsui waterfront, the Tsim Sha Tsui East and Hung Hom pier promenades and the North Point pier are graded "acceptable". In all of the samples, it is found that the

E. coli count far exceeds the objective of 610 per 100 ml. This shows that all of these eight locations are unsuitable for swimming or marine culture. While the test results came as no surprise to us, they prove that there is a serious water quality problem in the Victoria Harbour and it must be addressed.

In fact, people in Hong Kong who live in the waterfront areas of the Victoria Harbour or those who often use the waterfront facilities there are affected by the strong odour in the harbour. Moreover, refuse floating in the sea in the harbour and the oil slick there are not only posing an eyesore but also a health hazard to residents living close to the harbour. The Victoria Harbour has all along been an icon of Hong Kong and it is one of the must-go places for tourists. But the ungainly sight of refuse floating in the sea and the stench of the seawater could well give a very bad and lasting impression to those who come here as tourists or on business.

The authorities must adopt a multi-pronged approach to tackle the problem of water quality in Victoria Harbour. First, law enforcement should be stepped up to prosecute individuals, enterprises and vessels found polluting the harbour. This will effectively curb pollution at source. If necessary, the Government should consider making the penalties heavier. As for those cases of misconnection of sewers, the Government must make more efforts to investigate and follow up so as to prevent the pollution problem from continuing.

On the other hand, the accumulation of sludge is also a cause of poor water quality in certain parts of the Victoria Harbour, including the typhoon shelter in Yau Ma Tei. Part of the problem is related to the original design of some sewers and priority should be accorded to tackling the problem. More actions must be taken to clear up the openings of stormwater outfalls and the sludge in the seabed of the typhoon shelters. All these are ways to improve water quality in the areas concerned.

As to the question of the samples taken from the Victoria Harbour all presenting an E. coli count far exceeding the standard, the Government has advised that after the commissioning of facilities under HATS Stage 1 in end 2001 and the advance disinfection facility of Stage 2A in March 2010, improvements have been seen. This applies especially to waters in the western part of the Victoria Harbour near Stonecutters Island and Sham Tseng. But test results obtained by the Green Harbour Actions are still worrying. The

Government expects that in 2014 when facilities under Stage 2A come into full operation, there will be further improvement in the water quality of the Victoria Harbour. However, I think a better solution or even the best one would be to implement Stage 2B as soon as possible, as well as adopting the proposal of secondary treatment of sewage, that is, biological treatment.

Before the expiry of the last term, the Government undertook to finalize the location of building the sewage treatment facilities under Stage 2B on the Stonecutters Island in end 2010 or early 2011. But to date, no information on that has been submitted to this Council. Have the authorities decided on the location to build these facilities? This is because according to the original plan, the place will be used to build a station for the Port Rail. But now this plan to build a station in the container terminal has been shelved. Given this, then why can a decision not be made soon? Under the original plan, the abovementioned sewage treatment facilities are placed underground beneath the station, but if the decision on the location of these sewage treatment facilities is still not made, there will be no hope that HATS Stage 2B will ever be implemented.

President, the Victoria Harbour is a natural endowment for Hong Kong and it is also an important component forming the environment in which we live. The waterfronts along the Victoria Harbour are favourite leisure spots for many people in Hong Kong. The Victoria Harbour is an important landmark in Hong Kong admired by the tourists who come here. We cannot afford to neglect this problem of water quality in the Victoria Harbour and the Government must take urgent actions to improve water quality there.

President, I so submit.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, with respect to the power generation facility in Tuen Mun, I once asked the Secretary whether it was appropriate to dredge garbage and human waste sedimented by chlorinated iron and then burn them for generation of power, and whether it was harmful. Of course, the question was not taken seriously because the proposal has been passed and money is spent, and it could even be that the tycoon, LI Ka-shing, is given

the permission to build a power plant there to make a lot of money out of it. I do not think that there would be an answer to this question I asked. We use chlorinated iron to cause sedimentation of human waste and other filthy materials in the Victoria Harbour, but owing to the accumulation of such materials over long periods of time, they are too hard to break up. If explosives are used, it will cause pollution. So people are treating this as if nothing has ever happened. I once asked the Secretary this question, but the reply given was a non-answer really.

Why is that so? Certainly, this has something to do with the Government. The so-called strategic sewage disposal idea is to build a very long pipe which runs to the middle of the sea and discharge all the filthy materials and toxic substances. In doing this, people would rather see problems in aquatic life instead of humans. It is another question whether it should be done. But this is what is actually done.

But now things are not like this. All these developers are very short-sighted and they remain indifferent to what people say. Just what in fact is strategic sewage disposal? I once went for a swim in Repulse Bay and as I swam, garbage and other filthy materials just hit me in the face. Repulse Bay is a very cultured place and it is inhabited by cultured people who are very rich. Those who build houses there are the developers. The situation is like building houses on top of the landfill in Tseung Kwan O and the place just stinks. We do not think this is the right thing to do. But why did the Government neglect strategic sewage disposal over the years? This applies especially to people who build houses by the sea. We all know that houses built along the coast would command a panoramic sea view. But we should all know that all kinds of refuse, be it manmade or otherwise, and even human waste, will be discharged from there. It is too late to say that these developers do not comply with any rules because it is the people who are suffering now.

So for me, I would think that, first, enforcement action has not been taken rigorously; second, the Legislative Council is too powerless to monitor any action by the Government, hence the fiasco. President, this is a mask of a smiling Buddha that commonly puns with the Cantonese for fiasco. We cannot see anything after putting on this mask. This is the fiasco so produced.

After this fiasco is produced, we are not urging anymore that this strategic sewage disposal be further developed or perfected, but just the simple question of whether the sewage will be recycled. Those who build houses along the coast all have every responsibility for this because they pollute the Victoria Harbour directly. Why did the Planning Department or the Environmental Protection Department not impose any special requirements when planning was undertaken? Developers can buy a piece of land near the sea, build houses over it and then tell people that these houses command a superb sea view. But three years later, another block of building with the so-called superb sea view is built and it blocks the view of the former buildings like a screen. Why?

This is how the Government leases out land. Dr Raymond HO has just pointed out where some of these stinking places in the harbour are. They are places with bad water quality. One of these places is Yau Ma Tei. In 1979, I was engaged in a struggle as I helped the boat people there fight for the right to be relocated to flats on the shore. Now the place is full of reclaimed land. Even those very pricey buildings are found there. All sorts of garbage and waste are discharged from there. This must never be allowed. The situation is the same in To Kwa Wan. Those posh buildings that are developed near the gas plant are like this. In Kwun Tong, with the support given by royalists like the DAB, places near the Kwun Tong ferry pier is about to be revitalized. But that is only going after prosperity of a very transient nature. Business will flourish for a very short time and there is no regard for environmental protection at all. Such are the problems before us.

Our land policy and housing policy serve to create a countless number of buildings with unbeatable sea view, and these buildings are in turn blocked by countless screen-like buildings with the so-called unbeatable sea view. What can be done about this? Those developers are the most ruthless kind of people. It is ground zero in West Kowloon where an Express Rail Link station is built. The place has got an Express Rail Link station and the West Kowloon Cultural District is also there. So where will the waste be discharged? Have they ever thought about that? Have they tried to solve the problem by using strategic sewage disposal? If the answer is no, then they are engaging in black-box operation. That is to say, as a Secretary, Edward YAU cannot impose any restraints on Carrie LAM. She is the Secretary for Development. What can Edward YAU say if Carrie LAM wants to develop a particular area? Can Edward YAU make any counter offer? Can he say, if you do not implement

Stage 2B or recycle the wastewater, then I will not allow you to erect buildings there? Can this be done? Does it not show that those big developers are the most ruthless people? It is those big developers who have got the loudest voice here as well.

So we talk about how to treasure the Victoria Harbour and stuff like that, but the developers can buy land reclaimed from the sea at a high price and build houses there and so pollute our harbour. Our Government is powerless to do anything. This is the black box. And this black box should be dashed to the ground. President, this is the black box. Does Dr LAM Tai-fai want it? I will give that to you. It is only right that this should be smashed. This is the black box. And this mask of a smiling Buddha should be thrown away as well. But I do not want to destroy it today.

Also, the problem facing the DAB is that they are always talking about developing the waterfronts. When I was competing with Mr IP Kwok-hing in the Western District for a seat in the District Council, he said that 70% of the waterfronts should be set aside for commercial development while the remaining 30% should be set aside for the use of residents of the Western District. Buddy, if you are talking about 70% of the land being set aside for commercial uses, you are creating pollution. In other words, only the rich can make spending there and only the rich can cause pollution. This is the policy, and our waterfronts have become golden business opportunities. Those real estate hegemonists can reap lucrative profits from our waterfronts. What then is the use for us to talk about the Victoria Harbour here today? This shows only how incompetent this Council is, and it is also the reason why I have no respect for this Council.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, you may now speak on the three amendments. You have five minutes.

DR PRISCILLA LEUNG (in Cantonese): President, we have three amendments today and altogether 17 Members have spoken on this motion. In my opinion, this shows that water quality of the Victoria Harbour is an issue of great concern to this Council.

On the three amendments, the first one is about establishing a harbour management authority as proposed by Mr KAM Nai-wai. As mentioned by my colleague Prof Patrick LAU, Mr KAM's idea of a harbour management authority may be somewhat different from the waterfront management authority that we have talked about. So the only thing I have to say is that, if another authority is set up, it may cause overlapping with the work done by the Marine Department and such like departments. However, speaking from the direction of the demand I raise on improving the water quality of the Victoria Harbour, personally I will show my support for all the amendments.

Dr PAN Pey-chyou and his many colleagues took great exception to part (g) of my original motion which is about removing typhoon shelters and cargo working areas, and so on. This is actually a result that I have anticipated. What I am trying to do is to hope that when Members think about long-term development, they should know that planning in Hong Kong has actually changed. In the past, there were not many high-rise buildings near typhoon shelters and cargo working areas. But now they have all become very densely populated areas. In the past when we went to these places, we would find some unbearable odour or the smell of oil spilled. However, the reason why I put up this proposal is to enable us to move in a direction towards the long term. I am not trying to say that this should be done in the short term or in the medium term because I know very well that this move would touch on the interests of many trades concerned.

So we are just trying to present a vision for the future. As a matter of fact, the industrial area in Tai Po is the result of planning over many years. In view of the great concern for the water quality of the Victoria Harbour, I hope Honourable colleagues can remain open about this idea and they should not say "No" to this direction for future studies from the outset. As for me, I am not demanding that this must be put into practice now. Of course, when it comes to implementation, I agree that the Government should provide all sorts of assistance and ensure that the planning undertaken is sound.

As for part (h) of my original motion, that is, on the cross harbour swimming race, the main reason for making this proposal is, as pointed out by Dr Raymond HO, that there is a group — I think that is our group — which had pointed out many times before the cross harbour swimming race was held that the place concerned might not be suitable for holding such an event. A few days before the race, I even got phone calls from the organizers urging Members not to talk so much about the topic. But I wish to say to Dr PAN Pey-chyou that we do not wish to see the swimmers being made guinea pigs and we have never done so. This is because this runs exactly counter to our intentions.

The most important thing I wish to say is that, even if the course of the swimming race is moved to the east, water quality in the Kwun Tong area is still not acceptable. The problem about this can be likened to the temple bazaar activities, like the temple bazaar in Tai Kok Tsui. If this swimming race can be turned into a regular event, the Government can be urged to really do something about the water quality of the Victoria Harbour, instead of just that stretch of waters from Quarry Bay to Yau Tong. If that event is to take place in the same stretch of waters every time, the Government will only do something about that particular stretch of waters and consider the job done.

Apart from Kowloon West in which I often work, in the New Territories, I also go to the Tsuen Wan waterfront mentioned by Mr Albert CHAN earlier. This is because I like cycling. If there is some oil slick from some vessels, it will give a pungent smell. As Mr WONG Yuk-man has pointed out, the harbour can cause suffering to all people, rich and poor alike. And it is not only the poor people who will suffer.

With respect to the proposal made by Ms Audrey EU in her amendment to immediately implement HATS Stage 2B, although I think that immediate implementation would be most unlikely, this shows an attitude. As the mover of the original motion, I would think that it shows that it is our fervent hope that Stage 2B can commence as soon as possible.

Again, as the mover of the original motion, I would show my support to the major direction found in these three amendments. I hope Members will not negative this motion because of some minor details or because they want to challenge the wording. I call upon Members once again to support this motion.

President, I so submit.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, once again, I thank various friends in the legislature who have spoken on the motion for their concern about the water quality of the Victoria Harbour.

I intend to respond to the questions and views raised by Members in the context of the following areas:

First, has the water quality improved, and to what extent?

Second, what standards should be adopted in assessing the water quality? This is important for the future.

The third is the Harbour Area Treatment Scheme (HATS). This is the work being undertaken by us currently. What are the differences between HATS Stage 2A and Stage 2B? Are their goals consistent? What is the progress like?

Fourth, many Members have raised questions relating to law enforcement and co-ordination in individual districts, for example, should a new authority be established? What can be achieved through co-ordination?

Fifth, is it necessary to relocate the typhoon shelters and cargo working areas?

I wish to map out the direction of our work in the future here.

President, since I have already responded to each item in the motion when speaking for the first time, I am not going to repeat the relevant parts.

The first question: Has the water quality in the Victoria Harbour actually improved? I have heard many Members deliberate this issue in various ways, with reference to various indicators. Over the years, the water quality of the Victoria Harbour we do not solely adopt the organization of the cross harbour swimming race or why it has been suspended for more than three decades as the indicator. After I had spoken for the first time, Members all agreed that this was not the only indicator.

After the launch of the HATS in 2001, some objective figures show clearly that the overall E. coli count in the Victoria Harbour has decreased by 50%. Let us look at the water quality around Lei Yue Mun in the eastern part of the Victoria Harbour, precisely because of the link-up of all the sewers in the area under HATS Stage 1, which was mentioned by me just now, the E. coli count in the area has decreased drastically by 95% and at the same time, on average, the dissolved oxygen level has increased by 10%. The ammoniac nitrogen level has decreased by 27% on average, while the inorganic nitrogen and orthophosphate phosphorus measurements have both decreased on average by 13% and 23% respectively.

President, by citing these figures, I do not intend to brag about how good a job we have done. In fact, my speeches and the work done over the past few years all point to the need to improve water quality in a sustained manner and this goal must be achieved by implementing various schemes in succession. Citing these figures enables us to derive a principle, that is, through the relevant schemes, the sewers in the major residential, industrial and commercial areas on both sides of the Victoria Harbour can be linked up and the sewage can be treated stage by stage in an increasingly stringent manner, so that the goal of improving water quality can be attained. Certainly, we know that there are also other areas of work that we have to undertake.

In addition, many Members have talked about the numerous purposes that the Victoria Harbour has served in the past. Beaches have a direct impact on the health of the public. Shipping and commercial activities may not be directly affected by the quality of seawater but the use of beaches by the public is. Therefore, as several Members have pointed out, we have adopted more stringent standards for beaches.

It can be seen that the work undertaken in recent years, or more specifically, the work relating to Stage 2A, which commenced only in 2010, has already had a direct effect on the water quality at the four beaches in Tsuen Wan by turning it from a fail grade into a pass grade. Here, I have to set the record straight regarding the comments made by some Members, because my view is probably directly opposite to theirs. The four beaches have been reopened and we also hope that the remaining three beaches can also be reopened at a later stage. This is a matter of direct concern to the public. If the public go to those

beaches where improvements in water quality can be seen, this has a direct bearing on their health.

Of course, in the entire Victoria Harbour, are there black spots that still call for actions? Yes, there are. I remember that at the end of last year, a Member talked about the Yau Ma Tei Typhoon Shelter in the legislature. The situation is indeed unsatisfactory because of the geographic location of the harbour and the misconnection of sewers in that district. We can also see problems relating to the nullah situated between Kwun Tong and the Kai Tak runway at an early stage. However, is it the true that the problem cannot be solved in any way? We notice that in the case of Kai Tak, as Prof Patrick LAU said earlier, various techniques, and even such methods as using the relatively clean treated water of the Shatin Sewage Treatment Works for dilution, are really helpful to the district.

Generally speaking, the overall water quality of the Victoria Harbour has seen changes on account of the work undertaken over the years. I believe all Members here would agree that improvements have been made but, certainly, there is still some way to go before the ideal level can be attained.

The second question is what standards should be adopted in the assessment of water quality. When I spoke for the first time, I already made it very clear that the standards adopted are based on international standards. Since the Victoria Harbour is a port serving multiple purposes, some places may be used as beaches and we are pleased that in such a small area with such complicated land uses, many beaches can still be found in the Victoria Harbour and its vicinity.

Surely, we have adopted stringent standards for beaches. As many Members, including the sponsor of this motion, Dr Priscilla LEUNG, would point out frequently, the E. coli count is adopted as the objective. I have pointed out that in other water bodies or waters, due to the differences in their actual uses, different standards are adopted. Therefore, different standards are adopted in view of the actual situation in various locations in the harbour. Most importantly, we collect data frequently, as well as publishing them and uploading them onto the Internet regularly, so that the public can be informed of the water quality in various parts of the Victoria Harbour.

Many Members mentioned the HATS. Members have noticed that the HATS involves a series of measures. In the progression from Stage 1 to Stage 2, there are changes in two areas. The first is the amount of sewage collected because if sewage cannot be collected, it is practically impossible to put it through treatment. The second is the treatment of sewage. There has been enhancement in terms of both the capacity and level of treatment.

