

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 23 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 LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE 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 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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

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

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

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

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

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION

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

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

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

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

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

THE HONOURABLE RAYMOND TAM CHI-YUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

MR YAU SHING-MU, J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING

MISS ADELINE WONG CHING-MAN, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

PRESIDENT (in Cantonese): The meeting starts.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Portuguese Republic) Order	155/2011
Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Kingdom of Spain) Order	156/2011
Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Czech Republic) Order	157/2011
Air Transport (Licensing of Air Services) (Amendment) Regulation 2011	158/2011
Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011	159/2011
Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011	160/2011

Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2011	161/2011
Fugitive Offenders (South Africa) Order (Commencement) Notice.....	162/2011
Mutual Legal Assistance in Criminal Matters (South Africa) Order (Commencement) Notice	163/2011
Legislation Publication Ordinance (Commencement) Notice 2011.....	164/2011

Other Papers

No. 34 — Estate Agents Authority Annual Report 2010/11

Report No. 3/11-12 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Measures to Enhance Regulation of Financial Derivative Products to Protect Interest of Investors

1. **MR PAUL CHAN** (in Cantonese): *Good morning, President and Honourable colleagues. President, it has been learnt that in the face of the drastic fluctuations in stock prices in recent months, in order to reap maximum return within a short period of time, some investors are keen on buying structured derivative products which are of low costs, high volatility and high leverage, in particular the "non-collateralized" callable bull/bear contracts (CBBCs). In addition, quite a number of investors participate in short-term speculative activities (including day trading or even half-day trading). Given that the Hang Seng Index and the prices of the underlying stock of derivatives have been*

fluctuating substantially in recent months, many CBBCs were mandatorily called by their issuers when the prices of their underlying assets reached the Call Price, causing quite a number of investors to suffer huge losses, and those issuers who did not have sufficient additional hedging had to make up and pay for the price difference using their own money, as the fluctuations in prices had exceeded their expected ranges. In this connection, will the Government inform this Council:

- (a) whether the authorities are aware of the measures employed by the issuers and liquidity providers of the aforesaid derivative products to deal with the risks arising from the short-term speculative activities of mega investors involving huge sums of money; whether they have stepped up the efforts in monitoring if those derivative products already issued are sufficiently hedged, collateralized or guaranteed, so as to ensure that investors will not be affected by the reduction of the financial or credit capacity of the issuers or securities dealers;*
- (b) whether the authorities have conducted random checks to affirm if the relevant securities dealers and clients are financially sound enough to deal with day trading or half-day trading transactions; furthermore, as some securities dealers have reduced their commission rates to compete for clients, how the authorities monitor the financial position of registered dealers, with a view to safeguarding the interests of investors; and*
- (c) whether the authorities have in place any measure to step up its efforts in monitoring if the intermediaries have conscientiously conducted due diligence checks with regard to their clients who are trading high-risk products; if so, of the details, and whether they have assessed the effectiveness of such measures; if not, the reasons for that; before the establishment of the Investor Education Council, how the authorities will enhance investor education, so as to make investors understand the various risks they are exposed to; whether they will consider setting eligibility criteria for investors investing in derivative products (for example, completing a specified course, attending and passing a specified examination, as well as setting position limits)?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, under the current regulatory framework, the Hong Kong Exchanges and Clearing Limited (HKEx) is the front-line regulator of listed structured products in Hong Kong and is responsible for their approval and ongoing regulation. The requirements for listing structured products and the approval of issuers are set out in Chapter 15A of the Exchange Listing Rules. The Securities and Futures Commission (SFC) approves the Listing Rules pursuant to section 24 of the Securities and Futures Ordinance and monitors market operation. The Government is responsible for overall policy formulation to maintain Hong Kong's financial stability, provide sufficient protection to investors, and facilitate market development in order to enhance the competitiveness of Hong Kong's financial market.

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

- (a) The combined share of derivative warrants (DW) and CBBCs in total market trading had remained stable at a level of around 20% to 25% for the past few years. In October 2011, the trading of DW and CBBC increased to 30% of total market trading on average. This was partly due to the reduced turnover in the stock market. Since the launch of CBBC in June 2006, the highest average daily turnover was about HK\$39 billion in October 2007. In 2011, the daily turnover ranged between approximately HK\$17 billion and HK\$21 billion, except for May 2011 when it was about HK\$14 billion.

As at end October 2011, the market value of DWs and CBBCs was HK\$2.33 billion and HK\$0.57 billion respectively. Based on the current market value, our estimate is that the total hedging positions held by issuers of DW and CBBC in the underlying securities represent about 2% of the average daily trading of the underlying securities. According to the data above, the DW and CBBC market does not give rise to any systemic risk concerns. We have requested the SFC to closely monitor the situation. At the same time, the HKEx is conducting discussions and studies on ways to strengthen the regulatory regime. The SFC is following the development closely.

Currently, the Listing Rules prescribe a minimum entry level for structured product issuers. Issuers or guarantors are required to have an "A" grade credit rating, that is, to have one of the top three grades of investment grade ratings. If an issuer does not have a credit rating, it must be regulated by the SFC or the HKMA. In addition, the Listing Rules require the issuers to have net assets of HK\$2 billion and adequate risk management systems and procedures.

Should an issuer fail to meet the credit rating requirement, the HKEx may employ a series of measures, such as prohibiting further launch of new issues, apply collateralization arrangement, and so on.

The HKEx also requires the structured product issuers to update the market through announcements about any changes to its credit ratings to ensure that investors are trading on a fully informed basis. In light of the recent Euro debt crisis, the HKEx has stepped up its monitoring measures on the change of issuers' credit ratings.

In view of the latest market situation, in September 2011, the HKEx held discussion forums with all structured product issuers to discuss proposals on enhancing regulation of the structured product market. The proposals include streamlining of documentation to facilitate comparison of competing product offerings, tightening of liquidity provision obligations, the requirement for collateralization, and strengthening internal control as well as investor education, and so on.

If the proposals are accepted, the HKEx would need to apply to the SFC for revising the Listing Rules. We have requested the SFC to closely monitor whether there is a need to introduce additional measures to maintain the orderly market operation and provide sufficient protection to investors.

- (b) Under the Securities and Futures (Financial Resources) Rules (FRR), the SFC requires brokers to ensure that they have sufficient financial resources for the proper performance of their business activities and meet the related risks. In relation to DW trading, the FRR impose

very stringent requirements. For example, positions in DW in calculating the liquid capital of brokers and DW for margin lending purposes are subject to a 100% haircut under the FRR.

The SFC has been monitoring brokers' financial positions through reviews of financial returns submitted by brokers and stress testing of brokers' capital for adverse market movements. The SFC also carries out onsite inspections.

In addition, in accordance with the "Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC" (Internal Control Guidelines), intermediaries should establish risk management policies to evaluate and manage the credit, market and other risks faced by the firm.

As regards the clients, the SFC, in accordance with the "Code of Conduct for Persons Licensed by or Registered with the SFC" (Code of Conduct), requires brokers to perform a "know your clients" procedure, which includes understanding their clients' financial situation. The SFC's Internal Control Guidelines also require brokers to properly manage clients' credit risks.

- (c) The SFC, in accordance with the Code of Conduct, Internal Control Guidelines and the "Questions and Answers on Suitability Obligations" (Suitability FAQs), requires intermediaries to perform the "know your clients" procedures by seeking information from their clients about their financial situation, investment experience and investment objectives. The intermediary should assess the client's knowledge of derivatives and characterize the client based on his knowledge of derivatives. When providing services to a client in derivative products, the intermediary should assure itself that the client understands the nature and risks of the derivative products and has sufficient net worth to be able to assume the risks and bear the potential losses of trading in the products.

In respect of investor education, the SFC has made use of available channels to remind investors of investment risks. The SFC has issued a variety of education resources reminding investors of the

features and risks of DWs and CBBCs (for example, CBBC's call feature), pointing out specifically that they are not suitable for all investors. In the past 12 months, the SFC has featured these topics in two issues of its investor e-newsletter "InvestEd Intelligence". In addition, the SFC has also separately published five articles in local newspapers and magazines and run nine short segments on different TV and radio channels.

The HKEx also carries out investor education work. Currently, the corporate website of the HKEx contains DW and CBBC education materials, including information about the risks involved in trading these products. In light of the recent market volatility, the HKEx has issued a news release to remind investors to pay attention to the credit risks associated with structured product issuers.

We will continue to remind investors to understand the features and risks of any products before investing in them through continuous investor education.

The Government would continue to closely monitor the development.

MR PAUL CHAN (in Cantonese): *President, it can be seen from the main reply that the Government puts strong emphasis on issuers' or guarantors' credit rating. But, I would like to say that Lehman Brothers also had an impeccable credit rating before it went bust. Therefore, we must rely on effective regulatory systems and measures. As stated in the main reply, in September, the HKEx held discussion forums with all structured product issuers to discuss proposals on enhancing regulation. The Listing Rules will be revised if these proposals are accepted.*

President, my supplementary question is: a conflict of interest will arise for HKEx as its source of income is involved and those attending the meeting are also people being regulated. How can the Government ensure that enhancing measures related to regulation can be implemented and when such measures will be implemented?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, on this issue, I have just mentioned the SFC and the HKEx in my main reply; one being the front-line regulator and the other is responsible for monitoring market operation. The SFC and the HKEx held regular meetings to discuss listing-related matters. The SFC will also regularly review its performance in listing regulation. We have always made efforts to find out more about this issue from the SFC, so as to learn about the recent market monitoring measures and the progress in implementing these measures. According to the SFC, it is necessary to give issuers more time to consider the proposed measures. As far as we know, the HKEx is expected to inform us which recommendations are feasible or can be explored further early next year. We will maintain communication with the SFC and the HKEx.

DR PHILIP WONG (in Cantonese): *President, I find that the issuance of many derivative products in the market is unrelated to the financing of listed companies, and the design of many derivative products is deceiving in nature. Accumulator is an example. The organizations concerned induce investors to purchase these products, knowing that stock prices will fall over 50% in the long term; and they set an exercise price which requires investors to purchase the related stock each day after the prices have fallen by 10% or 20%. Making such investment is no different from gambling; why do the Listing Division and the SFC still allow the listing of such products?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, accumulator as mentioned by Dr WONG is not a listed product. I guess Dr WONG is not referring to this product but products such as CBBCs or warrants.

I trust that the overall market development must be balanced because some investors would like to have different investment products to meet their different needs. Sometimes, they may need hedging arrangements. For instance, investors with stocks in hand are worried about suffering losses when stock prices fall, thus they would like to make some hedging arrangements to minimize losses.

Certainly, we are aware and we do not rule out that there may be the so-called "short-term speculative" or "day trading" activities in the market. The

problem is what arrangements should be made in the course of market development, so as to ensure that investors know what they are doing and that the nature and risks of products are clearly disclosed. Will excessive trading of these products bring about unnecessary market volatility and systemic risks? We should take these issues into consideration, and the SFC and HKEx should also consider these issues when deciding which products can be listed.

Although investing in CBBCs involves risks, the HKEx website has clearly explained the nature of CBBCs. Concerning the mandatory calling mechanism raised by Mr CHAN just now, the website has also provided clear and detailed introduction. Because of this special feature, the risks and prices of CBBCs are not affected by implied volatility; hence, they are popular with investors.

From the perspective of regulation, I will focus on whether the introduction of each product is clear, the responsibility of an issuer and whether a product will cause market volatility. The Government will not slacken. As the volatility caused by the European market will increase the volatility of local derivative products, we will monitor market operation and pay attention to see if there are irregularities; we will definitely follow up the situation.

MR CHIM PUI-CHUNG (in Cantonese): *President, Macao is a city where the operation of casino business is legitimate and its annual revenue from the gambling industry exceeds \$100 billion. The Government levies stamp duty on sale or purchase of stocks in the HKEx at the rate of 0.1%. President, my supplementary question is: since the Government does not levy stamp duty on CBBCs, does that mean the Government and the public are serving the relevant industries without making any gains in return? Will the Government consider amending the legislation to levy stamp duty on CBBCs? If it will, when will measures be taken? If not, what are the reasons?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): According to my understanding, we can answer Mr CHIM's supplementary question from a few angles. First, we can answer this question from the angle of whether the Government needs to broaden the tax base. This is one viewpoint; another viewpoint is whether the Government should levy taxes

to curb gambling, as market participants have mentioned. Yet another viewpoint is whether there are some special systemic volatilities in the market, causing it necessary to impose such regulation. We will analyse various situations.

Regarding systemic risks to the market caused by such derivative products, I have mentioned in my main reply that, according to the data provided by the SFC, to date, the turnover of these derivative products in the market has not given rise to any systemic risks. As to whether there are other reasons prompting the Government to consider levying taxes, we must consider other issues that may arise if such tax is levied, for example, on which products should taxes be levied; should taxes only be levied on floor trading; should taxes also be levied on over-the-counter trading? Should taxes be levied on products bought and sold at banks? There are a lot of issues to be considered.

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

MR CHIM PUI-CHUNG (in Cantonese): *The Secretary has definitely not answered my supplementary question. I asked if he has considered levying taxes. He just needs to answer "yes" or "no". Why has he made those points? This product was introduced in 2006, more than five years ago. Is the Government apathetic?*

PRESIDENT (in Cantonese): Has the Secretary considered levying taxes? If he has not, what are the reasons? This is Mr CHIM's question.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Government's position is that we will certainly consider all possible sources of tax revenue. I have already answered the question about risk assessment.

MR CHIM PUI-CHUNG (in Cantonese): *President, would you please rule if he has answered my supplementary question?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add as to whether the Government has considered levying taxes?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I think I have just given a very detailed answer.

MR JAMES TO (in Cantonese): *President, I would like to ask, if an issuer has a credit rating — an issuer without a credit rating must be regulated by the SFC or the HKMA — but it is an overseas issuer regulated by the regulatory authorities in an overseas jurisdiction; if Hong Kong and the overseas regulatory authorities have different regulatory requirements, such as minimum collateral and size, and so on, will Hong Kong impose the minimum requirements that we considered as essential, such that issuers especially when many of them are trading in the Hong Kong market.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, if issuers issue these products in Hong Kong, they should comply with collateral or risk management requirements set by us. These requirements are specified in the Listing Rules and monitored by the SFC, thus we are regulating market practices on our own.

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

MR JAMES TO (in Cantonese): *Perhaps I can he has not answered I am afraid that his answer is inaccurate*

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

MR JAMES TO (in Cantonese): *According to the third paragraph in part (a) of the main reply, if an issuer has a credit rating but it is not a Hong Kong issuer, it is not regulated by the SFC or the HKMA. In that case, can the minimum requirements set by us be applicable to the issuer?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I would like to restate that the answer is in the affirmative. We have a regulatory system for all issuers issuing products in Hong Kong and they are subject to our regulation under the system.

MR PAUL CHAN (in Cantonese): *President, I would like to ask if the Government knows whether there were cases in the past where investors, the Investor Compensation Fund or the HKEx suffered losses because an issuer's financial capability or credit rating had fallen and the products issued were not sufficiently hedged, collateralized or guaranteed. Were there such cases? If there were, how many cases were there? What were the amounts involved?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Investor Compensation Fund has nothing to do with this issue. This is related to an issuer's discharging of his responsibilities. If Members would like to have the relevant data, I do not have such data in hand at the moment. In fact, so far we have not identified such problem in market operation.

MR PAUL CHAN (in Cantonese): *President, I would like to ask the Secretary to provide supplementary information after the meeting.*

PRESIDENT (in Cantonese): Can the Secretary provide supplementary information after the meeting?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I can ask the SFC if it can provide any relevant information for Members' reference. Is that alright? (Appendix I)

PRESIDENT (in Cantonese): The Secretary's main reply is a bit long. We have spent more than 23 minutes on this question. Second question.

Development of Transport Infrastructure in Tuen Mun

2. **MR CHEUNG HOK-MING** (in Cantonese): *President, the Hong Kong-Zhuhai-Macao Bridge (HZMB) infrastructure projects in Hong Kong will commence soon, and the bridge is expected to be commissioned in 2016, but the commissioning of the northern connection of the Tuen Mun-Chek Lap Kok Link (TM-CLKL) (that is, the section connecting the Hong Kong Boundary Crossing Facilities (HKBCF) to Tuen Mun), which was originally scheduled for 2016, will be deferred by one year to 2017 because of the impact of the judicial review (JR) regarding the Environmental Impact Assessment (EIA) reports of the HZMB. On the other hand, the Tuen Mun Western Bypass (TMWB) is still at the preliminary design stage, and its commissioning will also be delayed. Regarding the problems caused to the traffic of the Northwest New Territories because the completion of the three related projects cannot dovetail with one another, will the Government inform this Council:*

- (a) *whether the authorities have conducted any traffic flow survey to assess the impact on the traffic load in Northwest New Territories due to the one-year delay in the commissioning of the northern connection of the TM-CLKL and the delayed commissioning of the TMWB; if they have, of the relevant figures; if not, the reasons for that;*
- (b) *of the detailed progress of the Tuen Mun Road Improvement Project, and whether it will be completed in time to help ease the traffic congestion in Northwest New Territories brought about by the delay of the two aforesaid infrastructure projects; and*

- (c) *of the increase in the design traffic capacity of Tuen Mun Road after completion of its various improvement works, and whether it is sufficient to cope with the traffic flow generated by the commissioning of the HZMB which is earlier than that of the two aforesaid infrastructure projects?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the TM-CLKL is a strategic route connecting North Lantau, the HZMB HKBCF and Tuen Mun, further linking up North-west New Territories (NWNT) through the TMWB under planning, to cope with future development.