It is worthwhile to note the major differences between Stage 2A and Stage 2B. A Member asked whether or not the launch of Stage 2B can be advanced and even launched immediately, and why we are only implementing Stage 2A but not Stage 2B.

From the figures provided by my professional colleagues, it can be seen that compared with Stage 1, Stage 2 is characterized by significant improvements because in Stage 2A, chemical treatment will be undertaken to disinfect the sewage collected. Therefore, after the implementation of Stage 2A, the *E. coli* count, organic pollutants and suspended solid particles in the seawater will all be significantly reduced compared to Stage 1.

Take the *E. coli* count, which Members discussed most frequently, as an example, in the procedure under Stage 2B, 99.9% of the *E. coli* can be eliminated. In comparison, only 50% can be eliminated in Stage 1. In Stage 2B, 99.9% of the *E. coli* can also be eliminated. In other words, the rates of *E. coli* eliminated at Stage 2A and Stage 2B are the same.

On the elimination of organic pollutants, the rates in Stage 2A and Stage 2B are 70% and 90% respectively, whereas those for suspended solids are 80% and 88% respectively. This being so, what are the differences between Stage 2B and Stage 2A? They lie in other kinds of pollutants, mainly nitrogen and phosphorus. These pollutants are basically nutrients in the water and are linked to red tides. The figures can give Members an idea of the differences between Stage 2A and Stage 2B.

Of course, there is also a great deal of difference in the amounts of sludge generated in the treatment process. In this connection, the amount at Stage 1 is 600 tonnes, whereas it will be increased by 200 tonnes to 500 tonnes at Stage 2. At Stage 2, the amount may reach 2 400 tonnes. Members may recall that the

Sludge Treatment Facility built by the Government in Tuen Mun has a maximum capacity of about 2 000 tones, so this area certainly requires careful study.

On the construction costs, Stage 2A costs \$17 billion and the resources committed to Stage 2B will definitely exceed \$10 billion, and the annual operating cost will also increase. However, generally speaking, it is possible for us to develop from Stage 1 to Stage 2, then from Stage 2A to Stage 2B. There is a process and we are working in this direction.

Members asked about the work being carried out by the Government at present. As I said in the legislature in the past, even as we are implementing Stage 2A step by step, we will make preparations for Stage 2B at the same time, including completing the rezoning procedures to amend the Stonecutters Island Outline Zoning Plan in September this year. This is what I call the "town planning" procedure, which is designed to reserve land for the construction of a treatment works under Stage 2B.

Several Members here have expressed their understanding of the conflicts that may arise when securing the grant of land and changing the land use through the town planning procedure. In this regard, we have already resolved the relevant conflicts and carried out the work to change the land use through the town planning procedure.

Last year, we launched a study — a Member also mentioned it just now — that is, a review of such matters as water quality, population projection and sewage flows and loads to enable us to carry out the preliminary work on the planning, fund allocation, design and construction under Stage 2B. This information will be helpful to us in preparing the design for Stage 2B. We hope that the study can be completed by the end of this year.

I hope the foregoing information can convey to Members the idea that the Government has not stopped working entirely after implementing Stage 2A. However, if the pipes under Stage 2A cannot be laid in the remaining 25% of locations, even if we were to implement Stage 2B today, it would still be impossible to achieve optimal results. On the whole, we can see that various areas of work under Stages 2A and 2B are being undertaken separately.

Many Members also raised another issue, that is, the co-ordination of various departments. They are worried about the impact of the fragmentation of responsibilities among government departments in relation to the work being undertaken on black spots. The Government is certainly concerned about this problem. When I responded to Members' questions, I cited specific examples to show that government departments, in particular, the Environmental Protection Department (EPD), have all along been taking a series of measures in conjunction with other government departments, including seeking assistance from the Buildings Department (BD) and the Home Affairs Department (HAD), to deal with cases of misconnection or illegal connection of sewers in East Kowloon. In this regard, sometimes, it is necessary to rely on the inspections carried out by the BD and sometimes, it is necessary for the HAD to carry out investigations through owners or residents' groups in order to rectify the misconnection of sewers in private buildings at an early date. Once we found instances of illegal connection of sewers, we will institute prosecutions. I have also spelt out the relevant figures just now.

In addition, in conjunction with the Drainage Services Department (DSD), dry weather flow interceptors have been installed in the stormwater drainage system along the upstream area. Even though some members of the public have made misconnections of sewers, we can still collect the sewage from stormwater drains when there is little rain and divert it to water treatment works for treatment. All these are what we refer to as "interception measures". These measures have been put in place in many districts, in particular, at black spots, as far as possible.

Third, each year, we carry out inspections of the box culverts and outlets together with the DSD and clear the deposits when necessary. In the past, at locations near the entrances to typhoon shelters, we also carried out such work in conjunction with the relevant departments, as Dr Raymond HO pointed out just now. If we find such a need in the future, such work will be undertaken on a sustained basis.

Fourth, in conjunction with the officers of the Food and Environmental Hygiene Department, inspections are carried out at hygiene black spots, for example, in rear lanes where restaurant employees wash food or at the car wash shops mentioned by Members just now, and law-enforcement actions will be

taken. We also work in conjunction with the HAD in this area. If the District Councils raise such issues, we will also take follow-up actions.

Here, I reiterate that regarding the cases cited by the EPD in its discussion with Members, we have also made improvements to the measures taken at the district level in conjunction with the relevant departments, including the BD, the DSD and the HAD.

Some Members also expressed concern about the pollution of the Victoria Harbour by facilities in the coastal areas, for example, typhoon shelters, cargo working areas and even industrial areas, and for this reason, they need to be relocated to reduce pollution of the Victoria Harbour.

As I said at the beginning, this is a controversial subject. However, I believe that even if the land uses are changed and no matter what the land uses are, the law enforcement, prosecutions and inspections mentioned by me just now will have to continue because we cannot trim the toes to fit the shoes by relocating all the relevant facilities to other places simply because certain land uses generate a lot of pollution. Just now, I also heard Dr Priscilla LEUNG say that this is not the original intention of her motion.

I believe that insofar as the shores of the Victoria Harbour are concerned, for some time in the past, the Development Bureau has had discussions with Members to make them understand that with social changes, land uses will also change and that many waterfront sites have development potential. The direction is to enable future new users or existing users to enjoy a better environment, including better water quality and waterfront environment.

President, the overall message of my foregoing speech to Members is that the improvement of water quality in the Victoria Harbour is a long process that requires the continuous input of large amounts of resources and co-operation among many government departments. For this reason, on the future direction of work, I believe the following four areas of work will receive Members' support, so that we can continue to work on them.

The first is, of course, the continued monitoring of our water quality, with regular announcements of the results to inform members of the public of the

situation, so that they can make optimal use of various waters in Hong Kong and enjoy the use of the Victoria Harbour in various settings. For example, when beaches are reopened, the public can swim or take part in offshore recreational activities, and even in angling, which Mr KAM is keen on. I believe providing the public with clear information can encourage the public to use the locations concerned appropriately.

The second area is that, as I said just now, we will strengthen co-ordination and law enforcement and continue to liaise with various departments to make further improvements to the Victoria Harbour, particularly at the black spots. The work in this area calls for assistance from District Council members or Legislative Council Members, so if Members find instances of abuse, they can raise them, as Members have been doing, and we will work on such cases.

Third, of course, we will strive to complete the project under Stage 2A. This project is an arduous task because the laying of pipes deep underground in the urban area for the collection of sewage and subsequent disinfection of the sewage is involved, and this opportunity is also taken to improve the present environment of the Stonecutters Island Sewage Works. For example, on the odour that Members could smell when passing by that location, we hope that the sewage works can be enclosed to reduce the odour generated. This is the work we will carry out at Stage 2A and we will also embark on the preparatory work for Stage 2B in parallel, as I said just now.

President, once again, I thank Members for their views and hope that in the future, when various projects are submitted to the Legislative Council, they can receive the full support of Members.

Thank you, President.

PRESIDENT (in Cantonese): Mr KAM Nai-wai, you may now move your amendment to the motion.

MR KAM NAI-WAI (in Cantonese): President, I move that Dr Priscilla LEUNG's motion be amended.

Mr KAM Nai-wai moved the following amendment: (Translation)

"To delete "," after "That" and substitute with "the Victoria Harbour is one of the most precious resources in Hong Kong;"; to add ", and at the same time, to strengthen the relevant publicity and public education, so that the public can better understand the importance and benefits of protecting the harbour environment" after "pollute the harbour"; to add ", such as establishing a harbour management authority to manage, develop and enhance the environment, planning, sites and facilities in harbour areas and waterfront areas, formulate a policy for harbour areas and waterfront areas under the people-based and sustainable development principles, and encourage people to actively express their views, so as to enable the public to share and use the harbour" after "the relevant matters"; and to add ", and at the same time, to enhance both sides of the Victoria Harbour together with the environment and planning of the waterfront promenades to be launched in the next few years, so as to provide better activity space for people who engage in angling and various activities in such areas" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr KAM Nai-wai to Dr Priscilla LEUNG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Dr PAN Pey-chyou rose to claim a division.

PRESIDENT (in Cantonese): Dr PAN Pey-chyou 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, Ms Miriam LAU, Dr Joseph LEE, Mr CHIM Pui-chung, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mr LI Fung-ying, Prof Patrick LAU, Mr IP Wai-ming and Dr PAN Pey-chyou voted against the amendment.

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him abstained.

Geographical Constituencies:

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

Mr WONG Kwok-hing, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 12 were in favour of the amendment, five against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the amendment, three against it and six 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 "Comprehensively improving the water quality of the Victoria Harbour" 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 "Comprehensively improving the water quality of the Victoria Harbour" 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): Dr PAN Pey-chyou, you may now move your amendment.

DR PAN PEY-CHYOU (in Cantonese): President, I move that Dr Priscilla LEUNG's motion be amended.

Dr PAN Pey-chyou moved the following amendment: (Translation)

"To delete "given that" after "That," and substitute with "following the efforts made in the harbour area treatment works in recent years,"; to add "however, "after "33 years,"; to delete ";" after "urban areas" and substitute with ", and expeditiously replace aged sewers under the various sewerage rehabilitation and upgrading works programmes, so as to ensure that effluents will not enter the Victoria Harbour through other channels and cause pollution; (c) to expeditiously complete the upgrading works of sewage collection, treatment and disposal facilities on both sides of the Victoria Harbour and in the various districts of Hong Kong, so as to raise the effluent discharge capacity of existing sewers in Hong Kong; (d) to expeditiously finalize the timetable for implementing Harbour Area Treatment Scheme Stage 2B and strive for its commencement at the earliest possible time, so as to further improve the water quality of the Victoria Harbour; (e) to study introducing a more advanced and higher

standard effluent treatment process for treating effluents from both sides of the Victoria Harbour, including allocating additional resources to study the development of reclaimed water, so as to achieve the objectives of sustainable development and recycling;" to delete the original "(c)" and substitute with "(f)"; to delete the original "(d)" and substitute with "(g)"; to delete the original "(e)" and substitute with "(h)"; to delete the original "(f)" and substitute with "(i)"; to delete the original "(g)" and substitute with "(j)"; to add "the feasibility of" before "removing polluting facilities"; to delete ", such as typhoon shelters, cargo working areas and polluting industrial plants, etc." after "vicinity of the Victoria Harbour" and substitute with "while having regard to people's livelihood needs"; to delete the original "(h)" and substitute with "(k)"; to add ", on the premise of ensuring contestants' health and safety," after "gala in Hong Kong and"; and to delete "regularly" after "organize it".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr PAN Pey-chyou to Dr Priscilla LEUNG'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.

(No hands raised)

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

PRESIDENT (in Cantonese): Members have already been informed that, as Dr PAN Pey-chyou's amendment has been passed, Ms Audrey EU has withdrawn her amendment.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, you may now reply and you have 52 seconds.

DR PRISCILLA LEUNG (in Cantonese): President, I think the Secretary has probably heard it very clearly. In fact, various political parties and groupings are all demanding comprehensive improvement of the water quality of the Victoria Harbour. In fact, I think the three amendments today are identical in terms of concept. I hope and call on Members to support my original motion together. This will show that this Council has forged a strong consensus in calling on the Government to commit more funds and resources to and make greater efforts in improving the water quality of the Victoria Harbour.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Priscilla LEUNG, as amended by Dr PAN Pey-chyou, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies

through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Enacting an archives law.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Margaret NG to speak and move her motion.

ENACTING AN ARCHIVES LAW

DR MARGARET NG (in Cantonese): President, I move that the motion, as printed on Agenda, be passed.

Public records are the valuable assets of a place. Given the importance and the unique status of this international city of the Hong Kong Special Administrative Region (SAR), our public records, including archival records, are virtually world-class valuable assets. How a colony having practiced market economy for 150 years was handed over to socialist China, and how the SAR Government has ruled Hong Kong under "one country, two systems" over the past 15 years are rare examples in history. Our public records are the most objective and the most in-depth and detailed raw materials that bear witness to this part of history. The destruction and damaging of these records will mean great, irreparable losses. In fact, Hong Kong should long have enacted laws and put in place systems of international standard for the proper management and preservation of public records. This is the moral obligation and duty required of the entire Hong Kong and even the entire world. Regrettably, the SAR Government has refused to enact legislation which is long overdue.

William WAUNG, a member of the Archives Action Group and former Judge of the Court of First Instance in Hong Kong, published an article in July this year, pointing out that (I quote), "The lack of archives legislation in Hong Kong poses a serious risk that our public records are not secure and cannot be relied upon." (end of quote) Facts have proven that his concern is absolutely well-founded.

Some time ago, in a written reply to a question raised by Ms Emily LAU, the Chief Secretary for Administration said that during the six months between April and September this year, that is, during the important period of the relocation of the Government Headquarter, as many as 1 181 linear metres of public records (which are equivalent to the total height of three blocks of Two International Finance Centre (IFC)) were destroyed. These records included the records of the core policy departments, such as the Central Policy Unit, the Chief Executive's Office, the Chief Secretary for Administration's Office and 12 Policy Bureaux. We must ask: Why was it necessary to destroy such a large quantity of core records within such a short period of time? What were included in the destroyed records? What has been left of them?

Regrettably, when organizations which are concerned about public records and the media made enquiries with the authorities and requested the provision of a list of the destroyed records, the Government refused. If these records are really just routine work documents that have no value, what is there for them to be kept secret? Why can they not be published for public information? If the Government does normally keep and preserve records under a sound and proper mechanism, there must be these lists of records that can be produced anytime.

President, many members of the public and professional bodies have expressed grave concern about the management and preservation of public records, and at a meeting of the Panel on Constitutional Affairs in May last year, they put forward strong arguments and concrete proposals to call on the Government to enact an archives law, and in view of the impending relocation of the executive departments to Tamar, the authorities were urged even more strongly to make public the lists of public records kept in the departments involved and act seriously. Regrettably, the authorities ignored them. Had the Government heeded their views, the destruction of a massive number of records would not have occurred.

Whenever the authorities are asked the reason for not enacting an archives law, they would invariably dismiss the question as a mere formality, replying that "enacting an archival law is not the only way to improve the management of government and archival records", and that the SAR Government has since 2009 introduced a set of so-called "mandatory requirements" which require all departments to manage and preserve records according to guidelines and obtain prior agreement from the Government Records Service (GRS) before destructing

such, while the GRS will appraise and identify records of archival value for preservation.

However, if these measures that are not statutorily binding are really proven, the destruction of records with a height equivalent to three blocks of Two IFC in six months would not have happened. The security of public records has aroused increasing public concern. The enactment of legislation for their protection can brook no delay.

President, two former GRS Directors, Mr Don BRECH and Mr Simon CHU, had, on learning of this debate today, given their statutory statement to me. They pointed out that if the GRS had truly worked in compliance with stringent professional standards, it would not have been possible for 1 181 linear metres of records to be appraised within six months. They added that for those records of the Chief Executive's Office and the 12 Policy Bureaux involved in the incident, even though they may be routine work documents, they are still highly likely to have significant value and hence require careful examination. They are gravely concerned that countless important records have already been destroyed, leaving an irretrievable void in history.

President, I have provided a copy of their statement to all Members, so that they can read it in detail. I originally planned to read out the important parts of their statement to Members in this debate today. But the Director of Audit's Report No. 57 happens to be published today, in which Chapter 10 contains the audit report on the Government's records management work. This report not only recognizes the importance of public records, it also presents so far the strongest evidence to prove that the measures that the Government claimed to have taken are not only not proven but are, worse still, an awful mess.

President, please allow me to outline the most important facts in this report to Members here.

First, the so-called "mandatory requirements" adopted by the authorities have primarily failed to produce any effect. The requirements mention records creation, and none of these most primitive records creation provisions was set as a mandatory requirement. It means that whether records were created and how records were created entirely rested with the rules drawn up by the Policy Bureau/department concerned.

Second, the Records Management Manual (RMM) originally provides that the GRS may conduct records management studies for bureaux/departments and give them instructions and advice, but the GRS has not done it so far. The Audit Commission's report pointed out that all the records management studies conducted by the GRS between 2002 and 2010 were only general studies or studies on the classification system for administrative records, and owing to the limited scope, the studies could neither produce any effect nor achieve the objective, which means that the bureaux/departments had to work out their own guidelines.

Third, the RMM provides that the GRS will from time to time conduct service-wide surveys of records and records management practices, but the first such survey was conducted only in August 2010, nine years after the RMM was issued. Many bureaux/departments still had not implemented mandatory provisions; nor had they complied with the mandatory requirements, not to mention the GRS making a decision. Moreover, four departments had cases of loss or unauthorized destruction of records, and many bureaux/departments had not adopted the so-called best practices at all. Therefore, the desired effect has not been achieved.