Upon completion, the most important benefits that the TM-CLKL and TMWB will bring about are: firstly, the travel distance and journey time between NWNT and North Lantau will be significantly shortened and some traffic capacities of the existing routes (such as the Lantau Link and Tuen Mun Road) will be released. As a result, the traffic flow to urban areas will be relieved; secondly, the TM-CLKL will provide an alternative access connecting the Hong Kong International Airport in addition to the existing North Lantau Highway. This helps to strengthen the traffic network of the Airport and reinforce the Airport as an international and regional aviation hub; thirdly, the two projects can help improve cross-border traffic. The TM-CLKL project connects with Shenzhen via the TMWB, Kong Sham Western Highway and Shenzhen Bay Bridge in the north; and connects with the HZMB HKBCF and the North Lantau Highway in the south. This road network is important to the promotion of closer economic integration between Hong Kong and the Pearl River Delta Region.

Regarding the three parts of the question, the reply is as follows:

- (a) Regarding the JR case of the HZMB, although the applicant has excluded the EIA Report of the TM-CLKL in the application of the JR, the construction programme of the TM-CLKL has been delayed by about one year due to the JR. This is because the southern landfall of the TM-CLKL sub-sea tunnel and the reclamation of the HZMB HKBCF are taken forward under the same contract in the same location at the same time.

Our original plan was to open the TM-CLKL and the HZMB at the same time, but now we will implement these two projects by phases. As the 3-km viaduct, connecting the HZMB HKBCF and North Lantau Highway, of the TM-CLKL has to be commissioned at the same time as the HZMB, so as to provide access for vehicles entering and leaving the HKBCF, we will open this section of the TM-CLKL by 2016 through works arrangements. As regards the northern section of the TM-CLKL (that is, the sub-sea tunnel connecting the HZMB HKBCF and Tuen Mun), as it is not related to the opening of the HZMB, works will be completed in 2017.

Regarding the TMWB, we have conducted extensive public consultation on various alignment options. After in-depth discussion with the stakeholders, we have selected the current proposal among the 10 options. The environmental and traffic impact assessments are underway. The work has been delayed due to uncertainties caused by the "baseline assessment" requirement that was suggested in the HZMB JR case. After the allowance of the appeal lodged by the Government, we are working to commission the TMWB in roughly the same time frame as the northern section of the TM-CLKL.

According to traffic impact assessment carried out by the consultants engaged by the Highways Department, the main traffic network to NWNT via North Lantau Highway will become busier in 2016 (the early years after the opening of the HZMB), but there should be no congestion.

The vehicle/capacity (v/c) ratio is the professional indicator to measure traffic congestion. Generally speaking, a v/c ratio of 1.2 or smaller indicates that the situation of the concerned roads during peak hours is still acceptable. If the v/c ratio is above 1.25, it indicates that there will be traffic congestion. According to the data obtained from traffic impact assessment, under the scenario without the northern section of the TM-CLKL in 2017, the v/c ratio of the Tuen Mun Road (Sham Tseng section) will increase to 1.25 in 2017, indicating traffic congestion during peak hours. However, if the northern section of the TM-CLKL can be commissioned in 2017, the ratio is expected to drop to 1.18, indicating that congestion will not

appear. This can timely avoid traffic congestion that may appear on Tuen Mun Road (Sham Tseng section) during peak hours.

The consultants have also carried out a similar traffic impact assessment for the TMWB. In the absence of the TMWB, the v/c ratio of the slip roads connecting Tuen Mun Road (Town Centre section) and Wong Chu Road will increase to 1.28 in 2019, indicating that congestion would appear during peak hours. If the TMWB is commissioned, the v/c ratio of Wong Chu Road will gradually decrease to about 0.7, indicating that congestion would not appear even during peak hours. It also helps relieve the traffic burden in other areas in Tuen Mun.

Therefore, we aim to complete the northern section of TM-CLKL in 2017 as planned and endeavour to commission the TMWB and the northern section of the TM-CLKL in roughly the same time frame.

(b) and (c)

The Tuen Mun Road improvement project is underway. It includes two main parts, namely the reconstruction and improvement of Tuen Mun Road (between Tsuen Wan and Sam Shing Hui), and widening of Tuen Mun Road (Town Centre section).

The first part of the works is mainly to reconstruct the Tuen Mun Road to meet the current expressway standard and to add hard shoulders. The proposed hard shoulders can provide additional road surface to allow the concerned officers to arrive the locations to handle the traffic incidents more quickly. They also enable temporary traffic arrangement to minimize traffic congestion caused by traffic incidents.

The second part of the works is the widening of the town centre section from a dual two-lane carriageway to a dual three-lane carriageway. After the completion of the works, the designed capacity of the concerned section of Tuen Mun Road would be increased by 54% from 3 700 passenger car unit (pcu) per hour to 5 700 pcu per hour.

The Tuen Mun Road improvement project commenced in mid-2008, and was implemented through six works contracts by phases.

The first contract is for widening of the road section near Tsing Tin Interchange from a dual two-lane carriageway to a dual three-lane carriageway. The construction commenced in June 2008 and completed in January 2010. Four other contracts commenced between October 2008 and February 2010 by phases, including works for widening the approximately 1.5 km long of Tuen Mun Road (town centre section) from a dual two-lane carriageway to a dual three-lane carriageway, reconstruction of 15.5 km of Tuen Mun Road between Tsuen Wan and Sam Shing Hui, and hard shoulders construction. The construction works are progressing satisfactorily and are tentatively targeted for completion in end 2014.

Tender for the remaining contract, covering the construction of traffic control and surveillance system, was invited in October this year. It is anticipated that tender assessment will be completed early next year. The works are expected to commence in April 2012 for completion in end 2014.

In conclusion, the various improvement works of the Tuen Mun Road will be completed in 2014 to meet the traffic demand for a number of years in future, including traffic to be brought about by the HZMB after its early years of opening in 2016. It is anticipated that traffic congestion will not appear at such time.

MR CHEUNG HOK-MING (in Cantonese): *President, whether the HZMB can perform its function upon commissioning in 2016 hinges on the TM-CLKL and the TMWB. In the main reply given earlier, the Secretary has only stated that the TM-CLKL will commission in 2016 and one proposal has been selected among the 10 options for the TMWB. As the two projects are closely related, I want to specifically ask the Secretary, when the TMWB project will commence and when it will be ready for commissioning, judging from the present assessment of the Government?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the investigation and preliminary design for the TMWB project are underway and the relevant funding application had been approved by the Legislative Council in 2008. The Highways Department is carrying out the relevant environmental assessment and will continue to consult local residents on the design of the relevant road section. We anticipate that the preliminary design of the project will be completed by the last quarter of 2012. As I have said earlier, we are working to commission the TMWB in roughly the same time frame as the TM-CLKL. As stated in the main reply, we anticipated that the v/c ratio of the slip roads connecting Tuen Mun Road (Town Centre section) and Wong Chu Road will increase to 1.28 in 2019, which indicates that congestion would appear. Therefore, we will strive to complete the TMWB before traffic congestion appears.

MR LAU WONG-FAT (in Cantonese): *President, since the section of the HZMB HKBCF connecting Tuen Mun will only open in 2017, vehicles originally intended to use the new link road will have to stick to the North Lantau Highway to travel to and from Tuen Mun, which will significantly increase the traffic flow of North Lantau Highway and Tuen Mun Road. Will the Government's proposal be hardly able to cope with the situation? I hope that the Secretary will further elaborate on this.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, according to the findings of our traffic impact assessment, both North Lantau Highway and Tuen Mun Road will become busier after the initial commissioning of the HZMB. They nonetheless have the capacity to cope with the traffic flow. As I have explained earlier, we believe the traffic flow in Tuen Mun (especially the town centre section) can be reduced if the TMWB can be timely commissioned in 2019.

MR ALAN LEONG (in Cantonese): *President, I notice that in part (a) of the main reply, the Secretary reiterated that the project has been delayed for nearly one year because of the impact of the HZMB JR case. In the Finance Committee meeting held last Friday, Ms Audrey EU pointed out to Secretary Eva CHENG that as reported in the press, an official from the Highways Department pointed*

out late last year that in view of the complexity of the project, the authorities had to revise the tender and the project would thus be delayed for one year. In other words, the JR is not the cause of the failure to commence the project last year. However, in the later response given to Ms Audrey EU, the Director of Highways pointed out that there might be something wrong with the news report concerned.

President, I found a paper submitted by the Development Bureau to the Panel on Development in February 2011, which mentioned that the completion date of the investigation and preliminary design of the HKBCF section of the HZMB would be deferred from May 2010 to May 2011, a delay of exactly one year. Let me read out the reason set out in the paper: "The consultancy under this project has been substantially completed. Project completion date was extended to carry out additional preliminary study for Marine Park in the Brothers Islands in order to fulfil the conditions of the Environmental Permit issued in November 2009." Sing Tao Daily had also reported on this paper. May I ask the Secretary: Does the Highways Department's remark that there was something wrong with the news report mean that the paper submitted by the Development Bureau was inaccurate? Can the Secretary inform this Council if the project will be delayed by one year with or without the JR?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):

Regarding Mr LEONG's supplementary question, preparatory works of the tender exercise and the investigation of the project have been substantially completed by mid-2010. We originally intended to carry out reclamation in late 2010, but it was unable to proceed as a result of the impact of the JR. The JR has rendered the Environmental Permit ineffective. Although we have already commenced certain preparatory works so as to gain more time, reclamation work cannot be carried out and has to be postponed.

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

MR ALAN LEONG (in Cantonese): *President, the Secretary has not answered my supplementary question. I just quoted the paper submitted by the Development Bureau, which highlighted that investigation of the project had to*

be deferred from May 2010 to May 2011, meaning that the completion date would be delayed by one year. Is there anything wrong with the paper submitted by the Development Bureau?

PRESIDENT (in Cantonese): Secretary, will the project be delayed for one year even without the JR? Can you provide additional information on this point?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): The paper submitted by the Development Bureau only pointed out that additional preliminary study would have to be carried out for the Marine Park in the Brothers Islands. This has nothing to do with the reclamation work of the HKBCF.

MR LAU KONG-WAH (in Cantonese): *President, the JR has ended and people should have a judgment in their heart. Their gravest concern at this point is whether the HZMB can be completed as scheduled, and whether they can use the bridge to ply between the two places. Cross-boundary vehicles are currently required to apply for cross-boundary licences, which ordinary citizens are not supposed to have. In that case, can the Government inform us how members of the public can use the bridge after its commissioning? Will the upcoming temporary licence system help in any way? When will this system be introduced?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, Mr LAU's supplementary question can be answered in two parts. For the first part, we are considering the various transport arrangements between Hong Kong and Macao as well as between Hong Kong and Zhuhai. These include the provision of point-to-point bus services or public feeder services, and the relevant study and design are underway. The second part is related to the arrangement of private vehicles. We are considering the implementation of a trial scheme by providing one-off special quotas. The trial scheme will first be implemented in the Shenzhen Bay Bridge next year. If it is proved successful, the scheme will then be extended to the HZMB project.

DR MARGARET NG (in Cantonese): *In response to Mr Alan LEONG's supplementary question, the Secretary seems to imply that once the engine of a government project has started, any application for JR would call the project to a halt. This situation does not only apply to the HZMB. All government projects or measures that are legally deficient might naturally be subject to JR. The permission granted by the Court has proved that the member of the public concerned is not totally groundless. Does the fact that a project is called to a halt once it is challenged demonstrate the authorities' inability in governance? Can the Government proceed with major projects only if the Court is prohibited from approving any JR on these projects?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, whether government projects will be called to a halt once they are challenged by the Court, I think we cannot make sweeping generalization. It all depends on the importance of the project and the legal point in question. This explains why when there was a JR on the HZMB project, we decided to make good use of the time by proceeding with the works that do not have any bearing on the following work processes. However, major issues that are irrevocable and irreversible must be carefully considered. Therefore, in my opinion, there is no absolute or universal answer for Member's supplementary question.

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

DR MARGARET NG (in Cantonese): *The Secretary has not answered my supplementary question. In my supplementary question, I said that the Court may approve a JR if it considers that the case concerned is legally deficient or there are justifications to prove that the law is imperfect and can be challenged. In that case, should we prohibit the Court from approving JR applications filed by members of the public so as to prevent major projects implemented by the Government from getting out of control?*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we do not have any intention to prohibit anyone from applying JR. As a proposer of projects, the Government will definitely act in accordance and in strict compliance with the law. As to whether the project can proceed, as I have said earlier, it all depends on the complexity of the projects, the problems and public interests involved, as well as the relevant legal justifications.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes on this question. Third question.

Regulation of Housing Developments in Rural Areas

3. **MS AUDREY EU** (in Cantonese): *It has been reported that some developers reached agreements with indigenous villagers in Sai Kung, allegedly violating the restriction clauses on alienation contained in the land grants under the New Territories small house policy, and they also attempted to circumvent the legal procedures under the Town Planning Ordinance (TPO) to develop large-scale private residential estates on rural land without applying for changes in land use and paying land premium; it is estimated that the developers can make huge profits from the development project. In this connection, will the Government inform this Council:*

- (a) *whether it has launched investigation into the aforesaid cases of suspected contravention of the TPO and the relevant clauses; if it has, of the details; if not, the reasons for that;*
- (b) *whether it had launched investigation into similar cases in the past three years, if it had, of the details; if not, the reasons for that; and*
- (c) *whether it had reviewed the current vetting and approving procedures for building New Territories small houses in the past three years, so as to prevent any person from developing housing estates on rural land in the New Territories using the aforesaid tactics; if it had, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we believe the news report Ms Audrey EU is referring to is a feature report published in a local English newspaper earlier this month, the content of which is about developers reaching agreements with indigenous villagers of the Wong Chuk Yeung Village in Sai Kung North on developing small houses in the village. It is necessary for me to explain the current restrictions with regard to small house developments before I answer Ms EU's question.

Generally speaking, at the time of signing a small house grant, the small house applicant is required to expressly warrant that he has never made any arrangements to dispose of his interest of developing a small house or his eligibility to apply for a small house grant. There is also a clause stipulated in the small house grant which generally prohibits alienation before the issue of the Certificate of Compliance (C of C). After the issue of the C of C, if the owner of the small house is a grantee of Government land and he wishes to assign his small house, he is normally required under the alienation restriction clause to apply to the relevant District Lands Office (DLO); and if approved, subject to payment of premium. For a licensee who has been granted a Free Building Licence for developing a small house on private land, similar restrictions normally apply within five years, that is, assignment of small house is only possible after approval by the relevant DLO and subject to payment of premium.

Moreover, development of small house must comply not only with the small house policy and the requirements of relevant grant conditions, but also with the relevant ordinances as well as other requirements stipulated by the Government. If the proposed development is unable to comply with the requirements of the TPO and the relevant Outline Zoning Plan (OZP), then a planning application must be submitted to the Town Planning Board and its approval obtained prior to commencement.

In general, the Lands Department (LandsD) would, upon receipt of any complaints related to small house applications, follow up in accordance with applicable procedures. Legal advice will be sought if needed.

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

- (a) At present, the LandsD has not received any small house application from the Wong Chuk Yeung Village of Sai Kung North referred to

in the question. The LandsD therefore has no grounds to take any action in respect of the reported matters, including that about developers reaching agreements with indigenous villagers on small house development. As the LandsD has not yet received any small house application from the indigenous villagers of that village, the Planning Department also has no grounds to prejudge any development in contravention of the TPO and the relevant OZP, or start any investigation of such. In addition, the authorities are not aware of any unauthorized development in the village which warrants follow-up action, but the departments will keep a watchful eye on the matter.

- (b) According to Ms EU's question, the "similar cases" which she is concerned about is believed to be the violation of the applicant's warranty on not making any arrangements in respect of the transfer of interests. The LandsD indicated that it does not have statistics under such categorization. Upon receipt of Ms EU's question, the District Lands Officers have been asked to look into their recent records. In respect of transfer of small house interests, Sai Kung DLO received in April this year a copy of what appears to be an "agreement of sale and purchase". Sai Kung DLO is investigating into the matter. Yuen Long DLO received a complaint referral on transfer of small house interests in November this year, but the complainant did not provide substantial evidence. Both cases do not involve developers reaching agreements with small house owners or applicants for the development of large-scale private estates.
- (c) The present approval procedures and restrictions against abuse, including the applicant's warranty on not making any arrangements in respect of transfer of interests as well as the restriction of alienation clause contained in the small house grant, is formulated after undergoing prolonged and comprehensive considerations. In general, upon receipt of the relevant small house application, the LandsD would follow up on the complaints received, and if such complaint is substantiated, appropriate actions will be taken while legal advice will be sought as and when needed. We have no plans to review the present operation.

MS AUDREY EU (in Cantonese): *President, I am glad to hear that upon receipt of my question, the Secretary has immediately looked into the relevant information and investigated into the matter. However, President, my main question is actually based on this article. As Members can see, this is a headline news report. The story is not only covered in the front page, but also carried onto the inside pages with detailed write-up and pictures. Moreover, according to this article, these sale and purchase agreements of small house rights are quite common. As quoted in the feature report, the reporter has actually seen the relevant agreement and specified the signees thereof. Other information such as email exchanges has been mentioned.*

I would like to ask the Secretary: Why is there a gap between the "truth" as seen by the Government and the "truth" as seen by ordinary members of the public? If these agreements are common, and have been reported in detail, why the Secretary is so reluctant to follow up and investigate into the matter? For example, the report has also mentioned that lawyers would be involved in these covert or secret deals. In this connection, will the Government at least consider following up the matter with the lawyers association, or launching publicity in the New Territories so as to clearly disseminate the message that such deals are in breach of the prevailing land grant conditions or terms in relation to the transfer of small house rights? Why does the Government fail to take any follow-up actions, and whether investigation on this specific case will be conducted?

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, in fact, we have also encountered difficulties when preparing our reply to Ms Audrey EU's main question because as stated in its preamble — "It has been reported that" — her entire question is based on some news reports. Expressions such as "allegedly", "attempted" and "estimated" have appeared in her main question; in other words, it is not based on facts. I believe Ms Audrey EU would surely agree that we must work on the basis of evidence. Hence, if it has been reported that certain agreement had been reached between some developers and indigenous villagers involving small houses, it would be most important for us to get hold of the evidence which can be used as the basis of investigation, that is, whether we have received any application to build small houses in the said village. If there is no application, or as I said in the main reply, no application has been received to date from villagers to build small houses in the village in question, what basis do we have for any investigation then? By the same token,*

as no application to build small houses has been received or is being processed, any agreements reportedly made between developers and villagers has no concern for the policy as well as the vetting and approving procedure on small house development.

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

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

MS AUDREY EU (in Cantonese): *My supplementary question is that given the reporter's statement that he has seen the relevant agreement, why has the Secretary not conducted any investigation? Does her reply mean that no investigation would be conducted over the said report?*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): As I have answered Ms EU in the main reply, we have taken the initiative to look into our records upon receipt of her question. In one case, a copy of what appears to be an "agreement of sale and purchase" has been received. We are now investigating into the matter. Therefore, if we receive any reports or complaints which are substantiated by certain amount of evidence, we will definitely follow up on and investigate into the relevant cases.

MISS TANYA CHAN (in Cantonese): *President, the case raised by Ms Audrey EU is directly related to the small house policy. I have also written to the Development Bureau previously asking the Secretary how she ascertains or verifies the demand for building small houses under the small house policy.*

President, the Secretary once said at a meeting of the Legislative Council that the LandsD has not compiled statistics on or estimated the existing number of indigenous villagers in recognized villages, who are 18 years or above and are eligible but have not applied for a small house grant. Hence, I followed up further on that later — this is my letter in June, yet the Secretary only replied in August; I then followed up further on 8 August — what is the Secretary's methodology for verifying the demand? President, as a matter of fact, the two prospective Chief Executive candidates have already proposed to relax the height restriction for small houses to nine storeys, that is, from three storeys to nine storeys, in order to cater for the demand

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

MISS TANYA CHAN (in Cantonese): *I would like to ask the Secretary whether she can tell me directly what department is responsible for verifying the demand made by village representatives for building small houses and what methodology is used?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, perhaps allow me to explain here. The main objective of the small house policy is to preserve the cohesion of the indigenous communities in the New Territories. Under this policy, an indigenous male villager over 18 years old who is descended through the male line from a resident in 1898 of a recognized village may apply to the authority for permission to erect for himself once during his lifetime one small house on a suitable lot within his own village. Hence, having understood this policy, Members will know that it is difficult to check or verify the number of indigenous villagers over 18 years old who have the demand for building small houses. Therefore, in our earlier reply to Miss CHAN, we have also highlighted our difficulty in this regard and hence, no effort has been made on verification.

Given that there is no way to verify the demand, the current situation is demand-led such that it depends on the land available for eligible persons under this policy to apply for small house building once in their lifetime. In addition, the construction of small houses is restricted to inside the so-called "village

environs". There is clear provision as to what land in the New Territories falls into the definition of "village environs" available for eligible persons to apply for small house building.

MISS TANYA CHAN (in Cantonese): *President, there is a difference between something which is "difficulty to verify" and "impossible to verify". President, she has not answered my question at all as to which department is responsible for verification. How can the Secretary cite "verification difficulty" as a reason, President?*

PRESIDENT (in Cantonese): Miss CHAN, the Secretary has already replied. Let me ask if the Secretary has anything to add.

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

MR CHEUNG HOK-MING (in Cantonese): *President, the small house policy was introduced in 1972. Back then, the policy was mainly intended to address the housing problem of indigenous villagers, and conceivably it also formed part of the housing policies introduced by the then Government. For indigenous male villagers in the New Territories, the application for small houses has been regarded as part of the tradition.*

It has also been expressly provided under Article 40 of the Basic Law that the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the Hong Kong Special Administrative Region. I would like to ask the Government whether small houses form part of the traditional rights and interests of the indigenous inhabitants of the New Territories as stated in the Basic Law?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, under Article 40 in Chapter III of the Basic Law, the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the Hong

Kong Special Administrative Region. Just now, I have already highlighted the main objective of the small house policy. Let me repeat it again.

One of the main objectives of the small house policy is to preserve the cohesion of the indigenous communities in the New Territories. Under this policy, an indigenous male villager over 18 years old who is descended through the male line from a resident in 1898 of a recognized village may apply to the authority for permission to erect for himself once during his lifetime one small house on a suitable lot within his own village.

The policy, as an embodiment of the lawful traditional rights and interests of the indigenous inhabitants of the New Territories, is safeguarded under the Basic Law.

DR MARGARET NG (in Cantonese): *President, I can hardly believe that I have not misheard the Secretary's reply to Ms Audrey EU's supplementary question. According to the Secretary, as Ms Audrey EU's question is about a case "reported" by the press and phrased with expressions such as "allegedly", "suspected", and so on, those are not facts, and no action will be taken by the authority.*

President, I really do not understand. Does it mean that Members or the press must produce court evidence beyond reasonable doubt before actions would be taken by the authority? The news reports just mentioned by Ms Audrey EU were made on 4 November this year. Has the authority absolutely no concerns about whether the relevant policy has been abused or has gone wrong? Should we dismiss it as "nothing strange" — as suggested by the Chief Executive — even when plausible reasons have been suggested in the news reports for investigation, the Government still refuses to take actions until the case has been proven?

President, I would like to ask the Secretary whether the SAR Government is now turning a blind eye to everything?

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, there is no need for Dr NG to over generalize the situation. Very often*

DR MARGARET NG (in Cantonese): *I am only asking the Secretary in relation to her reply just now.*

SECRETARY FOR DEVELOPMENT (in Cantonese): Regarding the Member's question about whether we are turning a blind eye to everything, my answer is that it would depend on the matters we are dealing with. The matter we are dealing with at present is a "reported" or "suspected" situation relating to small house applications; and it has been reported that certain events had taken place during the application process which gave rise to concern and hence, there is a need for investigation. However, as stated in my reply to Ms Audrey EU, at present Even though Ms EU has not specified the village concerned, we have made an effort to find it out. Dr Margaret NG, as we said, at present, we have not received any small house application from villagers of the said village. Hence, those "reported" situations involving the signing of agreements, assignment, and so on, do not exist. Hence, we will not spend our limited staffing and financial resources to follow up on investigation. Nonetheless, should we receive a specific report or an application from that village in future, the LandsD will of course adopt a more sensitive approach in the handling of the relevant application.

DR MARGARET NG (in Cantonese): *President, the Secretary has not answered my question. I am specifically referring to that news report. Does it mean that she will only follow up on the matter when evidence proven beyond reasonable doubt has been given in the news reports, or else there is no need to pay attention to these reports at all?*

PRESIDENT (in Cantonese): Dr NG, the Secretary has already explained why the Government has not followed up on the specific report. Perhaps let me ask the Secretary to elaborate further on the reasons why no follow-up actions have been taken by the Government.

SECRETARY FOR DEVELOPMENT (in Cantonese): Of course, I am aware of the reports referred to by Members specifically as I have also enclosed the relevant information in my reply; or else, we cannot point out that we believe the

case referred to is in the Wong Chuk Yeung Village in Sai Kung North. Nonetheless, we cannot or have no grounds to follow up because we have not received any small house application from the villagers of the said village. Hence, the reported contravention of assignment in the process of small house application does not exist; it does not exist to date. That is why I said in my replies that in relation to this reported case, there is no basis for us to follow up on it.

PROF PATRICK LAU (in Cantonese): *President, I would like to ask the Secretary whether the Wong Chuk Yeung Village in Sai Kung North mentioned in part (a) of her written reply is covered under an OZP, and whether there is any village zone nearby?*

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, Wong Chuk Yeung Village is covered under the Shap Sz Heung OZP. In the OZP, the entire Wong Chuk Yeung Village is located within the village environs I just mentioned, and has been zoned village-type development by the Town Planning Board (TPB). Hence, eligible indigenous villagers of the village can apply for small house grant inside the relevant village-type development area within the Shap Sz Heung OZP, without the need for further approval by the TPB.*

MR LEE WING-TAT (in Cantonese): *President, I asked a similar written question last year in relation to the number of indigenous villagers in the New Territories with small house rights, but no direct answer was given in the Secretary's reply. I feel odd that whenever the question concerning the number of indigenous villages with small house rights is raised, it seems that the question has fallen into a black hole, and the Government just closely guards the secrets, as if they are more confidential than state secrets.*

President, what is my supplementary question? According to the Secretary's reply, if those applications — I do not know the number of small house applications that arise out of demand as the Secretary has not replied my question — if the village head can prove that insufficient land is available within the so-called "village zone" for building small houses, he shall have the right to

make an application to the TPB for building small houses outside the village zone. In that case, who is to proof that insufficient land is available within the village zone for building small houses? It is also the village head who provides such proof.

According to a news report of TVB last week, everything is decided by the village head. He is even responsible for verifying the number of indigenous male villagers in his village for the current year as well as the coming year. He may say the number is 100 this year, and it will be increased to 150 next year. But what is reason for the increment of 50? There is no need for the village head to provide any proof, nor is this required by the Home Affairs Department (HAD) or the LandsD — proof or documentary proof as we generally understand — to substantiate the claim that 50 new-born males will arrive next year. There is no need for any proof at all.

I would like to ask the Secretary, given that the Government has always worked according to rules and regulations, what method is used by the LandsD or the HAD to verify the year-on-year increase of small house rights in an indigenous village? I am not referring to the decision made by the village head, but the basis on which the Government makes the verification.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we have always tried our best to answer questions of concern from Honourable Members on small houses. Hence, we are not "guarding any secrets" as mentioned by Mr LEE. In fact, I have prepared a lot of statistics today. Upon request, I am happy to share such information with Members, such as the number of approved applications, the number of submitted applications, or the number of cases involving the payment of premium in the past decade, and so on. Nonetheless, going back to Mr LEE's question just now about the number of eligible indigenous villagers, we actually have some difficulties in providing the relevant figures insofar as the small house policy is concerned. At present, the greatest problem is that there are basically stringent requirements in terms of supplying land for small house grant to indigenous villagers. Therefore, even if there is indefinite demand, land supply is limited.

Of course, Mr LEE has raised a point about how to reflect the village-type development in the OZP during the drafting process, as mentioned by Prof Patrick LAU just now. That is a matter requiring judgment and projection; or else, we can just restrict the building of small houses within the village environs. But we cannot do so because conservation zones and green belts may be located within the village environs. In that case, the relevant land would be set aside by the TPB. Hence, during the process, the TPB will try its best to ascertain through the LandsD the estimated demand for small house grant to be met through land under the small house policy in the coming decade. Regarding the actual process, there are in fact established rules and procedures, and it is not just the decision made by one villager. Perhaps Mr LEE can learn more about rural affairs from Mr CHEUNG Hok-ming, such as how to determine the number of descendents through the male line in the villages.

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

MR LEE WING-TAT (in Cantonese): *She has not answered my question. The Government is really guarding the secrets, even more so than a black hole.*

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

MR LEE WING-TAT (in Cantonese): *Let me put it simply. Every year, the village head of a particular village can apply to the TPB for building small houses outside the village zone. As a result, demand for building small houses would be generated due to the additional small house rights. Therefore, the village has not My question is that, throughout this process, has the information been verified by the HAD and the LandsD — Mr CHEUNG Hok-ming is not a government official, but Secretary Carrie LAM, you are — such that the additional demand is only granted when proved to be genuine? Secretary, please answer this question.*

SECRETARY FOR DEVELOPMENT (in Cantonese): Mr LEE does not have a thorough understanding on how the TPB undertakes its planning work. He is giving the impression that the TPB will gladly set aside more land for village-type development, but this is not the case. Over the years, a major concern of the Heung Yee Kuk is that generally, the TPB is only willing to zone village-type development within the village environs. It is very rare that other land will be zoned for village-type development without good reasons. Therefore, the zoning of land for small house grant is subject to many restrictions.

Regarding Mr LEE's wish to understand more about our projection on the estimated number of small house rights arising in the next decade, President, with your permission, I will provide the information in writing. (Appendix II)

MR LEE WING-TAT (in Cantonese): *President, she has not answered my question. I am asking whether the additional demand of small house rights has been vetted and approved by the LandsD and the HAD? She has not answered this focal question, President. Although my Cantonese is poor, I have asked the question very succinctly. Why has she not answered my question?*

PRESIDENT (in Cantonese): This Council has already spent 24 minutes on this question. If you are not satisfied with the Secretary's reply, please follow up on other occasions. Fourth question.

Ratios of Graduate Teacher Posts in Public Sector Primary and Secondary Schools

4. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, the Government announced in the 2007 Policy Address that it would increase the ratios of graduate teacher posts within the teaching establishment in public sector (government and aided) secondary and primary schools by two school years, that is, 2008-2009 and 2009-2010, to 85% and 50% respectively, yet, there has not been any further increase in such ratios since then. Given that over the years, teachers trained by teacher training institutions are all teachers with degree qualifications, quite a number of teachers have complained to me that*

although they have degrees in teaching and have been employed for many years, and their work in school is no different from that of graduate teachers, they are still holding non-graduate teacher posts only at present, and the existing arrangement creates divisions and conflicts among teachers, and deals a severe blow to their morale. In this connection, will the Government inform this Council:

- (a) of the numbers of teachers with degree qualifications but holding non-graduate teacher posts in public sector secondary and primary schools respectively in this school year;*
- (b) whether the ratios of graduate teachers in all public sector secondary and primary schools have reached 85% and 50% respectively; if not, of the numbers of secondary and primary schools which have yet to meet such ratios and the reasons for that; whether the authorities will urge the schools concerned to achieve such ratios as far as practicable; and*
- (c) whether the authorities will further increase as soon as possible the ratios of graduate teacher posts within the teaching establishment in public sector secondary and primary schools, thus enabling all teachers with degree qualifications to hold graduate teacher posts, so that teachers with degree qualifications will have equal pay for equal work; if they will, of their plans and timetable; if not, how the authorities address the problem of unfair treatment of many teachers with degree qualifications in secondary and primary schools who have been holding non-graduate teacher posts for a long time but have to take up the work of graduate teachers?*

SECRETARY FOR EDUCATION (in Cantonese): President,

- (a) According to the survey of the 2010-2011 school year, among the teachers appointed within the teaching staff establishment, about 3 600 and 8 400 teachers in ordinary public sector secondary and primary schools respectively possessed degree qualifications but held non-graduate teacher posts.

- (b) As pledged in the 2007 Policy Address, the Education Bureau has increased the ratios of graduate teacher posts within the teaching staff establishment in all public sector secondary and primary schools to 85% and 50% respectively in the 2009-2010 school year.

According to the statistics of the Education Bureau, the overall numbers of graduate teachers have not yet reached 85% and 50%. In the 2010-2011 school year, the overall percentages of graduate teacher posts in ordinary public sector secondary and primary schools being filled were 94% and 79% respectively.

As regards the actual utilization rates of graduate teacher posts in individual aided schools, in the 2011-2012 school year, our preliminary data indicates that about 97% of the secondary schools and 45% of the primary schools have a utilization rate of 80% or more.

We note that slightly less than half of the primary schools have filled up 80% or more of their graduate teacher posts. In other words, a relatively large number of primary schools have not fully utilized their graduate teacher posts, and the numbers of unused posts are relatively large. The main reasons cited by primary schools for not utilizing all of their graduate teacher posts include some serving teachers yet to obtain degree qualifications or still pursuing a degree course; the schools having a general need to observe the performance of the teachers for a longer period of time to identify suitable teachers in the non-graduate grade for regarding; and some teachers choosing to stay in the non-graduate grade, and so on.