Fourth, the RMM provides that, where circumstances warrant, the GRS will review the records management function of bureaux/departments. It means that all departments have their own records management function, which is subject to review by the GRS but again, this has not been done at all. The Director of Audit conducted a survey on its own on three bureaux/departments, including the Fire Services Department, the Commerce and Economic Development Bureau and the Security Bureau, and found that their records management was basically ineffective.

Fifth, the GRS has a records centre but this centre has not operated effectively. There were large quantities of records overdue for disposal and no disposal schedule had been drawn up. As some records were not properly classified and packed, their retrieval was very difficult.

Sixth, the GRS has said that it could first prepare the so-called microfilm images of the records before destruction, but the GRS still does not have the capacity to do this. The existing backlog will make it impossible for the GRS to take up new work in the coming three years.

Seventh, tens of thousand archival records are still pending appraisal, some of which have yet to be appraised six years after their transfer for appraisal, and about 30% are in a deteriorated condition and excluded from stocktaking. While accessioning is required for many records before they are made available for public inspection, no accessioning work was carried out, resulting in a backlog of 280 000 un-accessioned records. As for the declassified records, that is, classified records that have been declassified, they can be made available for public inspection only after they are declassified and their access status confirmed. However, a large number of records did not have their access status confirmed and in some cases, even the sources of the records were unknown.

Therefore, President, simply put, the existing system is entirely ineffective from records creation to disposal. The departments have not followed the guidelines of the GRS, whereas the GRS itself has a huge backlog of records that cannot even be handled by the GRS itself, not to mention managing the work of other departments. Of course, the entire GRS has only 85 staff members, few of whom have professional qualifications. So, this has reflected that the Government has not treated these valuable assets too seriously. In order to really handle them properly, I think the enactment of legislation is inevitable.

Nowadays, an archives law has already been enacted in the United Kingdom, the United States, France, Germany, and even in China, Japan, Korea, India, Singapore, Taiwan and Mainland China. Why should Hong Kong be willing to lag behind others? It is indeed imperative for us to catch up. The provisions of the archives law may be different in different countries or places, but the principles of legislation are consistent, which cover four aspects: First, to ensure proper creation and management of public records; second, to ensure proper relocation, preservation and publication of public records; third, to ensure consolidation and exchange of the collective memory of society; fourth, to improve the transparency and efficiency of the Government.

President, I deeply believe that an archives law is a piece of legislation that will benefit the SAR Government and the civil society. For this reason, I have proposed this motion today to urge the Government to immediately enact an archives law, launch public consultation and expeditiously proceed with the enactment of this law.

With these remarks, President, I hope that Members will speak enthusiastically and support my motion. Thank you.

Dr Margaret NG moved the following motion: (Translation)

"That, in order to properly manage and preserve valuable public records, and provide channels for the public to access such records, this Council urges the Government to immediately launch public consultation on the formulation of an archives law and expeditiously proceed with its enactment."

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

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 Mr Paul TSE to speak, to be followed by Ms Cyd HO; but they may not move the amendments at this stage.

MR PAUL TSE (in Cantonese): President, the timing is just right. This motion today plus the report of the Audit Commission can be said to have blown a lot of wind for Dr Margaret NG to carry her "motion vessel" forward. This will naturally make it more difficult for any proposal that challenges or opposes her motion to gain support. In spite of this, I will try my best.

To being with, President, I would like to make a few points. First, from the very little experience of mine, as my Member's Office has moved to Tamar recently, many of the stuffs that have been kept for three years had to be thrown away in one go in a week's time. I very much wished to carefully sort out what should be stored up and what should be preserved, but I was unable to do so because of the pressing time frame for removal. Second, I have moved the office of my law firm for many times, as the ups and downs of the rental have made it necessary for me to keep on moving my office. Every time when I faced the many stuffs that had been piled up, I would wish to keep some of these

things or documents but sometimes, owing to certain needs and given a pressing time frame, I would be forced to deal with them more quickly.

This is a very small example, compared with the Government which has, over the years particularly as we do not usually relocate the Government Headquarter and the Chief Executive's Office and even the Legislative Council Secretariat. I believe Members must all have the experience of having to deal with many things or papers within a short time. But it would be meaningless to keep on emphasizing that the papers added up to a height of 1 181 m which is equivalent to three blocks of Two International Finance Centre, because in fact, there have not been too many similar cases. On the contrary, we need to look into whether the Government has indeed failed to meet the standard in handling the records. Unfortunately, the answer seems to be in the positive.

In the report of the Audit Commission, it seems that the Government has failed in many areas and is given a "black pig" for its performance. As the report has just been released, Members may not have had the chance to digest all of it, but I believe some allegations and recommendations in it are very worthy of Members' reference, and all the more worthy of handling by the Government seriously. This can even be taken as the last warning to make the Government conduct studies on how this should be handled, or else we would have no alternative but be forced to accede to the request of Dr Margaret NG or other Members and seriously take forward the enactment of legislation.

However, I always think that the law is not the best way for handling many issues and what is more, it is sometimes just the last resort. If there can be other better and more effective ways or even a temporary solution after weighing the pros and cons in various aspects, I would still prefer not to take forward the enactment of legislation. We can look at, say, the minimum wage, or the fair competition law or competition law that has aroused extensive controversies recently.

Here, let me sidetrack a bit, take a short pause and talk about another story. In an interview that should be conducted in 2010, Tony BLAIR mentioned what he considered to be the biggest mistake during his term of office. Strangely enough, he said that it was an undertaking he made during his electioneering campaign, which concerned the Freedom of Information Act. Why did he say so? Because from his experience, the enactment of this Act actually could not facilitate public access to information that they needed, and it might not be able to

help reporters access the information they wanted. The biggest outcome turned out to be, as a common saying of Cantonese people goes, "lifting up a rock to let it drop on one's own feet". He considered that this would nevertheless become the most important weapon against the Government. He even described the situation as one being hit by other people with a club and what I do is not to get rid of the club by all means but to pick up the club and give it to other people for them to hit me. Of course, he was going a bit too far in saying that, but considering that he himself or his government was precisely the creator who brought about this Freedom of Information Act, we should give more consideration to this experience.

Certainly, what Dr Margaret NG has just said are all well-justified allegations, and she even considered it imperative for records to be handled with great care. This, I entirely agree, and I entirely accept the report of the Audit Commission concerning the negligence of this Government or previous governments over the years in this respect, and I also accept that improvements need to be made in some aspects. Having said that, I still have in mind this question: Have we really come to a state where the enactment of legislation is a must?

Besides, President, Dr Margaret NG also mentioned a point earlier. She said that there were times when the authorities were asked by reporters how many records were disposed of and how many were not disposed of on the list, but no satisfactory answer had been given. In this regard, I think this is understandable. Let us look at the experience in the United Kingdom, for instance. It is provided in law that they have the right not to accede to a request which incurs a cost exceeding £600. Or, if the request is considered to be of a value far less than the cost or even considered to be vexatious in that it will lead to unnecessary troubles, they can reject the request.

Let us look at the request in question. The Government was requested to list in one go the documents pending disposal among the documents involved in this relocation exercise. This seems to be a rather difficult thing to do. Of course, I do not mean to give the Government an excuse not to learn a lesson from this incident. The Government must expeditiously step up work in this area and conduct a review in line with the request of the Audit Commission, and those departments which have been criticized for delaying the implementation of mandatory guidelines should also expeditiously carry out work in this area properly. The Audit Commission's report provides, to a certain extent, a

platform for the Government to remedy its shortcomings because after all, it is the Government that designed this self-assessment audit mechanism of the Audit Commission. Without this mechanism, we would have a greater reason for fears. We hope that the authorities will pay attention and attach importance to this mechanism and also give weight to the findings, in order for corresponding measures to be taken to address the problem.

President, of course, we have yet to have the opportunity to handle in depth the technical requirements and issues relating to an archives law. We will explore them in depth when necessary. However, I reiterate that I think the most appropriate approach at the present stage is for the authorities to expeditiously promote a reform. Instead of suggesting that we should immediately follow the British example — In fact, they did not enact this law in a year's or six months' time, and as far as I understand it, they had been promoting a reform since 1997 until 2000 when a bill was proposed and the legislation was officially and fully brought into force only in 2005. Therefore, we must not act too hastily, and we are not lagging too far behind in legislation.

Rather, I think just as Hong Kong is lagging behind in respect of many strategies, policies and laws, such lag sometimes can have merits too, for we can learn from the experience of other countries and places, including the experience of Tony BLAIR who considered this to be among the biggest blunder in his administration. In this connection, I hope that the relevant departments will look into what steps should be taken. Moreover, with regard to the enactment of legislation, I think this has to be handled with great care.

President, I wish to make another point, which is based on the views of Tony BLAIR. His gravest concern or one of the biggest problems from his observation is the responsibility of the media. If the media is irresponsible, it will make use of an archives law to create great obstacles and nuisance to the government. Certainly, the media in Hong Kong may not be like certain members of their British counterparts, as we have recently seen some of their excessively exaggerated approaches. However, are members of the public fully confident that when an archives law is enacted, the media in Hong Kong will not abuse it irresponsibly?

On the other hand, in view of Hong Kong's current relations with the Beijing Government, if, insofar as communication is concerned, certain issues have to be handled or certain information has to be announced in compliance with

the requirements of any statutory system, the enactment of an archives law may cause inconvenience in this respect and even jeopardize the interests of the State. In this connection, we have seen recently that many so-called "financial supporters" or foreign forces have invaded the political organizations in Hong Kong. All these are factors that the public should consider in ascertaining whether there is a need to expeditiously enact this law.

Thank you, President.

MS CYD HO (in Cantonese): President, although I have advanced some supplementary views, I support the motion moved by Dr Margaret NG. I now explain the amendment proposed by me as follows.

Why do we need to keep records? There are actually three objectives. First, to accumulate the wisdom of governance. Records can include information on the policymaking process and also information concerning the administrative process. With the creation of these records, no matter whether the approach of governance will be successful or futile, when similar cases happen in the future and since the relevant information is preserved, the successors can look up the information to make reference to the practices of their predecessors, thereby avoiding wastage of time and effort.

Second, to preserve records for history. In his authoritative work *The French Revolution*, renowned historian Thomas CARLYLE pointed out in the preface that from the local administrative authorities in France, he had found plenty of information on the dealings between the civilians and government departments, and based on such information on dealings between the people and officials, he was able to outline the social phenomena before the outbreak of the French Revolution, which enabled him to conduct a more accurate and in-depth analysis on the causes of the French Revolution as well as its impact on posterity.

Third, to preserve records for the purpose of accountability. This is actually just a minimal degree of accountability, so that officials are aware that their policy decisions or the process of enforcement will all be put on record. Even if the records are not made public at that time due to their sensitive nature or other reasons, when the officials know that these records may still be made available for public inspection two to three decades later, at least they will not

dare to act wantonly because they know that it is impossible to destroy the evidence. Therefore, this is actually a way for a democratic society to exercise a minimal degree of monitoring on the Government.

Records are inextricably linked to the daily life of the people. An example is the bursts of water mains on the street that happen frequently. Why do water mains burst when road excavation works are being carried out? It is precisely because the records of the Lands Department (LandsD) are in a muddle. President, when you held meetings with us, you should have heard officials of the LandsD report that for the purpose of building that footbridge outside the new Legislative Council Complex, they would need six months to carry out the subsurface investigation work, in order to examine the data and conditions of the underground pipes. It is because the records of the LandsD are so confusing that they needed six months for the investigation work, resulting in the delayed completion of the footbridge.

In fact, the most important point is to monitor the preservation and documentation of records by the highest policymaking authorities. Therefore, my discussion will focus on the situation of the Chief Executive's Office. As the Administration pointed out in its reply to a question asked by Ms Emily LAU in the Legislative Council, the Chief Executive's Office destroyed 66.7 linear metres of records in a short span of six months prior to its relocation. How much storage space would these records take up? If we base the calculation on a bookshelf with five tiers of records, we will find that they only take up 13 bookshelves. We have now moved into this magnificent new Central Government Offices Complex and yet, there is no space to accommodate 13 bookshelves, thus making it highly likely that these records were rashly destroyed before professional and stringent appraisal. Why?

The Chief Executive's Office has never transferred any record to the Government Records Service (GRS) over the last 14.5 years since 1997, but it has now destroyed 66.7 linear metres of records in one go. Do those records cover the whole course of development of the housing policy of building "85 000 flats" from inception to abolition? Do they include information on the political appointments in 2000 and how the so-called "Accountability System for Principal Officials" was established? Do they include the inside story about whose advice the former Chief Executive, Mr TUNG Chee-hwa, had heeded which subsequently led to the hasty abolition of the two Municipal Councils and reintroduction of the appointment system for District Council members? Do

they include the process of the Government making a decision to intervene in the market to "fight the predators" in late 1990s? All these are what Hong Kong people need to know, and we very much hope that the relevant information and policymaking process can ultimately be made public one day.

It is the duty of the Government, especially the Chief Executive's Office, to preserve archival records but from what we have seen, the Government has only allocated an extremely small amount of resources to the GRS. In reply to a question raised by a Member of the Legislative Council in 2006, the GRS said that they had 87 staff and apart from the Director, there were nine Archivists of the professional grade. Back then there were still nine Archivists but their number was cut by one this year, leaving only eight Archivists. Of these eight Archivists of the professional grade, four are transferred from the Executive Officer grade to take up this post, meaning that they do not meet the requirements on academic qualification and experience. President, think about this: Only four qualified professional staff were made responsible for reviewing 1 181.71 linear metres of records. It means that each one of them, in a period of six months, had to examine two linear metres of records daily. How possibly could they cope? It follows that the entire process could not be carried out stringently.

What sort of work is involved in the appraisal of records? First, the relevant staff must be well-versed in the flow of records management between departments and Policy Bureaux. They should also possess the ability to assess the authenticity and reliability of the records, which means that they must seek evidence to verify the records. The relevant staff should be knowledgeable of the history of Hong Kong and local development and they should have a good understanding of the records kept in the GRS, so that they know what information should be added. Therefore, if four professional staff were required to deal with 1 180-odd linear metres of records in half a year, how could they possibly accomplish this task?

As regards the shortage of resources of the GRS, the Director of Audit's Report published today pointed out that the conditions of 40% of the archival records in the GRS are on the verge of deterioration due to unsatisfactory conditions for records preservation and the lack of facilities. In other words, even if these precious archival records are lucky enough to be transferred to the GRS, they still may not be preserved properly as a result of the Government holding the purse strings tightly. Take the Budget for the current year as an

example. The recurrent expenditure for the GRS is only \$33.2 million. Despite an abundant fiscal surplus, the Government has allocated a mere \$33.2 million for the preservation of various types of precious archival records, and this is grossly shameful indeed.

President, next, I will explain why I have called for the establishment of a standing committee to monitor the overall situation of records management in the Government. In fact, before the archival records are transferred to the GRS, the records must first be properly created in the departments and bureaux concerned in compliance with the rules, in order for the records to exist. This is why we must set up a standing committee to conduct reviews and audits on a regular basis, just as the Audit Commission has been doing, in order to ensure that civil servants in departments and bureaux will manage the records properly in compliance with the rules.

Furthermore, it is also necessary to create a professional grade in departments and bureaux to give instructions to colleagues on the management of records. Given that there is no such arrangement now, all that can be done is to rely on Archivists of the GRS paying annual visits to departments and bureaux to provide training. The Director of Audit's Report published today also shows that inadequate provision of resources, shortage of manpower and lack of professional qualification have resulted in many mistakes and omissions. For example, 2 815 records were destroyed simply with the consent of two departments without appraisal by Archivists of the GRS. This is exactly a mistake made due to the lack of professional qualification.

As for the mandatory guidelines, while these guidelines do exist, they are not enforced on a mandatory basis. As a result, as at May 2011, 391 records of the GRS loaned to six bureaux and departments had never been returned to the GRS. These bureaux and departments concerned eventually told the GRS that they had lost track of these records. This goes to show how careless they can be in managing the records. Therefore, it is necessary to establish a committee comprising representatives from all sides, including government officials, the relevant industries, academics and even representatives of parliamentary assemblies, in order to conduct audits on bureaux and departments on a regular basis. Only in this way can the archival records of Hong Kong be preserved.

As regards extending these requirements to cover all statutory bodies, I particularly wish to point out that in the Director of Audit's Report, it is stated that the Independent Commission Against Corruption established its own code of practice for records management and made decisions on its own on the time of destruction of records. Is this not tantamount to exercising no control on it and allowing it to do whatever it likes? For these reasons, I support the enactment of an archives law expeditiously in the hope that through this law, the utmost effort can be made to preserve the precious records of Hong Kong.

Thank you, President.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, Dr Margaret NG has proposed a motion on "Enacting an archives law" for debate today, while Mr Paul TSE and Ms Cyd HO have respectively proposed an amendment to the motion. This goes to show that Members have attached great importance to records management in the Government.

On the part of the Government, like Members, we also attach great importance to records management. It is because we fully recognize that records are valuable resources of the Government to support evidence-based decision making, meet operational and regulatory requirements and are essential for an open and accountable government. Besides, we are also committed to identifying and preserving government records having archival value, so as to enhance public awareness of documentary heritage and this, which we very much support. Government records which are appraised as having archival value will be transferred to the Government Records Service (GRS) for permanent preservation.

In Hong Kong, we already have in place a mechanism for the management and preservation of public records with archival value. The responsibilities for proper management of government records are shared between the bureaux/departments that create and collect records and the GRS.

All bureaux and departments have appointed a Departmental Records Manager to be responsible for records creation and implementation of comprehensive records management programmes. The GRS is tasked to oversee the management of archival records and government records on a government-wide basis. The GRS has promulgated records management

procedures and guidelines to ensure proper management of government records. The GRS also provides training and advice to the bureaux and departments concerned to help enhance their records management work. In general, the administrative arrangements for records management include the following:

- (1) The GRS formulates and promulgates the procedures and guidelines for records management, and provides training and advisory services on records management to bureaux and departments;
- (2) Bureaux and departments implement proper and comprehensive records management programmes in their respective bureaux and departments, including the appointment of a Departmental Records Manager, to ensure that government records are managed and preserved properly;
- (3) Bureaux and departments create and capture adequate but not excessive records in the light of their business functions and information needs;
- (4) Organizing records systematically according to a records classification scheme;
- (5) Developing disposal schedules for all records;
- (6) Identifying records with archival value in developing disposal schedules or after the expiry of the records retention period;
- (7) Disposing of records by destruction or transferring archival records to the Public Records Office of the GRS according to the approved disposal schedules;
- (8) As an additional safeguard, bureaux and departments are required to obtain prior agreement of the GRS Director before destruction of government records; and
- (9) Making available archival records preserved by the GRS for public inspection under the Public Records (Access) Rules 1996 (Access Rules).

President, the records management policy and system currently adopted by the Government are actually formulated on basis of the international best practices for records management and international records management standards, including ISO 15489 on "Information and documentation — Records Management" promulgated by the International Organization for Standardization.

The existing administrative arrangements attach importance to records management in bureaux and departments, and ensure that arrangements are made systematically and orderly for the disposal of records after they have been preserved for a certain period of time following their creation. To this end, bureaux and departments are required to adopt the disposal schedules developed by the GRS for the disposal of administrative records.

For programme records, bureaux and departments should, in consultation with the GRS, develop the relevant disposal schedules, setting out the records retention period and disposal arrangements, including the transfer of records with archival value to the GRS for permanent retention. As a general rule, the GRS will carry out records appraisal in developing the disposal schedules or after the expiry of the records retention period and identify records with archival value.

To enhance these arrangements, we have drawn up mandatory records management requirements to require bureaux and departments to transfer records with archival value to the GRS in accordance with the disposal schedules and dispose of time-expired records at least once every two years.

To provide a stronger safeguard, bureaux and departments are required to obtain prior agreement from the GSR Director before destruction of any government record. This requirement, together with the various arrangements that I have just mentioned, will ensure that records are appraised and that records with archival value are identified for transfer to the GRS.

Government records which are appraised as having archival value will be preserved at the Hong Kong Public Records Building. The Building is developed for protection and permanent preservation of records with archival value. It is a purpose-built archival repository providing a secure and controlled environment.

The Government has provided effective channels for the public to access public records with value. The public may access archival records under the

Access Rules. In general, public access will be granted to archival records containing open information and those containing classified information which have been closed for 30 years. A person aggrieved as a result of denial of access to closed archival records may seek a review of the decision through the Director of Administration and the record-originating bureau or department.

The public can also access the records preserved by bureaux and departments of the Government under the Code on Access to Information (the Code). It has been the established policy of the Government to provide as much information as possible to enable the public to gain a better understanding of how the Government formulates and implements policies and to enable them to monitor the performance of the Government more effectively. Under the Code, unless there are valid reasons to withhold disclosure, bureaux and departments are required to routinely or on request to provide information kept by them for public inspection. Complaints about non-compliance with the Code by bureaux and departments will be referred to The Ombudsman.

The GRS has, through a diversity of channels, enhanced public understanding of the historical information and records in Hong Kong and promote the use of such information and records by the public. For example, apart from its website, the GRS has collaborated with the MTR Corporation Limited to stage photographic exhibitions in various districts showing the history of the districts. Together with the Education Bureau, the GRS has also organized seminars outside the Hong Kong Public Records Building to promote the use of archives amongst secondary teachers and students. The history curriculum for Secondary Four to Six students already makes specific reference to using government records kept by the Public Records Office.

To make further improvement to records management, the Government will from time to time review the existing administrative arrangements for records management. The Government issued a General Circular in April 2009 which introduced a series of mandatory records management requirements for compliance by bureaux and departments. These requirements cover an extensive scope, including proper management of electronic mail records, records classification, records disposal (which includes obtaining the prior agreement of the GRS Director before destruction of records and transferring records having archival value to the GRS), proper custody and storage of records, protecting vital records, and so on.

In addition to the introduction of these important requirements, the General Circular also states clearly what bureaux and departments should do to ensure compliance with these requirements, which includes the following:

- (1) Bureaux and departments are required to comply with certain requirements within a specified period of time, such as establishing draft disposal schedules for all programme records not later than April 2012 and submitting them for approval by the GRS;
- (2) Providing a time frame for bureaux and departments in performing certain records management functions, such as disposal of time-expired records at least once every two years;
- (3) Specifically providing that bureaux and departments are required to appoint a staff at a certain rank to be responsible for managing important records;
- (4) Specifically providing how bureaux and departments should prepare and maintain an accurate inventory of records, monitor records disposal schedules, minimize the risk of loss during transfer of a large number of files, and investigate matters relating to loss or unauthorized destruction of records; and
- (5) Requiring bureaux and departments to regularly review the record management measures and inform the GRS of the findings of the review.

The General Circular also requires the heads of bureaux and departments to appropriately accord priority and resources to implement a proper records management programme to ensure proper preservation of records and materials with archival value.

The introduction of the mandatory records management requirements has fully demonstrated the determination of the Government to improve records management, and these requirements are also binding on civil servants. General Regulation 11 provides that where a Government servant disobeys or neglects or fails to observe the terms of Government Regulations or Circulars appertaining to his duties, disciplinary proceedings may be taken against him. Therefore, any

civil servant who does not act in compliance with the stipulations in Government Regulations or Circulars may face disciplinary actions.

The General Circular also provides that bureaux and departments are required to appoint an officer not lower than the rank of Senior Executive Officer or equivalent to be responsible for considering the records disposal arrangements, and prior agreement of the GRS Director must be obtained before destruction of any government record. To minimize cases of unauthorized destruction of records, bureaux and departments are required to appoint an officer not lower than the rank of Executive Officer II or equivalent to be responsible for supervising the disposal procedures and preserving complete documentation for accountability.

Moreover, to avoid loss of records, bureaux and departments are required to prepare an inventory of records and adopt measures to prevent loss of records in the transfer of a large number of files.

Lastly, any loss of records must be reported to the Departmental Records Manager. The Departmental Records Manager is required to conduct detailed investigation, identify the persons to be held responsible and decide the suitable disciplinary action, and also draw up measures to prevent the recurrence of similar incidents. This arrangement can prevent the loss of valuable records.

Ms Cyd HO proposed that the Government should establish a standing committee to review the situation of records management. In fact, the Government has kept the present records management system under constant review and refined it as appropriate. The mandatory records management requirements introduced in April 2009 that I have just mentioned are an example of enhanced records management. The Report No. 57 tabled by the Director of Audit in the Legislative Council today also mentioned the recommendations for improving the records management system. We have already implemented measures and where practicable, we will give effect to the relevant recommendations.

Moreover, we welcome suggestions and views from members of the public on the improvement of the management of government records and records with archival value. Apart from suggestions and views obtained through the media and letters or e-mails directly sent by the public, the GRS also takes the initiative

to collect public views. For instance, the GRS has provided a suggestion box and consistently conducted opinion polls among users of the services of the GRS.

On the other hand, the GRS will consult the academics and users when collecting records on the history of Hong Kong from overseas. As an effective mechanism is already in place for review of the current situation of records management, we consider that there is no pressing need to establish a standing committee to carry out this area of work.

At present, the officer grade staff of the GRS come from three grades, namely, Archivist, Executive Officer, and Curator. Under the current division of responsibilities, the duties of appraisal and management of archival records are mainly undertaken by the Archivist Grade, while the Executive Officer Grade is responsible for records management and the Curator Grade undertake duties on conservation and preservation of archival records.

To enhance the expertise and professional skills of its staff, the GRS will from time to time make arrangements for the relevant staff to attend training on records management, participate in international conferences and seminars, and conduct exchanges with overseas records management organizations. When necessary, consultants are invited to provide professional opinions on archiving, especially the management of e-mail records. The Government will from time to time review the grade establishment, including the Archivist Grade, to ensure the quality of work and enable the continued effective provision of services to facilitate public access to records.

With regard to government-funded statutory bodies, we consider that the regulation on records management in these bodies is a different matter. Apart from the different scale and business nature of these bodies, different types of bodies are involved, including the Government's statutory bodies, non-government organizations receiving recurrent funding from the Government, charity and religious groups, and so on.

To put it simply, these bodies are currently responsible for managing their own records, and the operation of statutory bodies is also subject to the relevant legislation. As the scale of these bodies varies, in deciding on the need to impose regulation on records management in these bodies, the Government must

take into consideration how well they are prepared for it and how far they have the ability to accept it. In any case, the Government will study ways to assist these statutory bodies to enhance their records management. The Government already published the general guidelines on good records management practices at end-October 2011 for reference by the relevant bodies.

If statutory bodies or other public bodies wish to transfer records with archival value to the GRS, the GRS would be glad to accept these records. Based on the above considerations and in view of the current circumstances, we consider that there is no pressing need to impose regulation on records management in government-funded statutory bodies.

The enactment of legislation is not the only way to improve the management of records. As I have said earlier on, the Government has put in place administrative arrangements to facilitate the identification, transfer, and preservation of and public access to archival records. The GRS has also promulgated records management procedures and guidelines and provided records management training and advice to bureaux and departments to help them improve the management of records. The Government has also drawn up the Access Rules and the Code to facilitate public access to government records. Moreover, bureaux and departments have appointed Departmental Records Managers to ensure proper management and preservation of government records.

All this shows that the Government has the determination to improve the records management system in order to properly manage and preserve public records with archival value and ensure the accountability and transparency of government information and also the public's right to access such information.

With these remarks, President, I will give a further response after listening to the views of Members. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, government records are an important resource to the Government and the public. They enable the public to understand the Government's policymaking process and reflect what is going on, not to mention their role as evidence of administration. While good records management can enhance the Government's governance and efficiency, protect

public interest, most importantly, it can preserve the history and culture of society as a whole. Thus, the enactment of an archives law can be absolutely beneficial to society as a whole.

In 1971 when the establishment of the Public Records Office (PRO) was under discussion, the Hong Kong Government agreed to enact an archives law to define the powers and functions of the PRO in order to enable the Government to effectively manage and preserve valuable public records and facilitate the public to accessing such records through appropriate channels. President, four decades have passed since then. It is most disappointing that the Government continues to delay the enactment of an archives law even though four decades have passed. To date, the Government still insists that the enactment of an archives law is not the only way to improve records management, as pointed out by Dr Margaret NG. Apart from such a statement, the Government has also advanced another argument, as highlighted by Dr Margaret NG. The Government argues that a good record-keeping programme has been put in place and it is proven.

President, I really want to put this question to the Government: How proven it is? In fact, as we all know, the Government has acknowledged at a number of Council meetings that it did not open any file for records keeping, or preserve records of some important policies, including the change in land use of Discovery Bay and records concerning indemnity paid by the Government in dealing with "feng shui" matters. The Government has not made any efforts in records management in this aspect. How proven it has been? Worse still, the Government has also admitted that the Government Records Service has no idea of what records have been kept by other departments or bureaux, or the number of such records. It does not know whether or not these records carry preservation value or who decide the destruction of these records. Nor does it know how these records are handled. As to who is responsible for appraising these records, there is no professional in charge of such a duty. Under such circumstances, how can the Government say that the existing record-keeping programme is proven? Most importantly, it is even more outrageous that the Government does not have any criteria to assess the effectiveness of the programme. I will be convinced if it does, am I right? In the absence any criteria, how can assessments be made? Can the Government tell us in greater detail what is meant by "proven"?

Apart from mentioning effectiveness, Chief Secretary for Administration Stephen LAM has also mentioned the mandatory requirement which should be observed by all civil servants. President, I would like to cite a live example here. Just two weeks ago, I telephoned the Buildings Department (BD) to request access to a record, which is a survey report done by the BD on the maintenance works conducted in a housing estate. Given that the owners' corporation of the housing estate has been engaged in a lawsuit with the maintenance contractor, it is necessary for us to study the survey report. We have been communicating with colleagues of the BD in the hope that they could provide the record. But our effort was in vain after a delay of six months. I made an inquiry by telephone two weeks ago and was told that the record had gone missing. May I ask the Chief Secretary whether "gone missing" is a reasonable and proper explanation?

President, I believe it is not an individual incident and there are many others. How can these problems be resolved? Even though the Chief Secretary has mentioned a series of measures, the crux of the problem lies in the lack of monitoring as mentioned in Ms Cyd HO's amendment. In the absence of monitoring, how can these problems be resolved? And this is the bigger problem. But the Government indicated that monitoring was not necessary on the ground that self-regulation would suffice. However, the result of self-regulation is the missing of a record. What can we do? I would like to seek an answer from the Chief Secretary.

In fact, what is the most critical point? As mentioned by many Honourable colleagues just now, 13 Policy Bureaux and offices have destroyed 1 200-m-tall records from April to September due to the relocation of government offices to the new headquarters at Tamar. What are the contents of those destroyed records? The Government has never provided a list of those records to the public. Nor is it willing to do so. In that case, who made the decision of destroying these records? Was any professional appraisal conducted on those records before they were destroyed? The Government has not provided any explanation and, in fact, no explanation is necessary. As we all know, professionals specialized in such appraisal are very few in Hong Kong. Moreover, these professionals even said that they had not carried out such tasks then. Even if they did, is it possible to finish the appraisal of so many records in a few months? How long does it take to appraise each record? This is totally unreasonable and such mission is totally impossible. But the Government has

done it. So, how can we ensure that government records will be preserved if there is no archives law and no monitoring is exercised by a committee?

On these issues, I think we cannot afford any further delay. As I said earlier, the enactment of an archives law was proposed in 1971. But to date, the Government is still reluctant to take concrete action. How can we be assured that the Government will do a good job of records preservation, especially those that are related to controversial issues in history?

There is yet another important point. When people want to access these records, what can they do? If there is no regulation and monitoring, it can be said that there is no channel to access such records. So, I very much support the enactment of an archives law today as these problems would not be resolved in the absence of such legislation.

Finally, I hope the Chief Secretary can give us an account on all those issues I raised just now. If he cannot give us a satisfactory account and explanation, I think this Council, on behalf of Hong Kong people, will be duty-bound to follow up issues mentioned earlier concerning the procedures, policy and decision-making, the processes as well as the information therein in respect of the destruction of records. We have to follow up these issues, and we should not sit on them.

MR WONG YUK-MAN (in Cantonese): President, I support Dr Margaret NG's original motion. Dr Margaret NG's motion is very simple, that is, to make an archives law in order to properly manage and preserve valuable public records. The enactment of law is one of the objectives of the motion, and in my opinion, the latter part of the motion is the most important, that is, to provide channels for the public to access such records.

In an open society, the Government has to discharge its obligation to inform in order to protect the public's right to know. This is common sense. While the Government has to discharge its obligation to inform, and the records preservation and management Of course, records will become history in the future, enabling us to conduct research and serving as reference materials. Therefore, it is necessary to specify when they should be declassified and how public access can be facilitated. The timing of declassification and the time limit for keeping records confidential must be prescribed by law. Otherwise, it

is difficult to achieve the purposes. The Government has emphasized that valuable public records can be managed and preserved through administrative means. It is certainly very difficult in implementation.

Furthermore, we cannot lag behind the others. Most advanced countries — let us not mention the practice of those advanced countries. Take our socialist Motherland as an example. It has managed to lay down some relevant regulations. Of course, some people may say that it was underpinned by some other political motives. But it is another matter. The point is our country has formulated some relevant legislation.

We do not have any archives law in the public interest. However, we do have the Official Secrets Ordinance as an adaptation of the Official Secrets Act, which was enacted in 1911 or 100 years ago. It was adopted in the British colonial era and no modification has ever been made. The ordinance currently applicable in Hong Kong came into existence by adapting the Official Secrets Act 1911, which were already amended by the United Kingdom in 1989. The Government will fully adopt a piece of legislation if it suits its purpose and take all the trouble to start from scratch if it does not. We can see that the Government has not proactively considered how best to preserve valuable records and facilitate public access.

We do not have any law that allows the public to access official information freely and conveniently. It is particularly true for reporters as they do not know the definitions of "restricted", "confidential", "secret" and "top secret". With different grading, such as "top secret", "restricted", and so on, when will these records be declassified for public access? Ask the reporters to see if they have any idea. They really do not know. What they can do is to browse the website of the Information Services Department in order to read the "garbage news" created by this "news factory". These are what they can access. Apart from these, all are confidential and disclosure is forbidden, according to the Government.

I recall that before the reunification, Ms Christine LOH proposed the enactment of a law on free flow of information. Many countries have enacted an Official Secrets Act. But relatively, they must have also formulated a free flow of information act in order to strike a balance. We do not have any free flow of information law. You may argue it was because of Chris PATTEN who had no intention to make such a law. However, he made the Code on Access to

Information (the Code), which is an administrative code rather than a law. Under the Code, regulations on handling requests for government information available to the public have been laid down and various departments will designate an Access to Information Officer. Nevertheless, the Code allows great discretion to be exercised by government departments in deciding on their own what information should be withheld. There are scary references in the Code concerning what disclosure of information may be refused. According to the Code, "Information the disclosure of which would inhibit the frankness and candour of discussion within the Government", or "Information which would harm or prejudice the management of the public service" may be refused. Such provisions are ridiculous. In other words, information that would impede the authority of the management or hurt the feelings of government officials will be refused.