The overall fill-up rate of the graduate teacher posts in secondary schools approximates to the graduate teacher ratio in the approved teaching staff establishment. Only a small proportion of schools have not yet fully utilized the graduate teacher posts.

All along, we provide schools with autonomy and flexibility in the appointment and personnel management of teaching staff so that they can appoint suitable teachers for providing quality education services, having regard to their own operational needs. That said,

we are concerned about the utilization of graduate teacher posts in individual schools. Through day-to-day contacts with the school sponsoring bodies and school administrators, our colleagues have been reminding them to make use of all their graduate teacher posts as far as possible for regarding qualified non-graduate teachers so as to raise the status and morale of teachers.

With a view to further improving the appointment and utilization of graduate teacher posts, we will request individual School Management Committees/Incorporated Management Committees to discuss and seriously consider if it is necessary to continue to retain the unused graduate teacher posts if they still have degree-holding teachers filling the non-graduate teacher posts. We will also require the schools to provide the Education Bureau with explanations and their plan to fill the graduate teacher posts by teachers with degree qualifications where necessary.

- (c) As regards the work and pay of graduate and non-graduate teachers, we consider that they belong to two different grades, with different responsibilities and salary scales. Apart from having to teach senior classes as a general practice, graduate teachers are required to take the leading role in implementing various new education initiatives. The responsibilities of the teaching staff of various grades and ranks have been set out in the Codes of Aid, and schools are required to assign duties to their teaching staff according to their grades and ranks.

All in all, it is the Government's long-term target to have an all graduate teaching force. The Government will continue to keep in view all relevant factors, including the financial commitment, prioritization of resources deployment, data on serving teachers obtaining degree qualifications and schools' progress in filling graduate teacher posts, and so on, and review the ratios of graduate teacher posts in due course.

MR CHEUNG MAN-KWONG (in Cantonese): *President, according to the main reply of the Government, about 12 000 degree-holding teachers in secondary and primary schools are employed in posts and salaries of*

non-graduate teachers, and schools are forced to do so due to the cap imposed on the number of graduate teaches at government schools. If the ratio of graduate teacher posts in secondary and primary government schools remains unchanged, does it mean that the Government think that graduate teachers being discriminated will tolerate this arrangement forever without staging opposition? Moreover, graduates of the Hong Kong Institute of Education have all become graduate teachers. In other words, when graduate teacher posts in schools are all filled by the time they graduate, they will be discriminated and will have no prospect for their future. Is this an appropriate arrangement in the long run? If the Government means what it said earlier, that is, the Government's long-term target is to have an all graduate teaching force, should the Government not set out the timetable for increasing the posts of graduate teacher, so that there will no longer be discrimination in teachers' qualification?

SECRETARY FOR EDUCATION (in Cantonese): President, I have made it very clear earlier that graduate teachers and non-graduate teachers belong to two different grades, and their duties are different. The Government has a long-term plan of enhancing and phasing out non-graduate teacher posts gradually, but it takes time to achieve this objective. As I have explained in the main reply, the main reason is that certain schools have not fully utilized their graduate teacher posts for various reasons, and we must thus give some time for the schools to make relevant arrangements. I have stated explicitly earlier that we will continue to remind schools to fully utilize all graduate teacher posts now provided under their establishment. We hope that upon the completion of this process, we will take further actions to handle the issue.

MR TAM YIU-CHUNG (in Cantonese): *President, the Secretary said earlier that graduate teachers and non-graduate teachers belong to two different grades, yet does he consider that the existing titles adopted by the Government for the two posts confusing? Some degree-holding teachers consider themselves as graduate teachers for they possess the academic qualification of a degree, and they query why they cannot take up graduate teacher posts. Hence, no matter what explanation is provided, they will feel this way. If all degree-holding teachers are to be regarded as graduate teachers, how much additional resource will be incurred? The Government mentioned the financial commitment in the*

main reply, has the Government calculated the amount involved for bringing about the change? Certainly, it is a separate issue whether the Government will spend that amount of money, but has the Government calculated the amount incurred?

SECRETARY FOR EDUCATION (in Cantonese): President, in fact, there is a historical reason for the creation of the two separate grades. Back then, graduate teachers had to undertake certain tasks, like teaching senior classes and taking the leading role, which I have pointed out in the main reply.

As for the second part of the supplementary question which is about the estimated extra amount of money now required, in the case of primary schools, if all teaching posts are converted to graduate teacher posts, we will have to increase 7 800 posts, which will incur an additional recurrent expenditure of \$680 million. As for secondary schools, since the existing figure has reached 75% (Appendix 1), we will only need to create an additional 3 200 posts, yet a considerable amount of \$450 million will be incurred. Hence, a total of \$1.1 billion will be needed in implementing the arrangement.

DR LAM TAI-FAI (in Cantonese): *According to the reply of the Government, I believe the Government obviously know that 12 000 people are being unjustly treated for getting different pay for the same job, and they are being discriminated against. However, from the reply of the Secretary today, he seems to state clearly that no action will be taken despite knowing the problem. My supplementary question is on part (b) of the main reply of the Government. It is pointed out in the reply that the main reasons for the large number of schools not utilizing all their graduate teacher posts include the situation that many certificated masters are still pursuing their studies and the schools need more time to observe their performance, and teachers in this category are waiting on another line.*

Since many certificated masters joined the grade at an earlier time, they are slightly senior, and they may have been teaching in the school for a long time and are indeed undertaking the tasks of graduate teachers. For a certificate master who has been serving in a school for a long time, say 10 or 15 years, and with good performance, may I ask whether the Government will set up a mechanism to give the school management committee (SMC) or the school

principal the discretion, or empower the school principal, to allow the teacher concerned to be regarded as a graduate teacher, for this will speed up the process of forming an all graduate teaching force?

SECRETARY FOR EDUCATION (in Cantonese): President, as far as I understand, the reasons I put forth earlier are some of the reasons reflected by principals of primary schools which are unable to fully implement the policy. Certainly, the reasons mentioned by Mr LAM earlier have also been mentioned to us by schools.

We also know that certain teachers with many years of service and will retire soon are quite unwilling to pursue further studies. Some teachers may not have too much confidence on themselves even if they pursue further studies, but such teachers are only in the minority. These are the factors impeding the full implementation of the policy.

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

DR LAM TAI-FAI (in Cantonese): *President, I ask in my supplementary question whether a mechanism can be set up to empower school principals or SMCs to make their own decisions on which teachers would be transferred to graduate teacher posts. Certificated masters need to further their studies, but as the Secretary has said, they may not have the time or they may not be willing to do so; yet if they have all along been performing well and they have contributed to the school, we may as well set up a mechanism to enable them to transfer directly to graduate teacher posts.*

PRESIDENT (in Cantonese): You are saying that though a teacher has not obtained the degree, he may be promoted to the graduate teacher post for his good performance at work. Is this what you mean?

DR LAM TAI-FAI (in Cantonese): *Yes.*

SECRETARY FOR EDUCATION (in Cantonese): President, at present, when there is a vacancy for graduate teacher, it will be filled by two channels: First, by recruiting a new teacher; and second, by regarding a qualified non-graduate teacher as a graduate teacher.

DR PAN PEY-CHYOU (in Cantonese): *President, as pointed out by Mr CHEUNG Man-kwong earlier, there are now some 10 000 degree-holding teachers who have not yet been given a graduate teacher post. According to the reply of the Secretary, graduate teacher posts are indeed available in many schools, but they are not yet filled. I doubt the reasons put forth are only excuses made by the school, and I wonder if those schools are attempting to cut cost by exploiting their staff.*

May I ask the Administration whether it will implement more proactive measures to impose pressure on schools which have unfilled graduate teacher posts or teachers not yet promoted to graduate teacher posts, so as to require the schools concerned to fill those vacancies gradually, and to require the schools to give detailed explanation and submit regular progress reports on the filling of those vacancies?

SECRETARY FOR EDUCATION (in Cantonese): Finance resource is in fact not an issue. Since we have already set up the posts for the school and the resources required have already been set aside, the schools need not save the resources, neither will it use the resources for other purposes. Hence schools will not leave the posts vacant merely for the sake of saving money.

As to whether we have a more effective solution, I have pointed out in the main reply that we will request the SMCs of individual schools or the Incorporated Management Committees to be informed of the situation, which are then required to identify a solution to the problem. If the schools still fail to address the situation properly, we will request individual schools to explain their failure for so doing, and when it deems necessary, we will require the school concerned to provide a timetable and specific plan for improving the situation.

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

DR PAN PEY-CHYOU (in Cantonese): *No, it has not. One of the points in my question is about regular follow-ups and requiring the school to report the progress made*

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

DR PAN PEY-CHYOU (in Cantonese): *Since the authorities will request individual schools to submit the relevant plan, will the authorities follow up the progress regularly?*

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

SECRETARY FOR EDUCATION (in Cantonese): We surely will do so.

MR LEE CHEUK-YAN (in Cantonese): *President, I think the focus of discussion should not be shifted to schools. The Secretary's reply is self-explanatory, and the only reason is that the Government is unwilling to pay the \$1.1 billion. If the Secretary is willing to allocate the funding of \$1.1 billion, many teachers can be regarded as graduate teachers. At present, the ratio of graduate teachers is capped at a certain percentage, and the ratio for secondary schools is set at 85%, and the ratio for primary schools is set at 50%. If the Secretary is willing to abolish this ratio cap, the 12 000 teachers concerned will be included in the establishment. In other words, the schools have no role to play in the incident.*

Hence, may I ask the Secretary whether he refuses to do so purely out of pecuniary concern, that is the \$1.1 billion incurred? Is the Government tightfisted and unwilling to allocate the resources incurred? This will result in

the severe wastage of graduate teachers, for graduate teachers have to be graded as non-graduate teachers and receive lower pay for no valid reason. Should the Government show commitment to this group of aspiring young teachers and attract them to stay in the field; or attract more degree holders to become teachers? If the Government does not do so for the sake of saving \$1.1 billion, the education system will indeed be undermined. Does the Secretary agree that the Government is obliged to allocate the \$1.1 billion?

SECRETARY FOR EDUCATION (in Cantonese): President, I disagree with the analysis of Mr LEE Cheuk-yan, for the Government has already made the allocation. The major reason should be attributed to the failure of schools to fully utilize the resources allocated to them. At present, we allow secondary schools to maintain the ratio of graduate teachers at 75%. If many schools at present have fully utilized the ratio of 75% and consider it inadequate, we will definitely consider ways to increase the ratio from 75% to 80%, 90% or 100%. (Appendix 1)

This is particularly so in the case of primary schools, for the unutilized ratio is very high at present. Hence, we hope that schools will continue to work hard on this. Upon the completion of the work, we will examine the progress and consider what improvement should be made.

MR LEE CHEUK-YAN (in Cantonese): *President, the ratio of 75% mentioned in the Secretary's reply does not exist, for the ratio has always been 85%. Moreover, at present, the ratio of graduate teachers in secondary schools has reached 94%, which only lacks 9%. The Secretary may have to clarify the reply he gave earlier. He keeps saying that it is 75%, but I have never come across the ratio of 75%, it should be 85%, and in fact, the number of graduate teachers has reached 94%.*

PRESIDENT (in Cantonese): Secretary, do you need to correct any information.

SECRETARY FOR EDUCATION (in Cantonese): When I mentioned 95% earlier, I meant that 75% of the secondary schools are now adopting the ratio of 95%, (Appendix 1) and as such, there is still room for full utilization, particularly in primary schools, where the utilization rate is very low.

PRESIDENT (in Cantonese): This Council has spent more than 21 minutes on this question. Fifth question.

Voting Arrangements for Hospital In-patients and Elderly in Public Elections

5. **MR WONG YUK-MAN** (in Cantonese): *President, I have received cases seeking assistance that eligible electors undergoing treatment in hospitals were not allowed, on health grounds, to be released on the days of Legislative Council Election and District Council Elections respectively to vote, and the Registration and Electoral Office (REO) did not have any corresponding administrative measures to assist this group of electors. In respect of measures assisting electors who are unable to complete the voting procedure on their own, will the Government inform this Council:*

- (a) *whether REO will send staff to all hospitals to assist in-patient electors in voting in future elections; and*
- (b) *whether REO will make corresponding arrangements to assist elderly electors with limited mobility who live in residential care homes for the elderly in voting on election days?*

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

- (a) According to section 34(1) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (the Regulation) (Cap. 541F), for every contested election, at least 10 days before polling day, the Chief Electoral Officer must send a poll card to each elector. Section 34(3) of the Regulation further stipulates that the Chief Electoral Officer must state in the poll card the polling station

at which the elector must cast his or her vote. Similar provisions are also contained in the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D).

To facilitate electors to vote, the REO will attach to the poll card sent to each elector a location map of the allocated polling station. This arrangement is applicable to all electors, including electors who are hospitalized for treatment.

The REO has considered whether polling stations could be set up in hospitals in the light of the experience of setting up dedicated polling stations (DPSs) inside penal institutions. Under the polling arrangement for DPSs inside penal institutions, the REO will prepare in advance the extracts of poll registers for the polling staff in DPSs to check whether an elector is eligible to vote. The REO will also put in place special arrangement to update these extracts so as to reflect the situation on the polling day.

However, the situation in hospitals is different from that in penal institutions. Penal institutions usually have no intake/discharge of electors on the polling day, which is usually a Sunday, while hospitals may admit and discharge many patients on the polling day. Given the high mobility of patients in hospitals, it is impossible to update the relevant extracts of the poll register on the polling day even with a substantial input of manpower and resources. Under such circumstances, it is possible that a patient who has already voted at a polling station in a hospital, may later go to other or his/her allocated ordinary polling station to vote again. Likewise, it is also possible that an elector who is admitted to hospital after voting at an ordinary polling station may vote again at the polling station in the hospital.

Moreover, even if polling stations are set up at designated places in the hospitals, the hospitalized electors still have to go to those places to vote. As such, bedridden electors may not be able to benefit from this arrangement. If ballot papers are to be issued by polling staff to patients in their beds to enable these bedridden electors to vote, the secrecy of vote may easily be compromised. Furthermore, if the hospitals have to deploy healthcare staff to assist patients to

vote, the workload of these healthcare staff will increase, thus affecting the daily operation of the hospitals.

Lastly, there is also a possibility of outbreak of infectious disease close to or on the polling day, which renders the hospitals not suitable for setting up polling stations. The REO will have difficulty in identifying alternative venues which are suitable for use as polling stations on short notice.

To conclude, we consider it practically difficult to pursue the proposal of setting up polling stations in hospitals at the present stage.

- (b) According to section 33(3) of the Regulation, the Chief Electoral Officer must allocate to an elector a polling station that is, as far as practicable, close to his or her registered residential address.

If an elector with a disability or has to use wheelchair finds that the polling station allocated to him/her is inaccessible to wheelchair-bound or disabled electors, he/she can apply to the REO by phone or by fax five days before the polling day for re-allocating another polling station accessible to him/her. The applicant will then be allocated to a polling station close to his/her residence and suitable for use by wheelchair-bound or disabled persons. If circumstances permit, the REO will also through the Hong Kong Society for Rehabilitation arrange Rehabus service for wheelchair-bound or disabled electors to transport them to and from the polling stations. This arrangement is applicable to all electors, including elderly electors with mobility difficulty who live in residential care homes.

The REO has made every effort in every election to identify venues suitable for use by wheelchair-bound or disabled persons as polling stations. If possible, the REO will install temporary ramps at inaccessible polling stations so that they can be accessible to electors with mobility difficulty. In the recent District Council Election, over 90% of the polling stations are accessible to electors who have mobility difficulty or have to use wheelchairs. The percentage is higher than that in the previous elections.

We will certainly continue our efforts in improving the relevant electoral arrangements.

MR WONG YUK-MAN (in Cantonese): *President, the Secretary was singing his bureaucratic tune again. The Secretary has said nothing but citing ordinances in his reply; he has ritually answered the question in such a way that he has actually not replied the question. I asked him two important questions. Firstly, at present, many patients cannot leave hospitals to cast their votes, but the authorities have not made any arrangements in hospitals for them. Then, who is responsible for laying down the standard? How to prove that these in-patients are physically unfit for going out to cast their votes? According to the Secretary, the authorities cannot set up polling stations in hospitals and furthermore, he said that it is not advisable to set up polling stations in hospitals, especially when there is a outbreak of infectious disease, is this not failing to answer the question though a reply has been given?*

The second part is about residential care homes. As Members may also be aware, the suspected vote-rigging in the recent election and its related incidents For those of us who had stood for election, we should have noticed that some elderly electors were transported to polling stations by coaches to cast their votes, but the arrangement was not made by the Government. The Secretary has said that arrangements will be made as far as practicable to facilitate elderly people or people with mobility difficulty to cast their votes, but in the end such arrangements were made by the Democratic Alliance for the Betterment and Progress of Hong Kong or the Hong Kong Federation of Trade Unions of the pro-establishment camp. Who would these electors vote for? The answer is obvious, right? The REO's arrangement has tainted the clean elections in Hong Kong, overshadowing the so-called clean elections. While we advocate equal opportunity, has the Government made any arrangements to assist elderly people with mobility difficulty in casting their votes? Absolutely not. The Secretary has said in his reply that 90% of the polling stations have facilities to facilitate elderly people with mobility difficulty

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

MR WONG YUK-MAN (in Cantonese): *Vote-rigging has escalated into such a stage that all electors residing in the same residential care home have registered the same address and then they all go to cast their votes together. This, in fact, has brought out another problem. President*

PRESIDENT (in Cantonese): Mr WONG, would you please stop making statements and raise your supplementary question.