My present discussion may not be necessarily related to the original motion. But I would like to use the motion as an excuse to express my other views. President, please allow me to do so. If there is no such legislation when making the law, we will be able to when there is a law serving as the guideline, the Government will be required to disclose information in accordance with the legal requirements, and a time limit can be set for the declassification of confidential information at a certain date. Only in doing so will our society become more transparent and people become smarter so that they can keep a discerning eye on their environment and make a wise decision for their future.

If our society is uninformed and free flow of information is restricted by the Government, what hope can we have? Frankly, in announcing its decrees, the Government certainly hopes that more people will be informed. In announcing decrees or launching a publicity campaign, the Government wishes to win our support. However, when we request information which is so important that it can even save our lives, the Government gives us a denial. This is unacceptable. Moreover, there are lots of flaws in records management, as many Members mentioned just now. I hope we can take this opportunity to consider this problem. What I am more concerned about is that while the Government has enacted the Official Secrets Ordinance, it has not enacted a free flow of information law. Now the Government is also reluctant to enact an archives law. What does it want? You say that Hong Kong people start to have democracy as each one of them will have two votes, representing another step towards democracy. It is ridiculous, for this is in fact some sort of retrogression instead. Your appointment as the Chief Secretary is your personal

career advancement. However, we have taken a retrograde step, which is much lamentable. Thanks to you "buddy". While you have been appointed as the Chief Secretary, I am reduced to be a hooligan and triad. This is a windfall again. As a result, the pan-democrats have broken with us. They have completely broken with "hooliganism". Thank you, Chief Secretary. However, having done these good deeds and settled us, can you do one more good thing? May I ask you how difficult it is to enact an archives law?

MR CHEUNG KWOK-CHE (in Cantonese): President, each country and race has its own history. If one can infer from the past to know the present and to learn a lesson from history, one will not fall into the same old trap again and can avoid committing mistakes repeatedly. For that reason, most countries have drawn up similar archives laws on the preservation and management of public records, so as to pre-empt the elimination of records and to ensure the posterity may access such records in order to learn lessons from those records.

In fact, the national archives of certain countries may rewrite historical events at any time, and the Katyn Massacre which shocked the world was a good example. In the spring of 1940, the former Soviet Union removed around 22 000 Polish Army officers and civilians from the Kozielsk POW Camp to Katyn near the Russian city Smolensk and shot them to death. For many years, the government of the former Soviet Union had all along been denying its role behind this and claimed that the victims were murdered by the Nazis. It was not until 1990 when former Soviet President Mikhail GORBACHEV eventually admitted that the massacre was ordered by STALIN. Finally, GORBACHEV made a public apology to the Polish people. Just because the records were preserved, the truth of this unresolved case could at last be uncovered and justice was done to those Polish Army officers and civilians who were killed unjustly.

We can see that even in an era when the former Soviet Union was ruled by STALIN's iron fist, the Russians still attached great importance to their own archives. Why Hong Kong, as a world-class metropolis linked up with the world, can be that conservative in preserving its own historical footprints. Why is it not that liberal? At present, Canada, the United States, the United Kingdom, New Zealand and even the Mainland have drawn up similar legislation to ensure that their national archives can be preserved, and public officers are

prohibited from altering or destroying such records arbitrarily. If the Government is concerned that the immature disclosure of classified documents may affect its governance, then it may as well consider extending the retention period, such as adopting the practice in Canada whereby records are kept for 75 years before they are made public, so as to ensure that the information can be made public when all of the heads of government are not in office.

However, even if a relevant law is to be drawn up, the Government should respect this profession of archives and records management. It is learnt that in the last decade, staff responsible for archives administration and conservation in the Government Records Service (GRS) have been de-professionalized, that is, professionals who major in professional archival studies are replaced by laymen (that is, Administrative Officers of administrative grades). The situation has been worsening in recent years. The incumbent GRS Director, Mr Hillman CHOW, was originally an Administrative Officer (AO) and posted as GRS Director in end 2008. He has not attained any professional qualifications and he possesses no professional experience, so he is not a competent man for the post at all. As to Archivist (Public Records) Miss Jessica LAU who is head of the department, she also possesses no professional qualifications. I oppose the policy of laymen leading experts.

One must note that archive appraisal is a very import process, and the preservation or destruction of a record depends on the expert opinions of the GRS staff. Once these unique documents are destroyed, they would become ashes and it is possible that the truth of history will be gone forever. Moreover, the fact that AOs are appointed to undertake these jobs will inevitably make them put the arbitrary wish of official in charge their top priority of work. When deciding whether or not such records should be preserved, they will study intensively and elicit the thoughts of their superiors instead of determining the value of preservation of such records and deciding the preservation or destruction of such records as what their professional counterparts will do. Such a practice will only degenerate the GRS into a political tool to cover up government scandals.

President, the present so-called mandatory guidelines issued by the Government to all departments in dealing with records stipulate that before records are destroyed, written consent should be sought from the GRS Director. However, these guidelines are not legally binding. If the Chief Executive requests the destruction of certain classified documents, but such documents have their own historical value and the public should have the right to know, then what

should the GRS Director do? I presume that most people, in particular AOs, who have to keep their official's cap and for the sake of their own prospect, will not hesitate to approve the destruction of such documents.

Nevertheless, once such a law is enacted, the situation will be very different. By that time, no matter it is the Chief Executive or officials at the level of Secretaries of Departments and Directors of Bureaux, all of them should act in accordance with the law; and the GRS Director should also determine if the record concerned is to be preserved or destroyed according to his own professional judgment. In order that the preliminary work of enacting an archives law can be done properly, I hope the Government will set up a standing committee to look into the present condition of archives management before coming up with some improvement proposals, so as to ensure that part of Hong Kong's history can be preserved.

President, I so submit.

MR IP KWOK-HIM (in Cantonese): President, the historical archives of a place can best demonstrate to outsiders an important historical backdrop of a place as well as the information and experience of the operation of its government. Meanwhile, historical archives can also provide a scientific foundation for deliberation, an enriched historical and legal basis and a coherent concept of administration for the formulation of various government policies and actions in addressing the aspirations of society and managing the liaison and communication work among the masses and groups and organizations. Therefore, various governments will legislate for the protection, management and usage of such archival records. Some countries will formulate a complete and clear archives law, while some countries and regions (such as Hong Kong) will regulate the management of archival records by the government and ensure the right of the public to access such information through a number of laws and internal guidelines.

The content and principle of archives laws in various places have all stipulated the duties and scope of administration of the archives management authority concerned. As to the specific requirement of archives administration which includes defining and managing the scope and genres of archives, and the requirements of the process for verifying, transferring and storing the records; and

as to the usage of records and transparency in making them public, there should be relevant time limits and scope for disclosure of records. Moreover, provisions stipulating the liabilities of public officers and relevant personnel and penal basis are formulated to deal with such acts as damaging, altering or forging records. While there is no archives law in Hong Kong, relevant laws and internal guidelines can achieve the said purposes of protecting and using such records.

According to the Public Records (Access) Rules 1996, the public enjoy granted the right to access archival records of the Government. In general, the public may inspect archival records which have been verified as public records as well as classified records which have been closed for 30 years. If the public are not satisfied with their request for inspection of certain closed records, they may request a review. Moreover, the Code of Practice on Access to Information enacted in 1995 requires that staff of all government departments should make available information in government's possession for public inspection unless there are specific reasons for not doing so according to the specific provisions, with a view to embodying the transparency of records management as well as the right of the public to inspect such records.

Subsequently, in the formulation of the Personal Data (Privacy) Ordinance, a corresponding legal framework and basis are laid down to confine or deny requests for the inspection of records in respect of security, foreign affairs, third party information, information obtained by means of legal professional privilege, privacy of the individual or records relating to internal discussions within government departments and bureaux, with a view to striking a balance between the freedom of information and the protection of society at large and individual interests.

One can see that although Hong Kong does not have an archives law in place, the records management system of the Government and its legal basis can still ensure a certain degree of accountability and transparency of the Government, so as to protect the right of the public to inspect public records.

Of course, the DAB also notices that the previous amendment to law protecting the right of the public to inspect public records, that is, the Public Records (Access) Rules was made in 1996, which is more than a decade ago, thus the DAB agrees that it is the right time to review the relevant requirements, code

of practice and administrative guidelines for public records management, so as to make it compatible with the norm of present-day society and to bring it in line with social development and public needs. Just now many Members have made criticisms in this respect or pointed out some existing problems. The Government should draw on the experience in this regard in the course of review.

The DAB agrees that the Government should examine how best to enhance the functions and roles of the GRS and the Public Records Office (PRO), so as to bring into full play its function which resembles a central archives office in other places and a centre of record convergence. However, at the present stage, it is not necessary to establish a standing committee to oversee archives administration.

On the other hand, the DAB considers that the work of the GRS should not only focus on the administration and preservation of important historical archives, but also how the GRS can raise the social efficiency of such historical archives. The GRS launched an educational resources portal in July this year to promote the use of historical literature in teaching and studying. The DAB suggests that the Government may as well take a step forward to make use of the modern cloud computing technology to facilitate various government departments and the public in more efficiently using the new educational resources portal service of the GRS by means of mobile devices. For this reason, the DAB requests the Government to increase the necessary manpower for this — just now I heard Members raise the issue of the manpower involved, therefore they also requested the Government to increase the manpower to meet public needs in this regard.

I so submit.

PROF PATRICK LAU (in Cantonese): President, I do not oppose the enactment of an archives law. However, in my opinion, we should conduct a review before formulating appropriate measures to enhance records management, and in the light of the effectiveness of these measures, consider the need of legislation, and determine the specific contents of the law on the basis of the review results. I share the view of Mr Paul TSE, who questioned whether legislation could solve all problems.

In fact, as Dr Margaret NG has said, many countries (including China) have formulated an archives law. This is worthy reference for Hong Kong. I am also very glad to hear the Chief Secretary mention just now that government records will be declassified for public access in 30 years or a longer period so that the public can exercise the right to know.

To my understanding, the Government has put in place a mechanism to manage and preserve valuable public records. According to the Chief Secretary, various departments have appointed Departmental Records Managers who are responsible for establishing their records management programme. Meanwhile, the Government Records Service (GRS) is tasked to oversee the overall management of government records and ensure that they are properly managed and maintained. Records of archival value will be selected — this is the most crucial point, as mentioned by the Chief Secretary just now — for preservation and public access.

In my opinion, the current practice is in the right direction. Since 1997, although there is no archives law, a standing mechanism has been put in place, for this matter of the utmost importance, for the proper storage of records which will also be made available for public access. The Heritage Discovery Centre in Kowloon Park that I am familiar with is a very important place. I hope Members will pay it a visit if they have the opportunity to do so. It is a place where the public can obtain information on Hong Kong's heritage and apply for detailed archival information on built heritage, which is most useful to my job.

In fact, the Government's records management has kept abreast of the changing times. Take my industry as an example. Building plans are very important to us architects. Insofar as the so-called general building plans are concerned, I had to apply in person to the Buildings Department (BD) for inspection of the records in the past. It would take a longer time if I wished to get photocopies of them. But it is different now. After computerization, all people, be they architects or the general public, can access specified building plans online at any time if they have an online account. This is very helpful to our work.

Although the building plans of private development projects can be accessed by applications to the BD, I have no idea whether the building plans of government projects can also be accessed online, through applications to the Architectural Services Department or the Housing Department. Take the

building plan of the Legislative Council Building as an example. You, President, and I as one of the long-service Members have examined it many times. But where can members of the public get access to it? It depends on whether or not our mechanism operates effectively. In fact, it may not operate effectively even after the enactment of legislation. To my understanding, the GRS has promulgated records management procedures and guidelines, apart from providing training to various departments, to ensure that government records are properly managed.

The public can access records in accordance with the two sets of administrative rules, that is, the Public Records (Access) Rules 1996 for access to archival records preserved by the GRS, or the Code on Access to Information for access to records kept by various bureaux and departments.

In fact, the Government's records management system has followed the international records management standards, including the promulgation of record keeping standard, and defining the duties and responsibilities of government agencies in keeping and protecting government records. As for the destruction of records, relevant procedures should be complied with including the prior approval of the relevant management authorities, which will also specify obligations in ensuring the safe custody and protection of historical records and procedures for public access to archival records.

Just now it was mentioned that the Government had lost a huge amount of records, but I did not hear any explanation from the Chief Secretary. In other words, records were lost after the removal of government offices. What are these records and why is the volume of such records so huge? I was shocked to hear that their thickness was comparable to the total height of several skyscrapers. I hope the Chief Secretary can tell us later whether these records have been saved to a computer. But as to the question of whether records which have been saved to a computer are unlikely to be destroyed, I have no idea. How administrative arrangements and mandatory records management requirements have been complied with? Matters such as proper management of e-mail records, records classification, storage and disposal of records, proper management and protection of records are all vital.

President, to my understanding, the United States has spent a lot of time in setting up a super computer to store many different records since the "September 11 Incident". In this regard, different organizations need a so-called super

computer because the storage of records in a computer is most complicated and it is necessary to make the storage in different places rather than one single venue. So, I do not believe legislation is the only way to solve the problem. The existing records management system can help the Government meet the regulatory requirements and ensure that records of archival value are preserved. Most importantly, in my opinion, the Government should implement properly the Director of Audit's recommendations in order to improve records management. Thank you.

MRS REGINA IP (in Cantonese): I speak in support of Dr Margaret NG's motion.

In fact, a group of people who keep a keen interest in this issue, including members of some prominent families that have lived in Hong Kong for several generations, some civil servants who used to be in charge of records management as well as some legal experts, have come to the New People's Party to explain to us that they earnestly wish that Hong Kong can follow the practice adopted in some advanced societies overseas by enacting legislation on the protection of our archival records, so that these records can be preserved.

I read their documents when I met with them and, judging from the grounds of their argument, I really cannot see why the Government should oppose the enactment of legislation in principle. I also have not heard the Chief Secretary say that the Government is strongly opposed to the enactment of legislation in principle. I have made enquiries with the Director of Administration, and I understand that the Government's view is just that it does not see such a need, because the Government already has in place a sound administrative code of practice which can entirely serve the purpose.

In spite of this, I have read a lot of information provided by this group of people. It is indeed the case that similar legislation is enacted in many countries, including China. I really do not understand why the Government cannot give this further consideration. Indeed, as many colleagues have said in their speeches earlier, Hong Kong is a unique place as it used to be a colony and has now become a special administrative region of China after the reunification, and this is why Hong Kong has such a unique history. People in many places of the world may find this particular experience of ours very interesting, and what is

more, our experience, apart from being interesting, may be worthy reference to other places in the future.

For these reasons, I hope that the Government can positively consider this motion today. In fact, this motion only calls on the Government to launch public consultation and proceed with the enactment of legislation expeditiously. Though the Government is urged to act "expeditiously", so to speak, the Government, being so clever, can handle it with flexibility. If there are practically difficulties, such as the problem of resources, the problem of manpower or problem relating to the policy principle, I hope that the Government can further explain them to us. Otherwise, I will support this motion in principle.

Thank you, President.

MR RONNY TONG (in Cantonese): President, I believe we can all still recall the Watergate scandal. If the White House did not have the arrangements or habit of tape-recording the President's conversations, President NIXON would not have been impeached.

President, many people have described an archives law as the "magic mirror" of a corrupt and incompetent government. Those corrupt and incompetent governments will naturally wish to completely destroy all records so that no one knows their mistakes and failures in governance when stepping down on the very last day.

President, precisely because of this reason, the Government may give people an impression that it has admitted to be corrupt and incompetent if it does not agree or accept the enactment of an archives law. I hope the Chief Secretary will ponder over my remarks carefully.

President, the truth is that almost all civilized countries have enacted an archives law. The United Kingdom, the United States, Canada, New Zealand, Taiwan, Malaysia, Singapore, Vietnam, Japan, Korea, or even — perhaps I should not use the word "even" — China and Macao have also enacted an archives law. As Hong Kong is a cosmopolitan city, why has its civilized

Government adopted an evasive attitude in the enactment of an archives law? I am really puzzled.

President, an archives law can serve at least three important functions. The first one is certainly to preserve historical documents or archives so that future generations will know a government's policies, considerations and issues to be addressed by its policies during a certain period. If somebody says that an archives law is a tool to preserve history, I am sure no government will oppose such a statement.

The second function — I believe it will not arouse any controversy — is to require the Government to preserve records as a means to accumulate its experiences in governance so that the next-term Government, in retrospect of the past, can access relevant knowledge and information, thereby enhancing the quality of governance.

President, these two functions are relatively positive.

Of course, the third important function, as I said earlier, is to prevent a corrupt and incompetent government from destroying all records completely. President, in Hong Kong where the doctrine of separation of powers is practised, the Judiciary and the legislature are the necessary constitutional arrangements to exercise checks and balances on the Government.

However, without the necessary knowledge, the legislature, regardless of its good efficiency, and the Judiciary, regardless of its impartiality, may not be able to exercise checks and balances on a government which has acted *ultra vires* or committed serious mistakes. As a result, government mistakes cannot be prevented. Nor is it possible to stop a government from further trampling on the people's rights by abusing its powers.