MR WONG YUK-MAN (in Cantonese): *OK, my question is clear, which only consists of two points. Nevertheless, the Secretary has failed to specifically respond to the two points in his main reply. The first point he has to respond to is, given that the authorities cannot set up polling stations in hospitals, what standard the hospitals will adhere to in deciding whether in-patient electors should be allowed to go out to vote? Just like last time when I was admitted to hospital for an operation, although I was hospitalized*

PRESIDENT (in Cantonese): Mr WONG, you have already raised your supplementary question.

MR WONG YUK-MAN (in Cantonese): *I came back to participate in the motion debate. I could do so with the permission of the doctor. Right? Hence, should hospitals not be provided with a standard by the authorities, or should hospitals themselves not have a standard in place and co-ordinate with the REO?*

The second question is about residential care homes which he also has failed to answer.

PRESIDENT (in Cantonese): Mr WONG, please raise a supplementary question first.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, let me respond in greater detail to the two supplementary questions which Mr WONG Yuk-man has just raised.

First of all, on the issue of hospitals, Mr WONG has mentioned a case in his main question concerning a hospitalized elector who was not allowed, on health grounds, by his doctor to take short leave from hospital to cast his vote. In Hong Kong, in-patients who want to take short leave from hospital are subject to the approval of their attending doctor and medical team in accordance with the prevailing medical standards. If a patient wants to leave the hospital to vote or to go home for a dinner during a festival day, I believe doctors will make the decision based on the health condition of the patient concerned. If the medical team is of the view that a patient can leave the hospital for a short while to vote and there is a need for transportation arrangement, as I have just mentioned in the main reply, the patient can contact the REO for Rehabus service to take him free of charge to the suitable polling station to cast his vote. Perhaps, we can step up publicity efforts in this regard. This is my reply to the first supplementary question.

As for residential care homes, I wish to provide some additional information. According to the existing legislation on elections, if the principal residence of an elderly person is a residential care home, he/she can use this residential care home where he/she stays overnight as his/her main registered address. This is the first point. The next point is about the transportation service. As I have just mentioned, apart from the Rehabus service arranged through the Hong Kong Society for Rehabilitation by the REO, other individuals, organizations or non-governmental organizations can also arrange other transportation services This arrangement has been provided for in the relevant legislation and has been specifically mentioned in some booklets produced by the Independent Commission Against Corruption (ICAC) If the provision of free transportation service, whoever the beneficiaries may be, is purely for convenience purpose, it does not constitute an offence under the Elections (Corrupt and Illegal Conduct) Ordinance. However, if canvassing activities are involved in the process during which people are encouraged to vote for or against a certain candidate, or if on the vehicles For example, if someone's clothing or accessories contain information about a certain candidate, the free service can be regarded as an advantage. If so, according to the existing legislation on election, this constitutes an offence and a malpractice. More detailed information can be found in the relevant booklets printed by the ICAC and the related information that we provide for the public.

MR WONG YUK-MAN (in Cantonese): *President, may I request the Government to provide information on the past records of Rehabus service*

carrying elderly people from residential care homes and hospitals to polling stations to cast their votes. I hope the Secretary can provide such information because his reply to my supplementary question is more comprehensive than his main reply. Hence, instead of empty talks, I request him to provide more information to us.

PRESIDENT (in Cantonese): Secretary, can information be provided?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Yes. I will later provide the information to the Secretariat. (Appendix III)

MR ALBERT CHAN (in Cantonese): *President, the Secretary has basically admitted in his reply just now that doctors in hospitals may disallow patients, on grounds of their health condition, to go out to vote. I hope the Secretary can conduct a study to review whether such decisions have violated the Disability Discrimination Ordinance. The decisions may deprive patients of their political rights and may have violated the stipulations in the Hong Kong Bill of Rights Ordinance as well as the Disability Discrimination Ordinance. I hope the Secretary can conduct a study on this issue.*

President, my supplementary question is related to the arrangement concerning the homes for the aged. As the Secretary has just explained, the relevant code of the ICAC clearly stipulates that if the provider of transportation services to carry elderly people to polling stations persuade the elders to vote for a certain candidate, he has violated the relevant legislation. However, President, this practice is common in almost all elections. Almost all homes for the aged are designated to one or two organizations for arranging transportation services to polling stations to vote. Back in the 1980s and 1990s when homes for the aged were less popular, I had also involved in such work. The regulations or legislative provisions at the time were less stringent. However, in recent years, one or two organizations have almost monopolized this service. They have controlled the voting of all elderly people living in homes for the aged. Instructions are made, and people accompanying the elderly people to vote know very well that

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

MR ALBERT CHAN (in Cantonese): *They will clearly indicate to the elderly people or teach them how to vote. My supplementary question is whether the Secretary will conduct a thorough investigation or request the relevant organizations to conduct a thorough investigation? I can provide information on the homes for the aged to the Secretary for investigation, exploring whether on the way to the polling stations the elderly people have been taught by volunteers how to vote. Will the Secretary conduct an investigation so as to restore the innocence of elections?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr Albert CHAN's supplementary question has two parts. The first part is whether doctors' decisions will be, in a way, in conflict with the Disability Discrimination Ordinance. In this regard, on the face of it, such problem does not exist because doctors' decisions are made on the basis of the patients' health condition. However, I will certainly go back and look into this issue in greater detail.

Secondly, I have just cited some legal provisions on corruption in elections and the enforcement body in this regard is the ICAC. Under the relevant procedures, any person with grievances can lodge a complaint with the monitoring body which will initiate an investigation in strict pursuant to the law. The monitoring body will certainly initiate a legal proceeding if evidence supporting the legal proceeding is available.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the patients' right to vote should not be deprived of. Instead, the Government should be duty-bound to render assistance to patients to cast their votes. In reply to part (a) of Mr WONG Yuk-man's question, the Secretary pointed out, "Under such circumstances, it is possible that a patient who has already voted at a polling station in a hospital, may later go to his/her allocated ordinary polling station to vote again." In fact, these are administrative problems. I hold that the Government should be more thoughtful to avoid administrative problems and render assistance to patients to cast their votes.*

Thus, may I ask the Secretary whether a procedure can be stipulated to allow chronically-ill patients who genuinely wish to vote to make a prior application to the Government, declaring that they will cast their votes in hospitals and will not vote in their allocated polling stations? May I ask the Secretary whether such administrative arrangements are feasible? If not, what are the reasons?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr LEUNG Yiu-chung for his supplementary question. As I have pointed out in my main reply, we have looked into this problem in the past, but having considered the few concerns which I have just mentioned in the main reply, particularly whether the daily operation of the hospitals will be affected and whether polling registers can be updated in time as there are daily intake and discharge of patients in hospitals Having taken all these practical factors into account, we consider it difficult to implement this arrangement at the present stage.

However, as I have already mentioned in my reply to the supplement question raised by Mr WONG Yuk-man, instead of arranging their own transportation, patients can use the Rehabus service arranged by the REO to go to the polling stations and return to the hospital. I believe this can practically assist patients in casting their votes.

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

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary may have wrongly heard or misunderstood my supplementary question. The two are different. What I meant to say is, the chronically-ill patients can make a prior application or declaration to the Government that they will not cast their votes in their allocated polling station. I asked him whether this arrangement is feasible and if not, the reasons for that. This is the question which I have asked him, which is very specific, but his reply is about another issue. I thus would like the Secretary to clearly answer this supplementary question again. Administratively speaking, is the Government not duty-bound to assist patients in exercising their right to vote as far as feasible, rather than using excuses to stop them from doing so?*

PRESIDENT (in Cantonese): Secretary, Mr LEUNG's question is whether the authorities can make a special arrangement for patients who have made prior applications?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, let me reply again in greater detail. I wish to reply in two parts. First of all, as I have pointed out in the main reply, it may not be a practically feasible option to set up polling stations in hospitals. However, the principal residence of some chronically-ill patients or the hospital they are staying may be far away from their allocated polling stations and they may need to cast their votes in specially arranged polling stations. As to whether it is feasible to set up a polling station adjacent to or in the vicinity of the hospital for patients who have made a prior application to facilitate their voting, we can follow up the suggestion with the REO staff.

MR LEUNG KWOK-HUNG (in Cantonese): *President, regarding polling arrangements for the elderly, it all depends on the relationship between the party making the arrangement and the homes for the aged, no other factors are involved. I think better arrangements can be made. For instance, reference can be drawn from practices in other countries where people with mobility difficulty or the chronically ill can cast their votes one day earlier than the voting day, meaning that they do not vote on the polling day. What are the advantages of this arrangement? First, they can avoid the crowd and second, they need not be involved in the "battlefield". I noted that in my constituency, my opponent also arranged elderly people to vote on the polling day. In fact, it was very hectic for the elderly. A video clip has been uploaded onto the Internet showing the elderly people being taught how to vote. I think allowing certain people to vote one day before the polling day is desirable. People with certain disabilities can vote one day earlier, this also applies to prison inmates or other persons. I think this is a more suitable arrangement. I do not know if Secretary Raymond TAM can make such an arrangement. By so doing, we would have a better idea about how many people have voted, and how many elderly people have voted; the entire monitoring system will be more transparent.*

PRESIDENT (in Cantonese): Your supplementary question is clear enough.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe the existing arrangement is built on the experience accumulated in the past 20-odd years. Of course, we have drawn reference from overseas experience in many aspects, in a bid to explore ways to enhance our polling arrangement. However, to date, we still prefer electors to vote in person on the polling day because we believe that the present arrangement can better guarantee, first, the impartiality of elections; second, the secrecy of elections; and third, the elimination of vote-rigging.

Hence, at the present stage, we will not adopt other arrangements such as bringing the polling day one day forward as Mr LEUNG Kwok-hung has suggested or sending polling cards by mail which are adopted in other countries. We believe that the present arrangement should generally be able to satisfy the wish of electors to cast their votes in person.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he has not answered my supplementary question. His reply is quite the opposite. Yes, indeed. You should also have noted something wrong with his logic. I said that bringing the polling day one day forward can be less hectic for the elderly and will be a better way to evaluate the situation, but he said that bringing the polling day one day forward will be difficult to guarantee the impartiality of elections*

PRESIDENT (in Cantonese): Mr LEUNG, the Secretary has already replied. He has told you what the prevailing government policy is. If you disagree, please pursue the subject with the Secretary on other occasions.

This Council has spent more than 22 minutes on this question. Last question seeking an oral reply.

Regulation of Food Additives

6. **MR TOMMY CHEUNG** (in Cantonese): *President, incidents of "fake flavouring" on the Mainland have repeatedly been heard in recent years. The relevant reports have pointed out that a number of food additives which are extensively used on the market are chemically synthesized products with unknown composition, and some of them even contain chemicals banned by the State.*

Recently, some media in Hong Kong have also reported that a food additive commonly known as "One Drop of Incense" (ODI) of unknown composition, which has aroused concern in Hong Kong and on the Mainland, has already made its way into the restaurants of Hong Kong, and is used as the flavouring agent of soup products. In this connection, will the Government inform this Council:

- (a) whether it has conducted any test on the chemical composition of ODI since the media reported on the incident of ODI last year; if it has, of the results and whether ODI contains any harmful substance; if it has not conducted any test, the reasons for that;*
- (b) how the authorities prevent the inflow of problematic food additives into the market of Hong Kong; whether they have followed up the matter with the authorities concerned in other places and are fully aware of the list of food additives which contain harmful substances, as well as their distribution channels and whether some of them are available in Hong Kong, and so on; if so, of the details; if not, the reasons for that and whether the authorities will follow up this matter with the authorities of the places concerned as soon as possible; and*
- (c) when restaurants are doubtful about the safety of the food additives purchased by them, how the authorities assist in following up as well as carrying out the tests required; whether the authorities have provided timely information to members of the industry, so as to prevent them from purchasing problematic food additives; if so, of the details; if not, the reasons for that; how they will enhance their efforts in releasing such information in future?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Centre for Food Safety (CFS) closely monitors about 40 food safety related websites of the Mainland and overseas government authorities, as well as international organizations on a daily basis in order to keep abreast of the latest food incidents happening in other places of the world. It also pays close attention to related media reports and takes appropriate follow up action. Following the media reports on the use of ODI in the Mainland and in view of the public concern so generated, the CFS has been keeping in view and following up

the issue. So far, the CFS has not found ODI available for sale locally, nor any information on the exact composition of the product.

Restaurants in Hong Kong should ensure that food ingredients used are fit for human consumption. Section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) provides that all food intended for human consumption for sale in Hong Kong, whether imported or locally produced, must be fit for human consumption. In addition, the food must also comply with regulations concerning food safety and food standards made under the above Ordinance, including the Colouring Matter in Food Regulations (Cap. 132H), the Sweeteners in Food Regulations (Cap. 132U) and the Preservatives in Food Regulation (Cap. 132BD). These Regulations have listed the permitted food additives and/or the permitted levels of the specified food additives. Any person who contravenes the above legislation is liable to a maximum fine of \$50,000 and imprisonment for six months. Moreover, if any food is suspected to be hazardous to health, the CFS will take vigorous follow-up action, including research and testing, to ensure food safety. Furthermore, the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) under the Public Health and Municipal Services Ordinance require that prepackaged food for sale in Hong Kong shall include in the label of ingredients the specific names or identification numbers of food additives used, and their functional classes.

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

- (a) Upon our enquiry, the concerned Mainland authority replied that ODI was a hotpot flavouring agent. Generally speaking, hotpot flavouring agents may contain vegetable oils and flavouring substances. It was also reported in the media that the major component of ODI was ethyl maltol, which could be used as a flavouring and a flavour enhancer. In the studies on experimental animals, no adverse effects on these animals were noticed after long-term oral administration of ethyl maltol at high dose level (200 mg/kg bw). The Joint FAO/WHO Expert Committee on Food Additives (JECFA) has evaluated the safety of ethyl maltol and opined that the normal use of ethyl maltol in food within good manufacturing practice should not pose any health risks. The JECFA also established an Acceptable Daily Intake of 0-2 mg/kg bw for ethyl maltol. The CFS has conducted risk assessment based on the media report that two samples of food taken from restaurant(s)

were found to contain ethyl maltol at 7.3 mg/kg and 9.2 mg/kg respectively, and found that consumption of those two food products would not cause any adverse health effects to the public.

In response to the earlier media reports on the use of a chemical additive ODI as a flavouring in soup products in local restaurants, the CFS acted promptly and took a total of 10 samples (including hotpot soup bases and condensed soup) from the local market this November for chemical testing of ethyl maltol and metallic contamination, and so on. All test results were satisfactory.

In view of the public concern over the food safety of hotpot soup products, the CFS also conducted a Survey on Popular Food Items with "hotpot soup bases" as the theme earlier this year. In the said survey, 67 hotpot soup base samples were collected from the local market for chemical tests, covering tests of metallic contamination, colouring matters, preservatives, antioxidants, and so on, in order to assess the food safety of hotpot soup bases. Apart from one sample which was found unsatisfactory in respect of colouring matters, the remaining 66 samples were all found satisfactory. The CFS had taken follow-up actions on the unsatisfactory sample, including taking further samples for testing, and the result was satisfactory.

- (b) The CFS has taken the initiative to make enquiries on ODI with the Mainland authority concerned, which replied that the product was only available for sale in the Mainland and had not been exported to Hong Kong. Through the CFS's risk-based routine food surveillance programme, food samples are taken at import, wholesale and retail levels for chemical and microbiological testing, to ensure that the food meets the requirements of legislation and is fit for human consumption. Up till now, the CFS has not found ODI available for sale locally.
- (c) Following the media reports on ODI, the CFS has explained, in the February 2011 edition of the newsletter "Food Safety Focus", the incident to the public and the trade. A flavouring agent is a kind of food additive and the CFS will provide the trade with relevant information from time to time. Educational materials such as leaflets and booklets are distributed by the CFS through publicity

channels including the CFS website, periodicals, seminars and exhibitions to brief the public and the trade on various food additives and the relevant legislation. In recent years, the CFS has also strengthened its publicity efforts by making use of its monthly e-publication "Food Safety Focus", which serves as a platform to introduce a series of articles covering holistically the safety concern of food additives like preservatives, colouring matters, sweeteners, and so on. Such information is also available for the public and the trade on the CFS website.

Food safety is regulated by the Public Health and Municipal Services Ordinance and its subsidiary legislation. Members of the trade have the responsibility to ensure that all food products for sale in Hong Kong are fit for human consumption, and they should purchase food ingredients from reliable food importers or distributors and keep abreast of local regulatory requirements on the use and labelling of food additives. In case of doubt, they should consider seeking proof of food testing from importers or distributors or arrange testing by accredited laboratories to ensure that the food in question is fit for human consumption.