Therefore, an archives law can serve as a very important checking tool, which may not give full play to its functions immediately, but has the deterrent effect in itself so that those in power will have a sense of crisis: evils done now will certainly be disclosed to the public one day.

President, I urge Members not to underestimate such deterrent effect. I believe such deterrent effect will have a bearing on the decisions made by rulers who still have some concern for the people.

President, insofar as proposals for enhancing the quality or transparency of the Government's governance and upgrading the level of civilization or democracy are concerned, the pro-establishment camp has adopted the stonewalling tactic, as they did in the past, and argued that the situation should be observed before making any decision, adding that similar arrangements have already been put in place. President, this is the standard response of the pro-establishment camp.

I cannot help asking whether such a response to the motion today is appropriate. President, from the perspective of the pro-establishment camp, the most justifiable argument is that the SAR Government has established the Government Records Service (GRS) under the Administration Wing which has put in place a series of arrangements which we wish to be implemented through an archives law. Thus, there is no need to enact another law given that the existing arrangements can deal with the requests we raised earlier. Is this really the case?

President, according to the latest report by the Director of Audit, the Director of Administration issued the Records Management Manual (RMM) to bureaux/departments in 2001, requesting various bureaux/departments to manage government records in accordance with the RMM. Furthermore, a General Circular was also issued in April 2009, stipulating some key provisions of the RMM as mandatory requirements. However, as of 31 October 2010 (or nine years after the issuance of the RMM) many bureaux/departments have not yet implemented some of the major provisions of the RMM and four departments have reported losses of records or unauthorized destruction of records. Worse still, even more bureaux/departments have failed to comply with the mandatory arrangements under the RMM. It is evident that if there is no archives law to regulate records management, I believe civil servants will adopt a perfunctory attitude all the same.

In June 2011, there were 59 000 records pending appraisal which involved 570 requests for records destruction by bureaux/departments. Of these 570 requests for records destruction, six have yet to be entertained after the requests

have been lodged for six years or more. President, this proves that legislation is essential.

MR ALBERT HO (in Cantonese): President, ever since the beginning of the early 1970s, some people have been demanding the enactment of an archives law. In 1989, Mr Don BRECH, the former Director of the Government Records Service (GRS), pointed out that the problem of public records management in Hong Kong was due mainly to the absence of an archives law. The relevant Panel of this Council has on many occasions requested the Government to introduce legislation on archives, but the Government has not been responding. In April this year, the Democratic Party wrote a letter to the then Chief Secretary for Administration requesting the enactment of an archives law. The written reply from the Government is (and I quote): "The fundamental principles which other countries have created through the passage of archives law have been implemented in Hong Kong via administrative arrangements. We opine that the current system can meet the present demand." (End of quote). President, this kind of response is simply self-deceiving.

According to the report on the management of public records released by the Audit Commission today, the Government has formulated the Records Management Manual and made some of the provisions therein mandatory, but many departments have yet put them into implementation nine years after its promulgation. As for the confidential archives more than 30 years old, there are still over 1 000 records that cannot be accessed by the public because the records have not been appraised by the 18 government departments. The Audit Commission's report also pointed out that, in terms of records creation, all provisions were not mandatory. Under such circumstances, the GRS simply has no idea how many records have been created by the Government each year, not to mention enforcement of regulation.

We should still remember the tragic accident back in 2008 in which a young girl named CHONG Chung-yin was crushed to her death by the fallen branch of a rotten coral tree in Stanley. The Coroner's Court inquired the Government about the details of tree inspections, and the manager of Leisure and Cultural Services Department at that time said (and I quote), "My colleagues did the inspections. But I cannot locate some of the reports. Some of them e-mailed me the photos they had taken instead of sending me hard copies of the

reports. But they are all gone." (End of quote). This is only one of the examples. It is then evident how incoherent the Government has been in every aspect from creating and preserving records to handling electronic records. Had there been an archives law, the situation in which records having become untraceable would not have happened. With regard to public records destruction, the supervision is equally insufficient.

Many Honourable colleagues have mentioned today that, according to the Government reply to Ms Emily LAU's question, the 14 Policy Bureaux and offices that have moved to the new Central Government Offices Complex had, by estimation, destroyed files involving 3.55 million pieces of paper or equivalent to the height of three blocks of IFC towers during the period between April and September this year. The GRS has a staff of 25, but only six of them are archivists. How could they conduct appraisal of such a huge quantity of information to justify records destruction within a short duration of six months? In this office relocation, the Office of the Chief Executive had applied for approval from the GRS and was granted the same to destroy 66 linear metres of public records in one go. Not only the public records involving major policymaking processes are worth keeping, even the public records from the Chief Executive's Office, though administrative management in nature, may also be worthy of historical study. For instance, the kinds of formality the Chief Executive used to receive leaders of nations, or the reason for building a pond for coloured carps in 2005 when he moved into Government House can all be worthy of study. The GRS empowers some Executive Officers to appraise whether the public records are destroyable. But the point is: Do they possess the professional qualification to appraise the significance of those records? In the absence of an archives law, the GRS basically has no statutory duty or power to protect public records. In other words, the GRS is not legally responsible for any negligence in the course of approving any records destruction.

President, with regard to the transfer of public records to the GRS for storage and public access, the management system of the GRS can be described as nothing but an empty shell. The Security Bureau, which should have held a myriad of confidential information, transferred only 42 public records to the GRS from 2006 to 2010 and none of them was classified as confidential. Among the other 46 government departments, only 11 had transferred their confidential records. As for important documents, the Policy Bureaux may destroy them themselves, or remove some of the contents. So we completely have no knowledge of such. Although the public records are not destroyed, according to

the current system, the relevant bureaux still do not violate any ordinance or regulation if they want to keep the records permanently rather than transferring them to the GRS.

President, the larger disaster area lies in the public bodies because the Government's mandatory measures on the management of public records are not applicable to publicly-funded organizations. Take the Hospital Authority (HA) as an example. The captured statistics on patients information on the development of the public medical sector as well as data on the implementation process and the management system together form a valuable public asset. Concerning the current development of private hospitals, the Government has introduced the Public-Private Partnership. The Mainland is also interested in understanding more about the management system of Hong Kong public hospitals, the internal management of the HA and the statistical records and information regarding the patients. I believe that all these information and records do worth a great deal of money in the market. If we do not have a good archives law, some valuable experience and records can hardly be kept once certain medical practitioners or managers left the public sector. Even worse, the experience as well as the records may altogether disappear from the public system following their joining other hospitals. In a worst-case scenario, patients' rights are not fully protected.

President, public records preserve historical facts. A responsible government or politician has no right whatsoever to deprive the public's right to know historical facts. We, therefore, demand legislation. The Democratic Party supports Dr Margaret NG's motion as well as Ms Cyd HO's amendment.

MS MIRIAM LAU (in Cantonese): President, as the old saying goes, "People can foresee the future by viewing the past". For a city or a society, government records are not only valuable archives, but also important assets of the people as they have recorded the overall sensibilities and development process of society, helping us understand all historical events so that we can draw experiences and lessons therefrom and avert formulating policies which are erroneous and not worth our efforts.

Unfortunately, although our neighboring countries and regions (including our country) have formulated an archives law to regulate the handling of

government records, Hong Kong, being known as a civilized and advanced city, does not have any law to protect these valuable public records, except the introduction of a set of mandatory records management requirements in 2009.

In this connection, I raised a written question in the Council earlier, asking whether the Government could give an undertaking that no government records would be destroyed until proper appraisal had been conducted, and what measures would be taken to prevent the destruction of a huge quantity of valuable or important documents due to the relocation of the Central Government Offices. Unfortunately, the Administration had only given me a bureaucratic reply, saying that any employee who violates the records management provisions would be subject to disciplinary action, and a review of the records management requirements would be launched in the second half of 2010. However, it did not give any specific undertaking concerning the timing of releasing the results.

What has happened consequently? Consequently, during the period when the Government Secretariat was moving to the new offices at Tamar beginning in September this year, records with a total thickness of 1 181 metres, which is equivalent to the height of three blocks of Two IFC towers had been destroyed within the six months prior to the relocation alone. It is questionable whether some government departments have intended to paralyse the Government Records Service (GRS) by these 1-km-thick records so that they could "take advantage of the situation" and destroy sensitive information. During the past 18 months from last year to June this year, the destruction of more than 6 million government records with a thickness of 1 746 meters has been approved. Is the GRS Director merely a rubber-stamp? Can he play the role as a gatekeeper in reality? I believe everybody is dubious about it.

In fact, the Government has been notorious for records management. For example, in the 2004 inquiry of the change in land use of Discovery Bay resulting in the loss of \$160 million in government revenue, the Public Accounts Committee found that part of the documentary records relating to the Discovery Bay development had gone missing. The inquiry ultimately ended up with nothing definite. If we do not formulate an archives law, how can we ensure that officials will manage records properly and be held accountable?

As pointed out by Mr Simon CHU, the former GRS Director, even though some government departments have destroyed records on the sly, the GRS is unable to exercise regulation in the absence of legislation as its support. This shows that the so-called "mandatory" in the existing provisions is practically not in the real sense of the term.

Besides, according to some information, major government departments (such as the Chief Executive's Office, the Chief Secretary's Office and the Financial Secretary's Office) responsible for making the most vital decisions have not provided any records for appraisal and preservation since 1997. Thus, information concerning the reunification of Hong Kong in 1997, the implementation of the Accountability System for Principal Officials in 2000, the employment terms and conditions of political appointees, as well as the selection process and procedures, may be like a stone sunk into the sea and the facts can never be uncovered.

Moreover, in the past five years, government departments and bureaux have been reluctant to hand over records for appraisal and preservation by the Public Records Office (PRO). The number of records transferred to the PRO has dropped from the average of 500 000 items annually from 2003 to 2007 to 50 000 items in 2008, representing only one tenth of the original quantity. In 2008-2009 and 2009-2010, the number of records transferred from government departments to the PRO has further decreased by 44%, which is a cause for concern. The problem is that the post of the Director has no longer been served by persons with relevant professional qualifications but staff of the Administrative Officer Grade since 2007. The public will inevitably not have sufficient confidence in the Director's dedication to effective management of public records.

Thus, the Liberal Party support the enactment of an archives law as the confidentiality period during which government records are sealed up for safe keeping before being made open to the public can be clearly defined by legislation. Hence, our future generations can have a better understanding of Hong Kong history and government policies in context. The government officials should not blindly resist the legislation because of their "legal responsibility".

In fact, not only records management of government departments is important. Since the functions of many statutory bodies are also closely related

to people's livelihood, it is necessary for the Government to consider imposing regulation on both government departments and statutory bodies in this regard.

Here are some examples to support such legislation. The minutes of 10 daily meetings of the Hospital Authority (HA) in 2003 when it held meetings daily to discuss measures to deal with SARS were found missing; and the victim of a hospital mix-up who wished to locate his biological parents found that the HA's birth records had already been destroyed. Even one farce is too many and the problem must be rectified as soon as possible. If the Government says that the existing public records management is proven, I am afraid it is no more than a self-deceiving claim.

However, as to the question of whether it is necessary to establish a standing committee to review the existing situation of records management, we have reservations as it will mean duplication of efforts. Besides, as for other Members' proposals that consultation on the legislation is not necessary and adoption of other measures to enhance regulation will suffice, we consider this "old wine in a new bottle" and not effective at all.

With these remarks, President, I support the original motion.

MR LEE CHEUK-YAN (in Cantonese): President, I speak in support of Dr Margaret NG's motion concerning the enactment of an archives law and all the amendments proposed by Ms Cyd HO. In my opinion, this is fundamentally the duty of a civilized government with a reputation of good governance. The SAR Government should feel ashamed for it needs a reminder by this Council, and it fails to do anything despite numerous reminders.

We often say that we should draw a lesson from the past. However, if the historical records have been destroyed, how can we draw a lesson from the past? While the people are very concerned about the right to know, the Government always carries transparency on its lips. If government records can be destroyed arbitrarily, where is the public's right to know? If government records can be destroyed in such a manner, where is the transparency? It is impossible to have transparency. How can there be transparency if records of government acts which have been carried out on the sly or secretly are all destroyed afterwards? How can there be good governance? If a government does not give people even

the right to know, through what channel can the people monitor the government, or examine what problems have happened to the government's governance? There is entirely no channel for them to do so.

In my opinion, it is most regrettable that an archives law has not yet been enacted in Hong Kong. Archival documents are the most important treasure and precious cultural heritage of the people in a society as they will also form an indispensable part of their collective memory. If such important memory and treasure are not properly managed and preserved, the people's collective memory and treasure will vanish. It will also constitute a disrespect to history. Therefore, we hope that the Government will really show respect for history, or else many historical events will never be known by our posterity.

As we all know, given the absence of an archives law, the main offices of the Government, including the Chief Executive's Office, the Central Policy Unit, the Hong Kong Monetary Authority, the Chief Secretary's Office or any bureau's office, do not have any obligation and responsibility of transferring government records to the Public Records Office. What would happen if these records are not preserved? Many historical events will become unsettled cases forever, and people will never know the facts even after 30 years. For instance, what were the justifications of Chief Secretary Stephen LAM in determining the Political Assistants' salaries to be more than \$100,000? What was the discussion process? How were the candidates selected? No one knows. If the archives have been destroyed, then — I do not know whether they have been destroyed or not. Would the Chief Secretary please tell me what have been destroyed and how many? We have been kept in the dark. The relevant records at that time and documents on the discussions of the selection of candidates may have been destroyed and the facts will never be known.

Another very important example is the two instances of interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC). In the whole process of the interpretation of the Basic Law by the NPCSC resulting in the deprivation of Hong Kong people's right to universal suffrage in 2007 and 2008, are there any correspondences between the Chief Executive and the Central Government? Are there any records? We do not know. We do not have any knowledge of such important events in history.

Another example is the legislation on Article 23 of the Basic Law. According to the Government's reply to a written question by the Legislative Council, there are 110 archives, of which 88 are confidential. What are these confidential documents about? Did the Central Government play any role in the legislation on Article 23 of the Basic Law? What had happened at that time? Nobody knows. These files may be destroyed in future. Given that there is no archives law, I have no idea of the procedures to be followed by the Government in destroying these files. Under the circumstances that there is no archives law, we will never know what have been destroyed. As pointed out by Ms Miriam LAU, an unknown quantity of documents was destroyed during the relocation of the Government Secretariat. The files I mentioned just now may have also been destroyed.

Therefore, the facts of numerous historical events will never be known. We may still have the opportunity to know what happened 30 years ago because the United Kingdom is obliged to preserve those archives. To our knowledge, some people who studied the riots in 1967 had access to relevant records in the United Kingdom in order to understand what happened in 1967 and what preparations had been made by the British Hong Kong Government. Such information is very useful and available for public access because of the archives act of the United Kingdom. However, if we in the future want to know what has happened now, we are unable to do so because all records have been destroyed. I wonder whether Chief Secretary Stephen LAM will feed documents into a shredder whenever he is free at night. Maybe many high-ranking officials and the Chief Executive also have a shredder at hand every night, or else they would not have had the time to destroy so many records. I wonder how you can make it.

We do not want to see a situation where all important archives are really destroyed. They may not necessarily be related to politics. Some are concerned about people's livelihood. I have read the files of a case about the fallen tree incident in Stanley, which is still in our memories. The Coroner at the Coroner's Court at that time demanded the inspection of records and was told that none had been kept. The Coroner's Court was unable to conduct the inquiry further in the absence of records. Why were records all gone? No one knows. If an archives law has been enacted, every civil servant will be duty-bound to classify and preserve records according to the procedures. Those high-ranking officials and the Chief Executive cannot do whatever they want or decide on their

own as to what records should be preserve and what should not. This is the way to show our highest esteem to history.

Finally, in my opinion, if Hong Kong does not enact an archives law, it is simply an uncivilized act and a disrespect to history. Are the government officials afraid that their poor governance will be exposed, and so they dare not enact an archives law? Thank you, President.

MS AUDREY EU (in Cantonese): President, I will explain on behalf of the Civic Party why we oppose Mr Paul TSE's amendment.

First, Mr Paul TSE confused the basic concept when he spoke. When he raised the first reason he inquired this Council if we had any recollection of what Mr Tony BLAIR, the former British Prime Minister, replied after stepping down from the office when he was asked what was his greatest regret during his term of office. He replied it was the passage of the Freedom of Information Act, which is a piece of legislature on the flow or freedom of information. The Act was passed in 2000 and came into operation in 2005. However, the original motion raised by Dr Margaret NG today is in fact about an archives law, which the United Kingdom had passed in 1958 with a view to solely requiring the government to preserve public records. The areas covered by the Freedom of Information Act, namely, the issues regarding the flow of information, were not touched upon.

Mr Paul TSE said in his speech that the former British Prime Minister regretted passing the Freedom of Information Act because the law empowered the mass media to intensively ask the government for news or information. This kind of opinion reflects, to a certain extent, the blind stance of the "loyalists". In other words, he feels that passing such a law will constitute a situation that warrants the Government's attention.

Mr Paul TSE continued to explain that some irresponsible media could cause a great deal of disturbances to the Government — I have written down his wordings — I feel very ridiculous at hearing it. What does "some irresponsible media could cause a great deal of disturbances to the Government" mean? What about those responsible media? What about those university professors in

history or those scholars engaging in research? Should Hong Kong not have any archives law simply because of some irresponsible media?

He also raised another reason, that is, the mass media would probably misuse the archives law. I find this "theory of misuse" really misused. Take judicial review as an example. Some people think it is no good because there are always some people who will misuse the system of judicial review. Accordingly, we should not have judicial review and the system should be abolished. He has not considered the fact that judicial review cannot continue without the Court's approval. Where does misuse come from? This kind of plausible statement is often used as an excuse to impede something that should be done.