MR TOMMY CHEUNG (in Cantonese): *This is a sample of ODI. A few weeks ago, I gave it to the Food and Environmental Hygiene Department (FEHD) for testing. The result was satisfactory as no additives or harmful ingredients were found. In fact, its label has stated that it contains "pure fragrance" and "agarwood fragrance", with broomcorn and wheat being its ingredients. Previously, I have conducted a simple study on ODI but my findings are slightly different from the information received by the Secretary. I find that ODI is not only used for making soup bases; many restaurants in the Mainland also use it to marinate pork, and some even use it to make snake wine. When I bought this bottle of ODI, I had not yet collected such information.*

President, I would like to ask the Secretary: although ODI has not been imported into Hong Kong, will the frequent exchanges between the Mainland and Hong Kong given that ODI is not available for sale in any local supermarkets or markets, where did I buy it? Actually, it is easy to buy ODI as it can be found in many places, such as places which supply food to restaurants. While the general public will not buy ODI, restaurants will do so. To my

knowledge, many restaurants in the Mainland use ODI, even though its usage cannot be described as very common.

In view of this, I would like to ask the Secretary: will you co-operate with the trade and deploy staff to the Mainland to follow up the media reports? The fact that ODI is not available for sale in Hong Kong should not be the reason for not conducting any tests or building up any databases. You should take the initiative to work with the trade to get more data and information, and improve your website.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we will definitely take follow-up actions if there is any information suggesting that a particular product may threaten food safety. However, as stated by Mr CHEUNG, as at today, the tests conducted locally and the information provided by the Mainland have both confirmed that ODI is simply a kind of flavouring agent which poses no significant risk to food safety. In case the situation warrants the collection of additional information or the conduct of studies, we will follow up for sure. By then, we will not only search retail shops but will also collect soup base samples from restaurants to examine their ingredients. Yet, as mentioned above, chemicals like ethyl maltol were not found in the two tests conducted previously.

By the way, I would like to point out one thing. My colleague had previously shown me a photo of the bottle of ODI bought by Mr Tommy CHEUNG, which is the one he is holding now. From the photo, I saw the Chinese characters "一滴香", that is ODI, printed on the bottle. Yet, these characters are followed by a small Chinese character "酒", (meaning "wine"). This implies that Mr CHEUNG may have bought a bottle of wine instead of additive. If he wants to buy a sample, he should buy the right one. Otherwise, he may have just bought some cheap or bad wine instead of additive. We should be aware of this matter. Moreover, after testing the sample provided by Mr Tommy CHEUNG, we found that it does not contain any ethyl maltol, a chemical which I have just mentioned. Even if we use it for cooking, we may be just adding some alcohol to our food.

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

MR TOMMY CHEUNG (in Cantonese): *No, President. My supplementary question is: although ODI is not available for sale in Hong Kong he said that I may have bought a wrong product. However, when I looked for ODI, I actually found that some restaurants in the Mainland use this kind of ODI for cooking. Even though the character "酒" (wine) is printed on the bottle of my sample, is it possible that there may be some ODI which do not contain any alcohol? Will there be some other brands? This is exactly what my supplementary question is about. While I know that ODI is not available for sale in Hong Kong, the close proximity between Hong Kong and the Mainland makes it easy for people to bring ODI to Hong Kong. Will the Government take the initiative to go to the Mainland to collect information on ODI? I am not asking whether ODI is available for sale in Hong Kong. My concern is that the Government should collect information to confirm the number of brands of ODI in the Mainland. It should also test different brands of ODI to see which one is safe to use and which is not. It should ascertain which brands of ODI only contain alcohol and hence can be brought into Hong Kong, and which are not safe to import. I hope that the Secretary can build up a database so that the public can know more about the usage of ODI.*

PRESIDENT (in Cantonese): Please let the Secretary answer. Secretary, do you have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, just now I worry that if Mr Tommy CHEUNG has regarded a product with the brand name of "ODI" as the flavouring agent ODI, he may fail to achieve his purpose of providing us a sample. In particular, after we have tested the sample, we found that it contains only alcohol and water; and if it is added to our food, it is just like putting in some wine, which is a common practice. Certainly, we cannot tell if this will make our food taste better.

Last week, I was in Guangdong Province and had the opportunity to communicate with three authorities, namely the Department of Health, the Inspection and Quarantine Bureau, and the Guangdong Food and Drug Administration. After I told them of our concern about the use of ODI, they all said that ODI is just a kind of flavouring agent used in the Mainland and it does not pose any health or safety risks. Therefore, we must be careful in deciding whether we should use public money to conduct research on a single flavouring

agent which does not cause any adverse effects to the health of Hong Kong people and food safety. We think it is better to research into foodstuffs which are more likely to affect public health.

As we all know, the Food Safety Ordinance will be effective on 1 February 2012. All importers, distributors and retailers of food products will then be required to check the sources of their products clearly before selling them. I think, to a certain extent, this measure can provide a general protection to people in Hong Kong. The trade should thus co-operate with the Government in this aspect to provide information to consumers.

MR WONG YUNG-KAN (in Cantonese): *President, food additive can significantly change the composition of food. I would like to ask the Government about the effects of adding additive to foodstuffs. For example, if we use additive to marinate meat as mentioned by Mr Tommy CHEUNG, how will the quality and freshness of meat be affected? Has the Government conducted researches or random checks to examine the effects of additives on meat? What changes will be brought by the addition of additives?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, most of the food additives are added in the process of cooking. As for ready-to-eat food, particularly packaged food, all the additives used in its production have to be clearly listed on the label of ingredients as required by the current legislation. Under the current legislation, the classes of additives used must also be set out.*

Some additives may possibly be preservatives. The legislation has stipulated the types of preservatives allowed for use, their doses and the types of foodstuffs to which such preservatives may and may not be added. All these requirements are clear and can be found on the CFS website. I therefore consider the existing safeguards sufficient. However, we will continue to look for new information to keep abreast of the latest food development and rapid changes of international standards. If we find that any additives, which we consider harmful to public health, have been added to food and have caused side-effects, we will take follow-up actions and make public announcement.

DR SAMSON TAM (in Cantonese): *Food safety is vital. I have downloaded from the Internet a newsletter on food safety called "Food Safety Focus", which was mentioned by the Secretary in the main reply. Over the past five years, a total of 64 issues of the monthly newsletter have been published. It is definitely desirable to upload these newsletters on the Internet, so that enterprises can obtain comprehensive information. However, as most of the restaurants are small and medium enterprises (SMEs), half of which do not use any information technology, does it mean that they can only obtain the hard copy of the leaflets. We usually throw away the leaflets after reading them. I would like to ask the Secretary: will there be any measures to teach SMEs how to obtain information online so that they can keep on learning new knowledge to enhance food safety?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I believe that the trade is quite familiar with the information on food safety. In particular, the FEHD often meets with representatives of the trade and other relevant organizations to brief them of the latest legislation and regulations. Many trade representatives had also participated in the consultation on the enactment of the Food Safety Ordinance. Of course I understand that such channels may not be available for some small shops and restaurants. However, FEHD staff will, during their frequent inspections to such shops and restaurants, try to understand their needs and provide them with the necessary information.

Regarding the leaflets and booklets prepared for food premises, supposedly, they should not be thrown away but should be kept for reference. Hence, food premises need not search online for getting the information required. Certainly, I expect that e-communications would become increasingly frequent, and information can be obtained more rapidly. It is also easier to disseminate information online than by paper-based communication. We have therefore encouraged the trade to exchange their views online. I think more and more restaurants will do so. As we all know, computers are now widely used and generally speaking, computer hardware is getting cheaper. Many restaurants should be able to afford buying a computer.

MR ANDREW CHENG (in Cantonese): *After reading the salient points of the main reply, I am afraid that none of us is clear about the chemical composition of ODI. While Mr CHEUNG has a bottle of "ODI" in hand, the Secretary, by just looking at the photo, said that its composition is different from that of ODI. As I*

read the main reply, I note that the Secretary use words such as "based on the media report" and "make enquiries with the Mainland authority concerned" in part (a). President, I raised a question on the same subject last year. What I worry most is that we fail to see the whole picture. The sample passed the test as only ethyl maltol was tested since the Secretary considered it as the main component of ODI.

However, some ODI may have other chemical elements. The Government has neither tested the sample for other chemicals nor taken the initiative to buy some other ODI for testing. I think the Secretary should not draw hasty conclusion to say that ODI is safe. In my supplementary question, I would like to ask the Secretary: will he worry that the Mainland authority and the media might have taken the wrong samples for testing, thereby leaving the public in the dark.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, Mr CHENG did not raise his question last year but early this year. At that time, I had also given Members a detailed account of our work. Just now, I said that ODI is not found in Hong Kong. The sample provided by Mr Tommy CHEUNG was also bought in the Mainland. As it is impossible for us to go around all places to collect ODI for testing and we do not know which one has been used for food in Hong Kong, we can only rely on our counterparts, which are the relevant Mainland authorities, to conduct investigations. They tell us that ODI is basically a flavouring agent which does not cause any adverse health effects, and there is no case showing that eating foodstuffs added with ODI will cause extensive health problems.

According to the information obtained so far, we think that ODI is most likely to contain ethyl maltol. As I have just said, various scientific studies have shown that a limited intake of ethyl maltol will not cause any health concern. That is all that we can do in handling the issue of ODI. As for other additives, whether they use the name "ODI" or not, as long as there is information which can convince us to trace and pursue, we will take the necessary actions. However, there is no such clue in Hong Kong right now.

PRESIDENT (in Cantonese): This Council has spent more than 24 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Disparity Between the Rich and the Poor in Hong Kong

7. **MR RONNY TONG** (in Chinese): *President, it has been reported that the Gini Coefficient of Hong Kong has all along been above the alarm level of 0.4, reflecting the seriousness of income disparity between the rich and the poor, whereas the figure of 0.434 recorded in 2009 was regarded as the highest among the world's advanced and developed regions, indicating that the majority of Hong Kong's wealth is in the hands of a small group of people. Yet, the situation does not lead to reduction in government revenue or a deficit budget and, on the contrary, the Treasury has even recorded surpluses. In this connection, will the Government inform this Council:*

- (a) *of the distribution of the wage-earning working population in each of the past five years, and list the breakdown in the table below;*

<i>Wage-earning working population</i>	<i>Year of assessment</i>				
	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>
<i>Size of wage-earning working population</i>					
<i>Wage-earning working population not required to pay salaries tax</i>					
<i>(i) size</i>					
<i>(ii) percentage in the wage-earning working population</i>					
<i>Wage-earning working population required to pay salaries tax</i>					
<i>(i) size</i>					
<i>(ii) percentage in the wage-earning working population</i>					

- (b) *of the distribution of the income of salaries tax payers in each of the past five years, and list the breakdown in the table below;*

Annual income (HK\$)	Year of assessment									
	2006-2007		2007-2008		2008-2009		2009-2010		2010-2011	
	Number of persons	Percentage of the tax paid by them in the total amount of salaries tax collected	Number of persons	Percentage of the tax paid by them in the total amount of salaries tax collected	Number of persons	Percentage of the tax paid by them in the total amount of salaries tax collected	Number of persons	Percentage of the tax paid by them in the total amount of salaries tax collected	Number of persons	Percentage of the tax paid by them in the total amount of salaries tax collected
100,000 to 149,999										
150,000 to 199,999										
200,000 to 249,999										
250,000 to 299,999										
300,000 to 349,999										
350,000 to 399,999										
400,000 to 449,999										
450,000 to 499,999										
500,000 to 599,999										
600,000 to 699,999										
700,000 to 799,999										
800,000 to 899,999										
900,000 to 999,999										
above 1,000,000										

- (c) *given that the Government's source of salaries tax is concentrated in a small group of people, whether it has assessed the impact of such a phenomenon on social stability, and considered implementing improvement measures to prevent the occurrence of incidents similar to the "Occupy Wall Street" campaign in Hong Kong; if it has, of the details; if not, the reasons for that;*
- (d) *of the distribution of companies which were required to pay profits tax in each of the past five years, and list the breakdown in the table below;*

Taxable profit (HK\$)	Year of assessment									
	2006-2007		2007-2008		2008-2009		2009-2010		2010-2011	
	Number of companies	Percentage of the tax paid by the companies in the total amount of profits tax collected	Number of companies	Percentage of the tax paid by the companies in the total amount of profits tax collected	Number of companies	Percentage of the tax paid by the companies in the total amount of profits tax collected	Number of companies	Percentage of the tax paid by the companies in the total amount of profits tax collected	Number of companies	Percentage of the tax paid by the companies in the total amount of profits tax collected
above 50 million										
above 30 million to 50 million										
above 20 million to 30 million										
above 10 million to 20 million										
above 7.5 million to 10 million										
above 5 million to 7.5 million										
above 3 million to 5 million										
above 2 million to 3 million										
above 1 million to 2 million										
1 to 1 million										

- (e) whether the Government has assessed if the current profits tax regime is sound; if it has, of the outcome; if not, the reasons for that;
- (f) whether the Government has assessed the impact of economic downturn on the amount of tax payable by enterprises as well as the Government's revenue and reserve levels; and

- (g) *given that the Government relies on tax revenue to meet its welfare expenditure, and Hong Kong will be at the peak of population ageing starting from 2030, under the principle of maintaining a low tax regime and in the face of a continuous income disparity between the rich and the poor, whether the Government has made any preparation for meeting various welfare expenses such as those on Comprehensive Social Security Assistance and medical services, and so on; if it has, of the specific details; and if not, the reasons for that?*

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

- (a) Since the tax assessments for the year of assessment 2010-2011 have yet to complete, we could only provide at this stage salaries tax data for four years of assessment from 2006-2007 to 2009-2010 as follows:

<i>Wage-earning working population</i>	<i>Year of assessment</i>			
	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>
Number of wage-earning workers	3 430 000	3 500 000	3 514 000	3 487 000
Wage-earning workers not required to pay salaries tax				
(i) number	2 105 000	2 084 000	2 136 000	2 061 000
(ii) percentage of total wage-earning workers	61.4%	59.5%	60.8%	59.1%
Wage-earning workers required to pay salaries tax				
(i) number	1 325 000	1 416 000	1 378 000	1 426 000
(ii) percentage of total wage-earning workers	38.6%	40.5%	39.2%	40.9%

- (b) Since the tax assessments for the year of assessment 2010-2011 have yet to complete, we could only provide at this stage salaries tax data for four years of assessment from 2006-2007 to 2009-2010 as follows:

<i>A747</i> Annual income (HK\$)	<i>Year of assessment</i>							
	<i>2006-2007</i>		<i>2007-2008</i>		<i>2008-2009</i>		<i>2009-2010</i>	
	<i>Number of persons</i>	<i>Their final salaries tax as a percentage of total final salaries tax</i>	<i>Number of persons</i>	<i>Their final salaries tax as a percentage of total final salaries tax</i>	<i>Number of persons</i>	<i>Their final salaries tax as a percentage of total final salaries tax</i>	<i>Number of persons</i>	<i>Their final salaries tax as a percentage of total final salaries tax</i>
100,000 to 149,999	250 000	0.17%	252 000	0.08%	190 000	0.00%	211 000	0.04%
150,000 to 199,999	210 000	0.72%	219 000	0.33%	202 000	0.00%	226 000	0.23%
200,000 to 249,999	187 000	1.38%	195 000	0.63%	195 000	0.11%	186 000	0.51%
250,000 to 299,999	148 000	1.74%	159 000	0.84%	165 000	0.89%	165 000	1.28%
300,000 to 349,999	117 000	2.22%	117 000	0.95%	109 000	1.59%	124 000	1.88%
350,000 to 399,999	82 000	2.34%	96 000	1.17%	114 000	2.50%	106 000	2.70%
400,000 to 449,999	64 000	2.81%	66 000	1.29%	65 000	2.57%	70 000	2.68%
450,000 to 499,999	44 000	2.64%	54 000	1.61%	63 000	3.29%	60 000	3.29%
500,000 to 599,999	62 000	5.75%	71 000	3.72%	76 000	6.34%	77 000	6.26%
600,000 to 699,999	39 000	5.48%	41 000	3.72%	44 000	5.49%	45 000	5.39%
700,000 to 799,999	24 000	4.48%	30 000	3.97%	33 000	5.52%	33 000	5.14%
800,000 to 899,999	18 000	4.35%	20 000	3.54%	21 000	4.34%	21 000	4.19%
900,000 to 999,999	14 000	4.06%	15 000	3.33%	18 000	4.56%	18 000	4.36%
above 1,000,000	66 000	61.86%	81 000	74.82%	83 000	62.8%	84 000	62.05%
Total	1 325 000	100%	1 416 000	100%	1 378 000	100%	1 426 000	100%

- (c) and (e)

Due to the narrow tax base of Hong Kong, coupled with the fact that the main sources of government revenue (for example, profits tax and salaries tax) are sensitive to economic fluctuations, we have been adopting the strategy of containing government expenditure while using our fiscal reserves as a buffer for deficits in individual years. In doing so, we are able to achieve a fiscal balance and keep expenditure within the limits of revenues over a period of time. At the same time, we need to prepare for the future. We have to ensure that we have adequate amount of reserves to meet future challenges, including the long-term financial pressure brought about by an ageing population as well as possible economic downturn against the backdrop of uncertain economic outlook.