I have in hand a funny cartoon picture from a booklet made by the Hong Kong Human Right Monitor. It writes, "The Government is too shitty to legislate on 'archives'" — an ironic backhand for satirizing "the shitty Government has no archival legislation". It depicts Donald TSANG and his governing team. In the picture, Donald TSANG said, "Dear brothers, these archives have recorded our mistakes in decision-making. Luckily, they are at our discretion. Let's destroy them so that our wrongdoings will leave no trace!" Although it is only in the form of cartoons, it gives the picture of why the Government has been reluctant to enact an archives law.

I had listened carefully to Chief Secretary Stephen LAM's speech which lasted for more than 21 minutes. Such a lengthy speech can actually be summarized in four words, namely, the mechanism is proven. In one short sentence, there is no need for legislation. You were once again talking about the situation over the past decade and indicated that legislation is unnecessary given a proven mechanism. But as a matter of fact, many colleagues have mentioned today that, in the removal exercise to new Central Government Offices Complex, the Government has destroyed records stacking up to the height of three IFC towers, or equivalent to 1 181 running metres of documents within six months' time. Mr Simon CHU, former Director of GRS, said that it was impossible for the GRS to appraise records equivalent to the height of three IFC towers within six months to decide if they could be destroyed. Rightly as Ms Miriam LAU said, it was a sheer attempt at "taking advantage of the situation". Even Mr Simon CHU referred to it as a "mission impossible". You explained to the people that approval from the Director of GRS should be obtained before

destroying any records. The situation was actually like that. Therefore, you imperatively gave him an impossible mission to accomplish within six months so that he was forced to say something like: "OK, I have read them." You have not responded with regard to this point.

In his speech, Mr Stephen LAM did not at all respond to the Director of Audit's report submitted today. The report mentioned the mess under the Government's "proven" mechanism, which Ms Miriam LAU described in her speech as "notorious". Many Honourable colleagues speaking today have also cited various examples. The Director of Audit indicated that 59 000 public records have been awaiting appraisal since June 2011. Compared with the 18 000 records in 2007, the situation is getting much worse. Besides, the records pending appraisal involve 570 bureaux and departments. According to a sampling survey in 2002, even if the archives could fortunately be preserved, 30% of them would be damaged; even if the records were transferred to the GRS for preservation, no stock taking would be conducted.

During the sample survey, the Audit Commission also found that many departments had failed to return borrowed records. As a result, some records were reported lost. As of June 2011, there were 280 000 unregistered archives. After a decade, the introduction of electronic archives is still a castle in the air. Moreover, 18 departments have yet confirmed whether 1 137 records can be made open to the public. There are still many similar figures and any one of them is very astonishing. It proves that the mechanism is absolutely ineffective; it also proves that the enactment of an archives law can brook no delay. As I said at the beginning of my speech, the United Kingdom had already passed the Public Records Act in 1958. Mr Ronny TONG also said in his speech that most civilized societies in the world have enacted an archives law. Why is our SAR Government reluctant to legislate for this?

Thank you, President.

MR LEE WING-TAT (in Cantonese): President, I speak in support of Dr Margaret NG's motion.

President, although I was not in the Chamber when the Chief Secretary spoke, I managed to listen to his full speech. Why did I leave the Chamber?

Because I wanted to read the report of the Audit Commission's report. Though my Chinese standard is fair, I soon finished reading it by means of fast reading. I would like to raise three main points.

Firstly, the Chief Secretary mentioned the General Circular No. 2/2009 issued by the Director of Administration. He found the implementation of the circular by various departments quite satisfactory. In fact, a series of mandatory records management requirements are provided in this circular and these provisions are well-written. But I have also read the comments of the Audit Commission, which pointed out that only 36% of bureaux/departments have complied with the requirement under the heading "Percentage of administrative records classified according to the standard classification scheme", which refers to the practice of classification. Frankly, this is a very bad situation. I will not talk about the other parts of the report. The figure implies that many bureaux/departments have not complied with the requirements in respect of classification and records creation. This is the General Circular No. 2/2009 issued by the Director of Administration, which is not a law. This is my first comment.

Secondly, President, after reading this report, I found that the government records must have been kept in miserable conditions. What is the greatest enemy of these records? The answer is cockroaches. As pointed out in paragraph 2.26, "72% of bureaux and departments had not stored records having long-term value in a clean environment with round-the-clock control of temperature and relative humidity". Stored in a poor and humid environment, these records will decay. We all know that cockroaches and ants eat paper as they can feed on paper. I studied Biology in the university. From the perspective of cockroaches and ants, paper is food. What we are now talking about are valuable records rather than ordinary files. Moreover, they are records having long-term value, which, however, are stored in a place without climate control. What will these records become after being stored in such a humid environment for two to three years? They will surely become cockroach food. Therefore, the cockroaches should thank the Government for providing plenty of food as 72% of the departments have not managed records properly. Owing to the undesirable storage conditions, some vital records have been eaten by cockroaches, which will certainly feed themselves well. These records alone will provide sufficient food for these insects.

President, the third point I wish to talk about is the experience I have gained from working in the Select Committee to Inquire into Matters relating to the Post-service Work of Mr LEUNG Chin-man (Select Committee). Why records are very important to many people? Why some people are so afraid of records? The then United States President Richard NIXON, who was involved in the Watergate scandal, wanted to purge the tapes or cover up something; President BUSH, in his memoirs and interviews, also said that official records had been a great trouble for him because many things done in the White House had been recorded in archives and tapes and words, once spoken, could never be retracted.

The Audit Commission has mentioned one thing, namely, records on loan to other departments. President, records are loaned by departments rather than the general public. It is not surprising that records are loaned by departments for reference as they contain valuable materials. However, I cannot rule out the possibility that some records on loan were accidentally lost or destroyed because these records may show that some decisions or practices are erroneous, or some acts done must be concealed.

According to paragraph 4.22 of the report, during the course of the audit review, it was found that as of June 2011, of those 438 archival records kept by departments, 236 (54%) had been kept by the departments concerned for more than one year. It is very scary, and it can be called a scandal. Records on loan are supposed to be returned as soon as possible. But some have been overdue for three months. For those which have been overdue for a year may be never returned. It is like Jingzhou, which was borrowed by LIU Bei in the Three Kingdoms, had never been returned. What are those records? The authorities should find out the contents of those 236 records in order to understand why they have been kept for a year. Furthermore, according to paragraph 4.23, there were a total of 391 reported losses of archival records while on loan. President, there are 236 records being kept by departments for more than a year, and another 391 records of vital value, rather than ordinary records, have been lost. The departments concerned said, "I have borrowed the records, but they were lost." Is such a practice not scary? Here the number of records referred to is more than 620. Some valuable archival records have even been lost. I have no idea what responses could be given by the Chief Secretary to such queries. Perhaps he should go back and read the Audit Commission's report. On my part, I am most grateful to the Director of Audit for the report.

In the Select Committee, I have read a large amount of records, some of which are even confidential although names are masked. We could even access e-mails. So, during our inquiry, as Deputy Chairman of the Select Committee, I also found it relatively easy to conduct our work. However, when some people know that history will be thumbed through and some information may be disclosed those 391 records may not be lost all because of this reason. However, if some people who hold such an idea made use of a simple way to destroy these records without being held responsible in terms of procedures so that the historical truth will be concealed forever, it is hardly acceptable.

President, if the Chief Secretary said that the existing records management procedures are operating well, I wonder what justifications he could offer. I hope he can give an answer to my question today, if not, a written reply in future. So, my conclusion is very simple, President. In the absence of an archives law to underpin the mandatory requirements, many staff in various government departments will not strictly comply with the rules.

Thank you, President.

MR ALAN LEONG (in Cantonese): President, the history of Hong Kong itself is a unique and wonderful documentary. Without any statutory safeguard in such legislation as an archives law, the Government can destroy or retain any document or files at its discretion, leaving the Hong Kong documentary containing our collective memory excruciatingly incomplete.

President, the historical archives of Hong Kong does not belong to the Government. Nor does it belong to any government official. It belongs to the people of Hong Kong.

The archives law can be described as "all the pluses and no minus" to the public. I really cannot imagine why the Government has to delay such legislation. Besides avoiding accountability and unwilling to do things open and aboveboard, I really cannot think of any other reason for refusing to legislate.

A number of Members who have spoken pointed out that the Government has gone too far destroying archives to such an extent that we can no longer

withstand any more delay in legislation. Hence, the Civic Party cannot support Mr Paul TSE's amendment while anticipating the Government to commence public consultation on the enactment of an archives law with a view to properly preserving Hong Kong people's collective memory.

President, as for the significance of an archives law, it is not difficult for us to understand if we can recall some of the issues that we had been discussing in this Council or among the public. Take the "85 000 housing policy" as an example. Who was that "private adviser" coming up with such a stupid idea and suggesting its implementation at full throttle? Was there any transfer of interests in the negotiations over premium assessment for Hung Hom Peninsula? During the recent heated Council debate on Jeremy GODFREY, we wished to find out if there was any pressure from anyone to obviously favour any individual body.

Let us think about it. After the enactment of an archives law, all major government decisions shall be recorded. Once recorded, what the relevant officials have done will be exposed some day and the truth of the above-mentioned unsettled historical cases will eventually come out. President, in the era when most government records are digitalized, we think mandatory preservation of the records is urgently required.

Many Honourable colleagues mentioned just now that the Government last year had destroyed a huge quantity of documents to cope with the arrangement to move into the new Central Government Offices Complex, which embodies the concept of "Door Always Open". As a result, 99.6% of the documents were destroyed with only 0.4% of them preserved. In foreign countries, they usually preserve 3% to 10% of the documents. In the United States, government documents are preserved 100%. There is an extremely huge discrepancy between Hong Kong and foreign countries in the preservation of government documents.

Many Honourable colleagues have mentioned the statement of Mr Stephen LAM, the Chief Secretary for Administration. He said that the relevant archives had to be submitted to the Director of the Government Records Service (GRS) for approval before destruction. However, we know that the GRS has only 25 staff — if we include those who have never received any formal training in public records management. Even if they work round the clock without going home,

eating, sleeping, resting or performing any other duties, there is no way for them to review the relevant archives. So, what he said is simply a bunch of nonsense.

President, the Government has reiterated that all bureaux/departments are required to handle the archives in accordance with the so-called "record disposal schedule". Upon expiry of the appropriate duration for which the record is kept, it should be subject to appraisal. Prior consent of the GRS Director must be obtained before any government records are destroyed. In addition to the absence of an archives law, there is simply not a single ordinance empowering the GRS Director to monitor the transfer of records. If Chief Secretary Stephen LAM happens to say something like: "I don't like to give it to you", what can the GRS Director, who is much lower in ranking, do? I hope that the Chief Secretary can elaborate to this Council later.

An archives law does not only care about the proper custody of public records. The first and foremost requirement is to make it mandatory for the officials to create files in the course of policymaking.

In the absence of an archives law, the Government's failure to create files is worthy of attention. Since 1995, there have been as many as 1 200 cases in which the Government has failed to make information available to the public pursuant to the Code on Access to Information simply because of non-existence of relevant records.

President, an archives law is more than creating records. It focuses on the professional management and storage of public records. Unfortunately, in the absence of an archives law, the Government has been refusing to submit information to the Public Records Office for appraisal. The situation has become more and more serious. During the period between 2003 and 2007, 500 000 records on average were kept annually, but the figure dropped drastically to merely 50 000 in 2008.

The Government likes to classify those records that involve administration as confidential. Among the 12 bureaux, at least five bureaux have not transferred any confidential records to the GRS during the period from 2006 and 2010, including the Development Bureau, Security Bureau and Education Bureau.

President, I am very worried if we go on like this. When our younger generation happens to take a look back at the history of Hong Kong, they will find this documentary similar to an old Cantonese movie. They are watching an old footage that shows a pronounced flicker, with the image keeps getting lighter and darker like, metaphorically, a "fragmented grain worm". Our next generation will be a generation of no history. This is not a blessing, and it is the last thing we want to see.

With these remarks, President, I support Dr Margaret NG's original motion and Ms Cyd HO's amendment.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, when it comes to national education, people are clamouring noisily over it. A country surely has its own history and for China, there are the "Twenty-Four Histories plus the Draft History of Qing". Some people even went so far as to sacrifice their lives for the sake of writing history, for example, WEN Tiancheung and FANG Xiaoru, whom I have mentioned a number of times. Because he refused to yield to the demand of the King of Yan to falsify history, he met the fate of having 10 categories of his agnates exterminated. Even his disciples were implicated and killed. This is a tremendous sacrifice made by people who did not have the modern concept of history preservation in the ancient times. Nowadays, we have a set of modern concepts that we can talk about eloquently. We have the financial means and the assistance of technology, so there is no need to transcribe, nor is it necessary to use bamboo slips as the recording medium. We need only photocopy or scan the documents, but one does not even bother to do so.

Not only that, a Bureau Director who has been recently promoted to a Secretary of Department also told us that we do not have to worry about such things. Secretary Stephen LAM sorry, it should be Chief Secretary for Administration, Stephen LAM, you have a great chance of being elected the Chief Executive. You can be a black horse at any time because you are really shameless enough. The requirement for being a Chief Executive is to be shameless and dare tell lies, speak nonsense and say meaningless things, and you have almost acquired such prowess.

Now, the Director of Audit has published the relevant information. Of course, this has nothing to do with him because he used to be a Director of Bureau but now he is the Chief Secretary for Administration, so what has this matter got to do with him? The point is that in attending the Legislative Council meeting today to give a response on this matter, he is representing the Government, yet he is still telling a pack of lies. Not to mention other things, the situation in which I found myself when asking the Government for information here can already testify to this. For example, after the outbreak of the Lehman Brothers Minibond Incident, I made enquiries about two persons who should assume the greatest responsibility, asking questions about whether or not Joseph YAM, John TSANG and KC CHAN had convened any meeting during this period. Were any e-mails sent to give instructions? I asked the authorities to provide me with all the relevant information within a year. Government officials fobbed me off, saying that the investigation had been concluded. Was such information actually available? Should it be provided to us? It can be said that no definite answer was given to this, and there was no need to assume any responsibility whatsoever.

You must understand that the Basic Law confers on us the power to monitor the Government. In other words, you must submit your homework to us. You did not even provide this kind of information to us, so there is no need to talk about other things. Therefore, this issue today can indeed be summarized by two lines from a Tang poem, that is, "murder in a dark and windy night" and "the city dresses golden like wearing a corselet". On the one hand, the Government is talking very eloquently, about such things as open administration, power in the hands of the people and preoccupation with public sentiments, so all these are the gilt façade. On the other hand, it adopts the tactic of "murder in a dark and windy night", mowing down people like grass without making a sound and, in addition to killing people, it even wants to erase the history. In fact, this is how the burning of books and burying of scholars was like.

Secretary, today, you really have to give a reply to this Council here on whether or not you would change your ways after making mistakes in the past. Will the Government change? Will legislation be enacted to mandate that the Government opens files and establishes archives, preserving and classifying them, so that this Council and all the people concerned (that is, Hong Kong

people) can have the right to know? That is history and what national education has to impart in students is not that "the party is more important than the country" or that "it is feudal thinking to think that there can be no other parties outside the Party and strange and weird to think that there are no factions within the Party".

What is a nation if it has no history? What is a nation if its history can be falsified easily? Such a situation really exists. Chief Secretary for Administration, you used to work in the Constitutional and Mainland Affairs Bureau and I believe you must have also read quite extensively. The history of our country has been falsified from head to toe. Since 1949, it has been continually falsified. It has been falsified according to the whims of those in power. However, sometimes, one cannot really say so. Even the Communist Party of China (CPC) has an archive. They know themselves too well. They know that in the final analysis, it is necessary to keep genuine historical records, so that they can have the basis when they find it really necessary to look back and make further falsifications.

Our Government is even more inept than the CPC because it has no historical future or any confidence, so it wants to abandon the original version of history. This is the biggest sin, buddy. The CPC also leaves a way out when it falsifies history. This is why they can dig up the information again later on, saying with sudden realization that CHEN Duxiu was actually a good guy and LIU Shaoqi, who was once denounced by Chairman MAO, a "traitor", "mole" and "traitor of the workers" dead already, was also a good guy. It also wants to leave behind its history. However, even if you want to vindicate me in the future, you cannot do so because the historical records will be lost, so there is nothing much that can be done.

President, a Government that does not preserve history for the people governed by it and for itself is actually a Government without a sense of history. In other words, it lacks confidence in itself; it does not want to be assessed by posterity or be evaluated by contemporary people. Chief Secretary, you really must answer the question asked by Dr Margaret NG. I have little talent or learning, but Dr Margaret NG has already raised the question. Will the Chief Secretary for Administration implement the proposals? If he will, how much financial resources will be allocated for this purpose? Will a legislative exercise be carried out? You only have to say one thing or another, rather than accusing people all the time of hurling objects for all sorts of reasons. Dr Margaret NG

did not hurl any egg at you today. She only directed several questions at you. Under her influence, I am not going to throw any eggs anymore, but how does the Chief Secretary for Administration want to deal with this matter? Do you have any sincerity in enacting any law? You only have to give an answer.

What if you let me propose an archives law, so that you can veto it? If you dare say that you would not enact any law, I will create something for you to do by proposing an archives law. It can be based on the relevant law in the European Union, so it is really not difficult to do so. Is this what you want? Do you want to arouse the concern of WONG Yan-lung? You have to answer the question asked by Dr Margaret NG quickly and stop being so shameless.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Margaret NG, you can now speak on the two amendments. You have five minutes.