To address the problem of narrow tax base, the Government issued a Consultation Document on Tax Reform in July 2006. Through the consultation, members of the public have generally gained a better understanding of the problem of our narrow tax base and they agree that the problem should be addressed. However, there is no clear inclination or mainstream view on which options should be adopted to broaden our tax base. We would continue to study options for broadening the tax base.

- (d) Since the tax assessments for the year of assessment 2010-2011 have yet to complete, we could only provide at this stage profits tax data for four years of assessment from 2006-2007 to 2009-2010 as follows:

Taxable profits (HK\$)	Year of assessment							
	2006-2007		2007-2008		2008-2009		2009-2010	
	Number of corporations	<i>Their final profits tax as a percentage of total final profits tax</i>	Number of corporations	<i>Their final profits tax as a percentage of total final profits tax</i>	Number of corporations	<i>Their final profits tax as a percentage of total final profits tax</i>	Number of corporations	<i>Their final profits tax as a percentage of total final profits tax</i>
above 50 million	1 000	67.4%	1 200	72.6%	1 100	67.2%	1 100	68.7%
above 30 million to 50 million	600	5.4%	700	5.2%	600	5.6%	700	5.8%
above 20 million to 30 million	800	4.4%	800	3.8%	800	4.3%	800	4.0%
above 10 million to 20 million	2 000	6.6%	2 200	5.8%	2 100	6.6%	2 100	6.0%
above 7.5 million to 10 million	1 200	2.5%	1 200	2.0%	1 200	2.4%	1 300	2.3%
above 5 million to 7.5 million	2 100	3.0%	2 200	2.6%	2 100	2.9%	2 200	2.9%
above 3 million to 5 million	3 500	3.2%	3 800	2.7%	3 800	3.3%	3 700	3.0%
above 2 million to 3 million	3 500	2.0%	3 800	1.6%	3 700	2.0%	3 700	1.9%
above 1 million to 2 million	7 500	2.5%	8 200	2.0%	8 000	2.6%	8 100	2.4%
1 to 1 million	52 000	3.0%	55 600	1.7%	56 400	3.1%	59 100	3.0%
Total	74 200	100%	79 700	100%	79 800	100%	82 800	100%

- (f) We always monitor closely external developments and Hong Kong's economic conditions. We will reflect the impact of the latest economic situation on government revenue and fiscal reserves in the 2012-2013 Budget.

- (g) Ageing population is a long-term problem that calls for sustained efforts of the community and the Government in all areas.

We strive to develop the economy and ensure proper allocation and effective management of public resources in order to improve people's livelihood. In managing public finance, we adhere to the principles of fiscal prudence and keep government expenditure within the limits of revenues. We avoid creating unaffordable financial burden for the future government, and leave fiscal space so that the future government can decide on expenditure initiatives which meet the needs of the time. In determining spending priorities, we strive to include initiatives that meet current needs and those that invest for the future. Likewise, we use our fiscal reserves to meet current requirements on the one hand, while also striving to maintain sufficient reserves so as to build a solid financial foundation for our next generation and to leave resources for the future government.

The reforms we implemented in individual policy areas also help control expenditure in the long run and prepare for an ageing population. For example, in 2000, we reformed civil service retirement benefits for new recruits. We moved away from the scheme of making pension payment to public officers on retirement to one that required contributions to provident funds at the time of service. In addition, we have initiated the healthcare financing reform. Depending on the scheme eventually selected by the community, the pressure to increase public health expenditure may be relieved.

On the other hand, we and the Mandatory Provident Fund Schemes Authority will continue to explore and pursue appropriate ways to improve the Mandatory Provident Fund System that helps the working population accumulate retirement savings, including increasing competition with a view to driving down administration fees and reviewing the withdrawal arrangements.

Figures on Salaries Tax and Profits Tax

8. **MR CHAN KIN-POR** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the average percentage of the amount of salaries tax paid by the taxpayers (excluding those who paid at the standard rate) in their income in the past three years of assessment, as well as the highest and lowest amounts of salaries tax paid by them;*
- (b) *the data on salaries tax for the year of assessment 2010-2011 (tabulated as below); and*

<i>Amount of salaries tax (HK\$)</i>	<i>Number of persons required to pay the salaries tax listed on the left column for the year of assessment 2010-2011</i>	<i>Percentage of such number of persons in the total workforce</i>
<i>Not required to pay salaries tax</i>		
<i>1 to 1,000</i>		
<i>1,001 to 2,000</i>		
<i>2,001 to 5,000</i>		
<i>5,001 to 10,000</i>		
<i>10,001 to 15,000</i>		
<i>15,001 to 20,000</i>		
<i>20,001 to 30,000</i>		
<i>30,001 to 40,000</i>		
<i>40,001 to 50,000</i>		
<i>50,001 to 60,000</i>		
<i>60,001 to 70,000</i>		
<i>70,001 to 80,000</i>		
<i>80,001 to 90,000</i>		
<i>90,001 to 100,000</i>		
<i>100,001 to 200,000</i>		
<i>200,001 to 500,000</i>		
<i>500,001 to 1,000,000</i>		
<i>over 1,000,000</i>		

- (c) *the data on profits tax for the year of assessment 2010-2011 (tabulated as below)?*

<i>Amount of profits tax (HK\$)</i>	<i>Number of companies required to pay the profits tax listed on the left column for the year of assessment 2010-2011</i>	<i>Percentage of such number in the total number of companies</i>
<i>Not required to pay profits tax</i>		
<i>1 to 50,000</i>		
<i>50,001 to 100,000</i>		
<i>100,001 to 500,000</i>		
<i>500,001 to 1,000,000</i>		
<i>1,000,001 to 2,500,000</i>		
<i>2,500,001 to 5,000,000</i>		
<i>5,000,001 to 7,500,000</i>		
<i>7,500,001 to 10,000,000</i>		
<i>10,000,001 to 25,000,000</i>		
<i>25,000,001 to 50,000,000</i>		
<i>50,000,001 to 75,000,000</i>		
<i>75,000,001 to 100,000,000</i>		
<i>100,000,001 to 250,000,000</i>		
<i>250,000,001 to 500,000,000</i>		
<i>500,000,001 to 750,000,000</i>		
<i>750,000,001 to 1,000,000,000</i>		
<i>over 1,000,000,000</i>		

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

- (a) The number of salaries tax payers who were assessed according to progressive tax rates in the three years of assessment from 2007-2008 to 2009-2010, and the average of their final salaries tax as a percentage of their income are as follows:

<i>Salaries tax payers assessed according to progressive tax rates</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>
- number	1 406 500	1 356 900	1 403 600
- average of final salaries tax as a percentage of income*	4.6%	5.0%	5.3%

Note:

* After the one-off tax reduction

According to the information of the Inland Revenue Department (IRD), the lowest amount of final salaries tax of the taxpayers, who were assessed according to progressive tax rates, is \$1. Since the IRD adopts both the standard rate and the progressive tax rates in assessing salaries tax, it does not have statistical data on the highest amount of final salaries tax of the taxpayers who were assessed according to progressive tax rates.

- (b) Since the tax assessments for the year of assessment 2010-2011 have yet to complete, the IRD could only provide at this stage salaries tax data for the year of assessment 2009-2010. The relevant data are as follows:

<i>Final salaries tax* (HK\$)</i>	<i>Number of taxpayers with final salaries tax for the year of assessment 2009-2010 at an amount equivalent to that in the left column</i>	<i>As a percentage of the working population</i>
0	2 061 000	59.1%
1 to 1,000	665 000	19.1%
1,001 to 2,000	146 000	4.2%
2,001 to 5,000	70 000	2.0%
5,001 to 10,000	81 000	2.3%
10,001 to 15,000	62 000	1.8%
15,001 to 20,000	49 000	1.4%
20,001 to 30,000	74 000	2.1%
30,001 to 40,000	51 000	1.5%
40,001 to 50,000	38 000	1.1%
50,001 to 60,000	28 000	0.8%
60,001 to 70,000	22 000	0.6%
70,001 to 80,000	17 000	0.5%
80,001 to 90,000	14 000	0.4%
90,001 to 100,000	12 000	0.3%
100,001 to 200,000	57 000	1.6%
200,001 to 500,000	30 000	0.9%
500,001 to 1,000,000	7 000	0.2%
above 1,000,000	3 000	0.1%
Total	3 487 000	100%

Note:

* After the one-off tax reduction

- (c) Since the tax assessments for the year of assessment 2010-2011 have yet to complete, the IRD could only provide at this stage the profits tax data for the year of assessment 2009-2010. The relevant data are as follows:

<i>Final profits tax for corporations (HK\$)</i>	<i>Number of corporations with final profits tax for the year of assessment 2009-2010 at an amount equivalent to that in the left column</i>	<i>As a percentage of registered corporations</i>
0	605 200	87.97%
1 to 50,000	41 090	5.97%
50,001 to 100,000	11 050	1.60%
100,001 to 500,000	18 900	2.75%
500,001 to 1,000,000	4 740	0.69%
1,000,001 to 2,500,000	3 730	0.54%
2,500,001 to 5,000,000	1 480	0.21%
5,000,001 to 7,500,000	590	0.09%
7,500,001 to 10,000,000	280	0.04%
10,000,001 to 25,000,000	560	0.08%
25,000,001 to 50,000,000	200	0.03%
50,000,001 to 75,000,000	60	0.01%
75,000,001 to 100,000,000	40	0.006%
100,000,001 to 250,000,000	50	0.007%
250,000,001 to 500,000,000	20	0.003%
500,000,001 to 750,000,000	10	0.001%
750,000,001 to 1,000,000,000		
above 1,000,000,000		
Total	688 000	100%

Implementation of Antiquities and Monuments Ordinance

9. **MR ABRAHAM SHEK:** *President, it has been reported that following the Government's formal declaration of Ho Tung Gardens as a monument on 24 October this year, and due to the fact that an agreement of a proposed land exchange between the Government and its owner has not been reached so far, it is estimated that an amount of \$3 billion of taxpayers' money (in terms of Ho Tung Gardens' redevelopment value) might prospectively be incurred to compensate its owner in respect of the financial loss suffered or likely to be suffered by her. In this connection, will the Government inform this Council:*

- (a) *of the number of private properties that were declared monuments under the Antiquities and Monuments Ordinance (Cap. 53) (the Ordinance) in the past three years, together with the details of the compensation or land exchange arrangements made in each case; whether it has made reference to any overseas example in which similar compensation was made for monument preservation when it considered Ho Tung Gardens' case; if it had, of the details; if not, the reasons for that;*
- (b) *given that Article 105 of the Basic Law stipulates that "the Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property", whether it has assessed if the declaration of any private property as a monument without having obtained the owner's consent would be in contravention with the Basic Law; if it has assessed that this would not, of the reasons for that, and whether it has considered establishing an appeal mechanism under the Ordinance to form an independent jury to review the decision made by the Government; if it has, of the details; if not, the reasons for that; and*
- (c) *whether it has assessed if there might be the possibility of judicial review applications to challenge decisions of the Government with regard to the declaration of private properties as monuments on the ground of the stipulation under Article 105 of the Basic Law; if so, whether it has put in place any measure to minimize such possibility, including but not limited to legislative amendment; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT: President, first of all, I would like to point out that I, in my capacity as the Antiquities Authority, simply consulted the Antiquities Advisory Board on the suggestion of declaring Ho Tung Gardens as a monument according to section 3(1) of the Ordinance on 24 October 2011. Such suggestion still needs to go through the existing statutory procedures before Ho Tung Gardens will be declared as a monument. Besides, we have never conducted an assessment on the financial loss that may be suffered by the owner of Ho Tung Gardens. The so-called "an amount of \$3 billion of taxpayers'

money might prospectively be incurred" is just an estimate floating in the community.

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

- (a) Since 2008, a total of seven private properties have been declared as monuments. They are Maryknoll Convent School, King Yin Lei, Residence of Ip Ting-sz, Yan Tun Kong Study Hall at Ping Shan of Yuen Long, Tung Wah Museum, Man Mo Temple on Hollywood Road and Tang Kwong U Ancestral Hall at Kam Tin of Yuen Long. Apart from the land exchange in the case of King Yin Lei as economic incentive provided by the Government to the owner for preserving the historic building, no compensation or land exchange arrangements were involved in the other six cases.

The land exchange for King Yin Lei was conducted in accordance with the Government's heritage conservation policy established in September 2007 on the provision of economic incentives to encourage or in exchange for private owners to conserve historic buildings in their ownership. No public money was involved. We are discussing possible preservation options with the owner of Ho Tung Gardens in accordance with the same set of policy and with utmost sincerity. In formulating the heritage conservation policy mentioned above, we have made reference to overseas experience, and the conclusion was that heritage authorities seldom spend large public sums in exchange for the title of or right to use privately-owned historic buildings, and are seldom involved in cash compensation. Of course, we have also given due considerations to the circumstances of Hong Kong, and that the price which the public in general are willing to pay for heritage conservation. In applying the "economic incentives" policy, we have to take into account a multitude of factors, and that the nature of each case is different.

- (b) The Ordinance will not take away the owner's title to the property which has been declared as a monument. The Ordinance also does not substantially interfere with the concerned owner's property rights or take away or restrict the concerned owner's right to alienate the property. Therefore, the current practice of declaring private

properties as monuments does not constitute "deprivation" of the property of individuals and legal persons under Article 105 of the Basic Law, and thus does not involve a right to claim compensation under Article 105 of the Basic Law. Besides, the Ordinance has already struck a fair balance between the protection of individual's property rights and public interest. Based on the above reasons, the current mechanism of declaring privately-owned historic buildings as monuments does not contravene the Basic Law.

As mentioned above, at present, the Antiquities Authority has to consult the Antiquities Advisory Board on her intention to declare any place, building, site or structure as monuments, and the concerned owner or lawful occupier can raise objection to the intended monument declaration in accordance with the existing statutory procedures. According to section 4 of the Ordinance, if a place, building, site or structure intended by the Antiquities Authority to be declared a monument is situated on private land, the Antiquities Authority shall, prior to the making of the declaration, serve on the owner and any lawful occupier of the private land a notice in writing of her intention to declare a monument therein. Within one month, or such longer period as may be allowed by the Chief Executive in any particular case, after the service of the notice, the owner or lawful occupier may object by petition to the Chief Executive to the intended declaration. The Chief Executive, upon considering an objection made, may direct that (i) the intended declaration shall not be made or (ii) the objection be referred to the Chief Executive in Council. If the objection is referred to the Chief Executive in Council, the Chief Executive in Council may direct that (i) the intended declaration be made by the Antiquities Authority; (ii) the intended declaration be so made, subject to such variations or conditions as he thinks fit; or (iii) the intended declaration shall not be made. The decision of the Chief Executive in Council to declare a place, building, site or structure as a monument is amenable to judicial review.

We consider that the mechanism mentioned above is appropriate. Therefore, we have no plan to form an independent jury to review the Government's decisions on monument declaration.

- (c) The current practice of declaring private properties as monuments does not contravene the Basic Law. Nevertheless, in formulating the heritage conservation policy, we have sought to strike a fair balance between respecting private property rights and heritage conservation, including adopting the highly flexible practice of "economic incentives" to encourage or in exchange for private owners to conserve historic buildings in their ownership. In the past few years, we have effectively conserved many historic buildings with this initiative. We strongly believe that these successful examples have reduced by a large extent the number of legal actions which may be taken by owners to challenge the Administration's decisions.

Healthcare Services Provided to Residents in Tin Shui Wai

10. **DR JOSEPH LEE** (in Chinese): *President, at present, the New Territories West (NTW) has a population of about two million, and the development of Tin Shui Wai (TSW) in that region is particularly rapid, resulting in an increasing demand for healthcare services from the residents in that area. Yet, it will be quite a long time before the planned TSW Hospital will be completed. In this connection, will the Government inform this Council:*

- (a) *of the respective population figures in the various districts in NTW; whether it knows the numbers of attendances of the various public out-patient clinics in NTW in each of the past three years, and among them, the respective numbers of attendances of the TSW North General Out-Patient Clinic (GOPC) and the TSW Health Centre respectively; whether the authorities have assessed if these two clinics can cope with the service demand from the residents in that area;*
- (b) *given that the TSW Hospital has not yet been completed and the public out-patient services in TSW are normally available until 10 pm only, whether it knows if the Hospital Authority (HA) will consider introducing 24-hour public out-patient services in TSW, so as to meet the needs of the residents there; if the HA will do so, of the details, if not, the reasons for that; and*

- (c) *whether, according to the latest assessment by the authorities, the needs of the residents in the area can be fully met after the completion of TSW Hospital; and whether there is any plan to provide other healthcare services in the area so as to cope with the demand?*

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

- (a) The Planning Department's information shows that the New Territories West Cluster (NTWC) of the HA currently covers about 1.06 million population, of which about 560 000 are in the Yuen Long District and close to 500 000 in the Tuen Mun District. The HA has within the NTWC four public hospitals including the Tuen Mun Hospital and the Pok Oi Hospital, eight GOPCs, four family medicine specialist clinics (FMSCs) and four specialist out-patient clinics (SOPCs). The number of attendances recorded for these services over the past three years is tabulated below:

<i>Number of attendances</i>		<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>
Yuen Long District	GOPCs	396 198	391 849	391 299
	FMSCs	31 221	34 677	34 561
	SOPCs	47 396	62 679	77 866
	Total	474 815	489 205	503 726
Tuen Mun District	GOPCs	322 295	269 467 [#]	316 329 [#]
	FMSCs	16 534	19 337	20 096
	SOPCs	670 328	717 060	754 245
	Total	1 009 157	1 005 864 [#]	1 090 670 [#]
NTWC Total	GOPCs	718 493	661 316 [#]	707 628 [#]
	FMSCs	47 755	54 014	54 657
	SOPCs	717 724	779 739	832 111
	Total	1 483 972	1 495 069 [#]	1 594 396 [#]

Note:

- # The Yan Oi GOPC was designated as a Human Swine Flu (Influenza A H1N1) Clinic between 13 June 2009 and 23 May 2010. Attendances at the flu clinic during the period are not counted in the figures above for 2009-2010 and 2010-2011.