DR MARGARET NG (in Cantonese): President, today, two Members have proposed amendments. Basically, Miss Cyd HO agrees with enacting a law but she proposes that a committee be established before doing so. In fact, the focus is her serious concern about the present lack of manpower in the Government Records Service (GRS) and the issue of professional qualifications, so I support her amendment.

President, the most important point in my original motion is the demand that the Government launch a consultation and enact a law expeditiously, but in Mr Paul TSE's amendment, the word "enactment" is deleted and it only says that the Government should conduct a review expeditiously and promptly. However, we have all heard the speech delivered by the Chief Secretary for Administration, Mr Stephen LAM, who said that the authorities conducted reviews frequently and that ever since the compulsory requirements had been proposed in 2009, reviews had been conducted all the time, so Mr Paul TSE's amendment is tantamount to

saying that the Government needs not do anything and it only has to follow the existing practice. This is unacceptable.

President, the most important thing is that today, Mr Paul TSE has also read the Director of Audit's report and he also agrees with two points: first, archives are very important and second, at present, many problems have arisen. However, for some unknown reason, one refuses to change even though one knows that one has been wrong. He insists that the present situation is still not too bad and there is still no urgency and that Tony BLAIR of the United Kingdom also regretted the passage of the Freedom of Information Act very much. However, what I talked about was not the Freedom of Information Act, but the Public Records Act. In 1958, the Public Record Office, which we are all very familiar with, was established by virtue of that piece of legislation. Moreover, the Archives Law of China was also enacted as early as 1987. Regarding the system in China, the Archives Action Group also made a special visit to China. Not only has China enacted the Archives Law, Shanghai also has its own archives law to preserve its archives in earnest, moreover, the system is well-developed. Therefore, President, to look at this purely from the angle of international standards, we should also take this course of action but what puzzles me the most is that today, despite the report of the Director of Audit, some people still think that the situation is not dire enough. How can we still accept the claim made by the Chief Secretary for Administration, that everything is proven, so there is no need to enact a law? How many more historical records do we have to lose, how long do we have to wait and how many historical records do we have to lose before we would think that there is an urgency? Just now, Mr Paul TSE said that this is the ultimatum because the Director of Audit's reminder was already enough. President, that the Director of Audit had to issue a reminder is consummate proof that what is being done is not enough and we need only look at the problems exposed by the Director of Audit to get some idea. The report points out that in respect of mandatory requirements, the key problem is that there is no mandatory requirement, that is, whether or not an archive should be established is decided by individual departments. At the same time, the report also tells us that those departments do not think that they have such a responsibility and the GRS Director also does not think that he has the capacity to handle this matter because at present, work that has not been dealt with for many years is piling up like a mountain. Members can look at the figures. The mandatory requirement has not been enforced for nine years and now, the files accumulated cannot be dealt with within nine years — I do not know why both

numbers happen to be nine — at present, 280 000 files have been accumulated and 33% of them have deteriorated, so I do not know how many percentage more of files Mr Paul TSE thinks we have to lose before there is an urgency for legislation.

President, in fact, the basic question is: Why is it necessary to enact a law? What is the difference between enacting a law and otherwise? There are four differences: First, the law will impose a duty, so that all government departments and civil servants will have to comply with the law, rather than an individual or a departmental head ordering someone to comply with the law. Second, this represents commitment by the Government to being bound by the law. The third difference lies in the resources because Members can all see that I am not blaming the GRS, since it simply does not have the capacity to handle this matter. It looks as though there were just a couple of people and a cat. Administrative measures can be taken to this end, but resources are needed. The fourth is international obligation, that is, we have to let all people see that we are fulfilling such an obligation.

President, if we do not enact legislation and more records are lost, we ought to be ashamed of ourselves in the face of history and the next generation. Therefore, I call on Members to oppose Mr Paul TSE's amendment and support my original motion. Thank you, President.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I am grateful to the 17 Members of the Legislative Council who have expressed views in many aspects on this issue. We respect all of these views which provide an important basis for future review of our work in handling records. I have listened attentively to the views expressed by each Member, and I would like to further give a response now.

First of all, Ms Cyd HO highlighted a few points which, in her view, are important considerations. First, she considered that records are a collection of wisdom from many years of governance. Second, she pointed out that records are a reflection of the relations and dealings between the people and the Government in a certain period. Third, records are a basis for accountability. I wish to respond to these three points.

To people like us who are engaged in public service in Hong Kong, especially colleagues who started out as civil servants and have worked in the Civil Service for decades, every one of us actually attaches great importance to records. Therefore, in the formulation of policies, in the provision of services to society and in the management of each department, we often have to refer to the records for information, irrespective of whether we are handling old or new issues.

How was a certain decision made in the past? How did we submit the relevant decision to the Executive Council back in those years? How did we introduce a certain piece of legislation after its passage through the Executive Council? Today, after 1997, how do we make further amendments to laws enacted before in the Legislative Council?

President, this is the most basic training that we received when we joined the Government. All colleagues, be they the Administrative Officer grade, the Executive Officer grade or the professional grade, are provided with such training. So, the first point that I wish to emphasize is that all public servants in government departments in Hong Kong, whether they are politically appointed or civil servants, do respect and attach importance to records, and there is no doubt about this. It is because there are these records that we are able to carry on with our work every day.

Second, Ms Cyd HO talked about the relation between the people and the Government. In fact, Members as well as political parties and groupings keep tabs on the pulse of society. Members reflect the views of the community, and disregarding whether they represent the districts or sectors, they have interactions here with the Government every day, and when we are here to explain to the Legislative Council the proposals of the SAR Government, we actually base on our records in giving explanations to Members and this is what we do every day. The papers submitted by us, whether they are about socio-economic and livelihood issues, or issues considered to be vitally important and very sensitive, such as the constitutional reform, are all debated and expounded comprehensively here. We have also explained here the considerations of the SAR Government and the rationale of our policies and every time, our explanation is soundly based.

On the question of accountability as mentioned by Ms Cyd HO, it is necessary for information to be made public. In fact, the Code on Access to

Information (the Code) has been put into effect for over a decade to almost 20 years. In accordance with the Code, we always publish the information of departments, while the Legislative Council always puts questions to us. In accordance with the Code, although some records have not yet been transferred to the Government Records Service (GRS) and the 30-year time limit has not yet expired, we have already published the information. As Members can see in various investigation committees, the questions that had been put to us were answered positively and openly.

On the question of whether the work of the GRS has been improved as raised by Members, President, I would like to take this opportunity to tell Members that in the later half of 2010 we conducted a survey on records management in various bureaux and departments, and from the results of the survey, we have seen that the departments have made improvements according to the General Circular issued in 2009.

First, the departments and bureaux have appointed Departmental Records Managers not lower than the rank of Senior Executive Officer. Second, most bureaux and departments have maintained an accurate inventory of records. Third, we suggested them to adopt the print-and-file approach for managing their e-mail records and they have put it into practice. Fourth, the departments and bureaux have adopted the standard classification scheme, developed disposal schedules for all programme records and drawn up an action plan for the protection of crucial records before the specified deadline of April 2012 or earlier and so, they have taken actions indeed. Fifth, in respect of disposal of records, since we issued the General Circular and as at September 2011, the draft disposal schedules submitted to the GRS by bureaux and departments have substantially increased by 13 times. Therefore, continued follow-up and improvement are made of the situation, and the GRS plans to conduct another similar survey among bureaux and departments in 2012.

As regards the interaction between the GRS and bureaux and departments as mentioned by Members, I would like to briefly explain this to Members. The GRS has, in fact, taken the initiative to organize training courses and seminars. In respect of training courses, for instance, between 2010 and October 2011, 63 training courses were organized, involving 2 000 colleagues in the Government, and 60 seminars were also held with over 2 000 participants. The topics covered records classification, disposal schedules, how the records should be filed, and so

on. These seminars and training courses were target-specific. For instance, the GRS made these arrangements with the Hong Kong Police Force in November last year; arrangements were made with the Social Welfare Department in June this year, followed by the Lands Department in August this year and the Housing Department in August this year. The GRS will make continuous efforts to take these initiatives forward.

Speaking of the GRS, a number of Members asked who are responsible for examining whether or not archival records should be preserved. I can tell Members that it is definitely the responsibility of the Archivists. I think Mr CHEUNG Kwok-che must have made a slip of the tongue when he said that the incumbent GRS Director belongs to the Administrative Officer grade. He is not in the Administrative Officer grade, but Executive Officer grade. However, the Archivist responsible for the appraisal of archival records, Ms Jessica LAU, meets the professional requirements of the post, which include qualifications equivalent to a postgraduate diploma in records management. Therefore, the appraisal of archival records is undertaken by colleagues with professional qualifications.

Members may be interested in what criteria are adopted for the examination of the archival records. President, these criteria are aligned with the international standards. These archival records are: Firstly, records that document or reflect the organization, functions and activities of the Government; secondly, records that document the formulation, implementation and results of major policies, decisions, legislation and actions of the Government; thirdly, records that document the impact of the Government's decisions and policy plans on the actual environment, society, institutions or individuals; fourthly, records that document the relations between the Government and the people, and the relations between the Government and the actual environment; fifthly, records that document the legal rights and obligations of individuals, organizations, institutions and the Government; and sixthly, records that contain important or unique information or archaic records which can enrich public understanding of the history, natural environment, society and culture, and the economy of Hong Kong. Therefore, the criteria that we have drawn up are well-founded and soundly based.

Members are concerned about whether there will be cases of accidental loss or destruction of records. This is of great concern to the GRS, too. In this connection, in a case of mistaken destruction of records that occurred in the Fire

Services Department, disciplinary actions were taken against the colleague in question. We have worked in accordance with the circular and rules.

Members are very concerned about how many records were destroyed during the relocation of the Government Headquarter from its old offices in Lower Albert Road to the new Central Government Offices (CGO) in Tamar. Is it because we have taken this step that the problem arose? First of all, the new CGO Complex is precisely the offices of principal government officials and colleagues of the bureaux, and each bureau attaches great importance to the history and background of and reasons for policymaking within their respective portfolios. If we lose these records, we would not be able to continuously take our work forward. It would be impossible for us to give explanations to the Legislative Council, and it would be impossible for us to be accountable to the public.

For these reasons, President, we will not rashly destroy these archival and policy records. Members are gravely concerned about whether the destruction of such great quantities of records will jeopardize the history of policies and the deliberations on key issues. This is not going to happen because we are also very concerned about it, and if that happens, it would be impossible for us to continue with our work.

Instead, I wish to tell Members that in 2010, as Members can see from the quantities of records destroyed, 793 linear metres of administrative records were destroyed, whereas in 2011, 1 174 linear metres of records were approved for destruction. But among the records destroyed in these two years (I mean the years when 793 linear metres and 1 174 linear metres of records were destroyed respectively), about 80% were administrative records and 20% were programme records. What are administrative records? They are about the general administration and management in departments, such as finance, accounting, procurement, personnel management, and so on. In respect of programme records, different bureaux have different topics. For instance, in the Civil Service Bureau, the records involve matters relating to the retirement and recruitment of civil servants, and in the Education Bureau, the records involve student assessment and counselling. But in general, we very much cherish these policy records because without these records, we would not be able to carry on with our work. If Members look at the records in 2010 and 2011, it is true that during the relocation of offices to the new CGO Complex, there were applications for destruction of quite a large number of records. The number did increase in

2010 and 2011 because we did not wish to bring so many unnecessary records with us to the new CGO Complex, so that the new offices can be put to good use. So, Members can see that we have maintained the ratio. In 2010, 793 linear metres of administrative records were approved for destruction, compared to 199 linear metres of programme records being destroyed; whereas in 2011, 1 174 linear metres of administrative records were approved for destruction, compared to 301 linear metres of programme records being destroyed. The ratio remained to be 8:2, and we have been able to maintain it.

I have shared with Members more practical information in the hope that Members' concern can be allayed. I do appreciate the reasons why Members are so concerned about the records of these policies and cases.

President, I would like to make a point in conclusion. In response to this motion today, we consider that the SAR Government has all along attached great importance to the management of records. We will continue to endeavour to appraise and preserve records with archival value. However, the enactment of legislation is not the only way to improve the management of records. The Report published by the Director of Audit has pointed to the need to improve the work of the GRS and the need for the GRS to interact and work more closely with bureaux and departments. President, when the Director of Audit's Report is submitted to the Public Accounts Committee for its members to put questions to us, we will further give a response then. We will very much respect the views of the Legislative Council.

In the coming days, we will make greater efforts by all means to improve our work continuously, but it is unnecessary to make a decision at this stage on the enactment of legislation on archives. We will first make an effort to enhance management in departments by administrative means that we can use, and work to achieve proper records management in line with the good traditions of public servants in Hong Kong and their tradition of working industriously and professionally over the past few decades. Subject to the availability of space in the CGO, we will actively consider providing more resources to the GRS, in the hope that assistance can be provided for them to do better. The GRS and bureaux and departments will certainly make continuous efforts to perform their duties and preserve the archival records of Hong Kong properly, so as to continuously provide a foundation and basis for our work in future. Thank you, President.

PRESIDENT (in Cantonese): Mr Paul TSE, you may now move your amendment to the motion.

MR PAUL TSE (in Cantonese): President, I move that Dr Margaret NG's motion be amended.

Mr Paul TSE moved the following amendment: (Translation)

"To delete "provide channels for the public to access" after "public records, and" and substitute with "facilitate the public to access"; and to delete "immediately launch public consultation on the formulation of an archives law and expeditiously proceed with its enactment" immediately before the full stop and substitute with "expeditiously review the existing management of government records, and having regard to the outcome of the review, to consider adopting appropriate measures to enhance the management of government records and related services for the public"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Paul TSE to Dr Margaret NG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Dr Margaret NG rose to claim a division.

PRESIDENT (in Cantonese): Dr Margaret NG 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 stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, 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.

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

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

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 21 were in favour of the amendment and five against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the amendment and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion "Enacting an archives law" 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 "Enacting an archives law" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRSEIDENT (in Cantonese): Ms Cyd HO, you may now move your amendment.

MS CYD HO (in Cantonese): President, I move that Dr Margaret NG's motion be amended.

Ms Cyd HO moved the following amendment: (Translation)

"To add ", and to: (a) establish a standing committee to review the existing situation of records management and put forward improvement proposals; (b) create a professional grade comprising all records management posts in the Government Records Service, and stipulate professional qualifications in records management as mandatory requirements; and (c) extend the mandatory requirements that are currently applicable only to the Government's internal records management to all publicly-funded statutory bodies" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Cyd HO's amendment to Dr Margaret NG'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 Cyd HO rose to claim a division.

PRESIDENT (in Cantonese): Ms Cyd 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:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Dr LEUNG Ka-lau and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Kwok-him, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Ms Miriam LAU, 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 Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd

HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG 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, 26 were present, five were in favour of the amendment, 18 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the amendment, seven against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Dr Margaret NG, you may now speak in reply. You have two minutes and 24 seconds.

DR MARGARET NG (in Cantonese): President, the experts in attendance of this meeting have asked me to make a correction. The first archives law was enacted in the United Kingdom in 1838, not 1958. This is a correction I wish to make.

President, first of all, I wish to thank the 16 Members who have spoken. I believe after the debate today, the issue of an archives law will get wide public attention, especially from teachers, scholars and people who care about the future of Hong Kong. I hope that the authorities can consider the momentum for this in society and strive to make Hong Kong a better place.

President, with respect to the speech made by the Chief Secretary, I must say that I am very much disappointed. As the saying goes, facts speak louder than words. The Chief Secretary has really been eloquent in presenting his arguments, but what are found in the report by the Director of Audit are facts. No matter how eloquent you are, you cannot refute the facts presented in the report of the Audit Commission. What disappoints me is that the Chief Secretary was not saying something like this, "Well, it turns out that I have always thought that civil servants pay great respect to records and stuff like that and they will do something at their own initiative. But actually the Director of Audit tells me that this is not the case. There are many omissions and many records are at risk. We have got a huge backlog and it would not do if nothing is done about it. So we should really have to do something instead of sitting back and do nothing." Despite such words from the Director of Audit, he was still saying that what they had been doing was right.

President, Mr IP Kwok-him said in the debate that he was very happy to see that the archives were accessible to the public. But we should know that speaking in terms of logic, if these archives are gone and if they have disappeared or damaged, there would be nothing to look at. So to address the problem of archives preservation, we have really got to enact a law. The Chief Secretary has said that some 60 seminars have been held and some other things have been done. But all these are useless. It is because no matter how many seminars are held or efforts made, if the goal is not achieved, and if you fail to do that, then you have to make changes. Chief Secretary, I hope that you would pay due respect to facts. I also hope you would pay greater attention to public records in Hong Kong and you would value Hong Kong's responsibility to the international community.

I call upon Members to support my original motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Margaret NG 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)

Dr Margaret NG rose to claim a division.

PRESIDENT (in Cantonese): Dr Margaret NG 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, Ms Miriam LAU, Dr Joseph LEE, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau and Mr CHEUNG Kwok-che voted for the motion.

Mr Abraham SHEK voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin 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, eight were in favour of the motion, one against it and 17 abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 16 were in favour of the motion and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 23 November 2011.

Adjourned accordingly at seventeen minutes to Eight o'clock.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Labour and Welfare to Mr Paul TSE's supplementary question to Question 5

We have subsequently approached the Hospital Authority for the information sought, but are advised that they do not keep such kind of information.