Public general out-patient services are primarily targeted at the low income and underprivileged groups, including the chronically ill, poor and frail or disabled elders, and low income families. At present, public general out-patient services in TSW are mainly provided by the TSW Health Centre located on Tin Shui Road. As a transitional measure to cope with service need in the district, the HA has set up one temporary consultation room inside the Pok Oi Hospital Chinese Medicine Clinic in Tin Wah Estate as the TSW North GOPC since 2006. The two GOPCs together provide about 165 000 attendances of general out-patient services annually over the past three financial years.

To further enhance public primary care services in TSW, the HA has implemented the "Tin Shui Wai Primary Care Partnership Project" since June 2008, under which patients suffering from specific chronic diseases with stable medical conditions in need of follow-up treatment at the TSW GOPCs can opt to receive out-patient services from private medical practitioners (PMPs) in the district. The Project has now been extended to the entire TSW area, with 10 PMPs and over 1 600 patients enrolled in the programme.

According to the HA's statistics, nearly 90% of the target users of general out-patient services, including elders, recipients of Comprehensive Social Security Assistance and medical fee waivers, are able to secure a consultation timeslot at the two GOPCs mentioned above through the HA's Telephone Appointment Service System. Public GOPCs aside, there are over 30 PMPs in TSW providing convenient out-patient services to the community.

- (b) Patients under the care of the HA's GOPCs mainly comprise chronic disease patients with stable medical conditions (such as patients with diabetes mellitus or hypertension) and episodic disease patients with relatively mild symptoms (such as those suffering from flu, cold, fever or gastroenteritis). For chronic disease patients, they will be assigned a timeslot for the next consultation in advance without having to make separate appointments. Enhanced support is also provided to chronic disease patients through a series of chronic diseases management programmes implemented by the HA. For episodic disease patients, consultation timeslots in the next 24 hours

are available for booking through the HA's Telephone Appointment Service System.

As emergency cases normally require the support of specialty and other related services in hospitals, acute patients in genuine need of immediate medical attention should go to the accident and emergency departments of hospitals for triage of cases and treatment and support according to their needs. GOPCs are not equipped for the provision of emergency services, and extending general out-patient services to late evening hours or round-the-clock is not cost-effective and would not be efficient use of general out-patient resources. The Administration has no plan at this juncture to set up general out-patients services at late evening hours or round-the-clock.

- (c) The HA provides services on a cluster basis. For planning and provision of appropriate services to the community, each cluster will take into account relevant considerations including the demographic profiles of the district, residents' mode of service consumption and the service areas of the underpinning hospitals. Hospitals within the same cluster are assigned separate roles to complement and support each other in the delivery of services.

To cope with the increasing demand for healthcare services arising from population growth in the NTWC including TSW, the Administration is taking forward the plan to develop the TSW Hospital as a community hospital in the area. Expected for completion in 2016, the TSW Hospital will provide an additional 260 beds for the NTWC and in-patient services including emergency medicine, rehabilitation, convalescent and palliative care. Upon commissioning, the TSW Hospital will collaborate with the Pok Oi Hospital and the Tuen Mun Hospital of the NTWC to provide appropriate hospital services to the community.

On the primary care front, the first community health centre (CHC) in the territory designed according to the primary care development strategy and service model situated on Tin Yip Road in TSW is scheduled for commissioning in the first half of 2012 to provide integrated and comprehensive primary care services. The existing

TSW North GOPC will be relocated to the TSW CHC. The new TSW CHC, together with the existing TSW Health Centre, are expected to provide over 200 000 attendances of general out-patient services for the area per annum. The CHC will also provide nurse and allied health and other primary care support services as appropriate to meet the need of the local community.

Regulation of Guesthouses

11. **MS STARRY LEE** (in Chinese): *President, it has been reported that since the Mainland's liberalization of the Individual Visit Scheme, the demand for middle and lower priced guesthouses in the territory has increased drastically. Moreover, I have received complaints from members of the public who indicated that some people had stolen a head start in the operation of guesthouses in residential buildings before obtaining guesthouse licences, and the complainants also expressed their dissatisfaction with the authorities' permission of the operation of guesthouses in residential buildings, which seriously affected the building management, security and even the residents' entry to and exit from the buildings. In this connection, will the Government inform this Council:*

- (a) *of the total number of licensed guesthouses in the territory at present; the respective numbers of licensed guesthouses located in commercial and residential buildings in each of the District Council districts;*
- (b) *of the numbers of applications for guesthouse licences received in each of the past three years; the respective numbers of applications for licences of guesthouses located in commercial and residential buildings in each of the District Council districts;*
- (c) *of the numbers and respective nature of complaint cases involving licensed guesthouses in each of the past three years, as well as the actions taken by the authorities; among such cases, the number of those in which prosecution had been instituted and the penalties imposed; whether the licence of any guesthouse was cancelled, suspended or refused to be renewed by the authorities on the ground of violation of any licensing condition; if so, of the details; in addition, whether the authorities will take the initiative to conduct*

"snaking" operations to investigate if the licensed guesthouses have violated the licensing conditions; if they will, of the details; if not, the reasons for that;

- (d) upon receipt of applications for guesthouse licences, whether the authorities will take the initiative to investigate if the applicants had stolen a head start in guesthouse operation; if so, of the penalties imposed;*
- (e) when vetting and approving the applications for licences of guesthouses located in residential buildings, whether the authorities will take the initiative in consulting the residents of the buildings concerned; if they will, of the specific procedures, and whether they had refused to issue guesthouse licences on account of fierce opposition from the residents in the past; if not, whether they will consider including consultation with the residents of the buildings concerned as a necessary vetting and approving procedure for the applications for operating guesthouses in residential buildings, and setting a threshold to stipulate that if a certain percentage of the buildings' owners indicate their objection, the authorities will refuse to issue guesthouse licences; if they will, of the details; if not, the reasons for that; and*
- (f) whether it will consider changing the use of industrial buildings to allow the operation of guesthouses in industrial buildings, with a view to meeting the demand; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance) which stipulates that any premises providing sleeping accommodation at a fee with a tenancy term of less than 28 consecutive days shall obtain a licence before commencing operation. The Office of the Licensing Authority (OLA) under the Home Affairs Department is responsible for the enforcement of the Ordinance. It is tasked with the issue of licences and enforcement work.

Upon receipt of an application for licence, the OLA shall ascertain that the premises concerned comply with the standard of structural and fire safety as provided in the relevant ordinances before issuing a licence, so as to ensure the safety of patrons and other users of the building. Premises intended to be used as a hotel or guesthouse must receive prior approval from the Building Authority for "domestic purposes". Under the Buildings Ordinance (Cap. 123), "domestic" refers to a part that is constructed or intended for habitation whereas "habitation" in relation to the use of a building, or part of a building, includes use of it for hotel, guest-house, boarding-house or similar accommodation. The replies to the questions raised by Ms Starry LEE are as follows:

(a) and (b)

As at 31 October this year, the number of hotels and guesthouses licensed under the Ordinance and the respective numbers of applications for licences received in each of the District Council districts in the past three years are at Annex. Since premises intended to be used as a hotel or guesthouse must receive prior approval from the Building Authority for "domestic purposes", we do not have a breakdown of the number of licence applications by commercial and residential buildings.

(c), (d) and (e)

Upon receipt of an application for a guesthouse licence, the OLA will first ascertain whether the premises intended to be used as a hotel or guesthouse fall into the category of premises which can be used for such purposes under the Buildings Ordinance (Cap. 123) before processing the licence application in accordance with the Ordinance. The OLA shall issue a licence only after it has ascertained that the premises concerned comply with the standard of structural and fire safety as provided in the Buildings Ordinance and the Fire Services Ordinance (Cap. 95), so as to ensure the safety of patrons and other users of the building.

Under section 8(3) of the Ordinance, the Hotel and Guesthouse Accommodation Authority (the Authority) may refuse to issue a licence in respect of a hotel or guesthouse only on the ground that the premises intended to be used as a hotel or guesthouse fail to

comply with the requirements relating to structural and fire safety, sanitary configuration, guesthouse management, and so on, as set out in the Buildings Ordinance and the Fire Services Ordinance. The Ordinance does not empower the Authority to consider refusing the issue of a licence based on reasons other than those stated in section 8(3) of the Ordinance (for example, objection from the residents of the buildings concerned) when processing a guesthouse licence application. The OLA must process the application within the powers set out in the Ordinance.

The OLA will deploy staff to conduct multiple on-site inspections when processing applications for guesthouse licences. If any premises are suspected of having "stolen a head start in operation" (that is, unlicensed operation of a guesthouse), the case will be referred to the Enforcement Team of the OLA for follow-up action in accordance with the established procedures. Having regard to the individual circumstances of each case, the Enforcement Team will collect evidence through various means, including conducting inspections during and outside office hours (for example, at nights and during holidays) and posing as clients (commonly known as "snaking") to collect evidence when necessary. Upon investigation, if it shows that there is sufficient evidence indicating illegal operation in the premises, prosecution shall be instituted. Moreover, the OLA will proactively conduct inter-departmental operations with other departments and law-enforcement agencies concerned. The staff of the OLA also read newspapers and browse webpages on a regular basis and conduct proactive district inspections to collate information about suspected promotion of illegal hotels or guesthouses.

Under the Ordinance, any person who operates an unlicensed hotel or guesthouse is liable on conviction to a fine of \$200,000 and to imprisonment for two years and to a fine of \$20,000 for each day during which the offence continues. As for contravention of any licensing condition, a person is liable on conviction to a fine of \$100,000 and to imprisonment for two years and to a fine of \$10,000 for each day during which the offence continues.

The numbers of complaints and prosecutions against licensed hotels and guesthouses suspected of illegal operation in the past two years as well as the penalties imposed are as follows (the OLA did not classify complaints about licensed hotels or guesthouses suspected of illegal operation before 2010):

	2010	2011 (as at 31 October)
Complaints*	11	23
Prosecutions	7	6
Penalties	Fines ranging from \$2,400 to \$14,000 were imposed. One defendant was sentenced to two weeks' imprisonment (suspended for one year); another defendant was sentenced to two months' imprisonment (suspended for two years).	Fines ranging from \$2,000 to \$5,000 were imposed.

Note:

- * The complaints mainly involved licensed guesthouse operators suspected of operating unlicensed guesthouses, including those made against the same licensed guesthouse.

To step up actions against unlicensed guesthouses operation, if a licence holder is convicted of operating an unlicensed guesthouse, the Authority will definitely consider cancelling all the licence(s) being held by the licence holder or refusing to renew the licence(s) by invoking section 10 of the Ordinance. So far, the Authority has cancelled or refused to renew five guesthouse licences for the above reason.

- (f) According to the information provided by the Development Bureau, under the package of measures to facilitate change in use of older industrial buildings through wholesale conversion with effect from 1 April 2010, owners of industrial buildings aged 15 or above sitting on "Industrial", "Other Specified Uses" annotated "Business"

("OU(B)") or "Commercial" zones may apply at a nil waiver fee for change of use of the entire existing industrial buildings for the lifetime of the buildings or until expiry of the current lease period, whichever is earlier.

The proposed new uses of the wholly converted buildings should comply with the permitted uses in the relevant zones. "Hotel" use is an always permitted use in most "Commercial" zone; it may also be permitted in "OU(B)" zone subject to planning permission from the Town Planning Board, but it is not permitted in "Industrial" zone. Subject to obtaining the necessary planning permissions, where applicable, and the special waivers for hotel use, building owners may apply for licences to operate hotels and guesthouses in their wholly converted industrial buildings during the validity periods of the special waivers. The owners should also follow the relevant provisions of the Buildings Ordinance and the Ordinance.

By the end of October 2011, the Lands Department had received six applications for wholesale conversion of industrial buildings for hotel use. Among them, one had been approved and two were under processing. The remaining three applications were either withdrawn by the applicant or rejected by the Lands Department because they did not meet the eligibility criteria for application for the special waiver.

Annex

<i>Districts</i>	<i>Number of Licensed Hotels and Guesthouses</i>	<i>Numbers of Applications for Licences</i>		
	<i>2011 (as at 31 October)</i>	<i>2009</i>	<i>2010</i>	<i>2011 (as at 31 October)</i>
Islands	147	3	10	8
North	4	0	1	0
Sai Kung	10	0	2	0
Sha Tin	8	1	0	0
Tai Po	6	0	0	0

<i>Districts</i>	<i>Number of Licensed Hotels and Guesthouses</i>	<i>Numbers of Applications for Licences</i>		
	<i>2011 (as at 31 October)</i>	<i>2009</i>	<i>2010</i>	<i>2011 (as at 31 October)</i>
Tsuen Wan	29	1	2	8
Tuen Mun	1	0	0	0
Yuen Long	16	0	0	3
Kwai Tsing	7	0	0	0
Central and Western	70	6	3	4
Wan Chai	144	15	13	8
Eastern	40	4	5	9
Southern	19	2	1	0
Kowloon City	59	2	1	3
Kwun Tong	9	0	0	1
Sham Shui Po	37	0	3	4
Wong Tai Sin	3	0	0	0
Yau Tsim Mong	769	63	66	103
Total	1 378	97	107	151

Charging Facilities for Electric Vehicles

12. **MR CHAN HAK-KAN** (in Chinese): *President, it has been reported that the Environment Bureau expects that the number of charging stations for electric vehicles (EVs) throughout the territory will increase to 1 000 in the coming year. However, some EV owners have approached me recently for assistance and relayed to me that they had planned to install charging facilities at their private car parking spaces in the residential estates where they live, and the installation was assessed to be technically feasible by the Electrical and Mechanical Services Department (EMSD), but owing to objections from the owners' corporation and management companies of the estates, so far the installation works could not commence. In this connection, will the Government inform this Council:*

- (a) *of the anticipated distribution of the aforesaid 1 000 charging stations among government premises and other public or private places, with a breakdown of the number by the item in the table below;*

<i>Car parking spaces or car parks in government premises</i>	<i>Car parking spaces or car parks in the facilities managed by The Link Management Limited or the Hong Kong Housing Authority</i>	<i>Car parking spaces or car parks in large shopping centres</i>	<i>Outdoor car parking spaces or car parks</i>	<i>Others (for example, car parking spaces or car parks in private buildings, and so on)</i>

- (b) *of the ratio of the number of quick charging facilities to slow charging facilities in the aforesaid charging stations; whether such facilities are compatible with different brands and models of EVs; whether it knows the charging details of such facilities (including the levels of fees charged);*
- (c) *apart from EVs purchased by government departments, of the number of EVs in Hong Kong in the past three years; of the anticipated increase in the number of EVs in the coming year, and whether the number of charging stations will be adequate to cope with such growth;*
- (d) *of the measures it has in place to encourage the installation of charging facilities for EVs at private residential premises or buildings; which government departments EV owners can approach to seek assistance when they encounter difficulties in the course of installing charging facilities, as well as what assistance such departments will offer to them; and*
- (e) *whether it will examine expanding the funding scope of the existing Pilot Green Transport Fund or the Environment and Conservation Fund, so as to subsidize EV owners in the installation and maintenance of charging facilities; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, EVs have no pipeline emissions. They can help improve roadside air quality and combat climate change, and at the same time support the development of a green economy. The Government has therefore been actively promoting the wider use

of EVs, and working jointly with relevant sectors to put in place a comprehensive EV charging network and other ancillary facilities.

Our replies to different parts of the questions are set out below:

(a) and (b)

As of now, there are more than 330 standard EV chargers in Hong Kong, covering all 18 districts, and the number will be increasing. Apart from liaising with and encouraging private car park operators to install EV charging facilities, the Government will also install some 500 standard chargers at various government car parks. We expect that there would be some 1 000 standard EV chargers for public use by mid-2012, located at various types of buildings. Details are as follows:

Government car parks	500
Facilities under the management of The Link REIT or Housing Authority	50
Shopping centres, offices and residential buildings	430
Others (such as the airport and scientific research institutes)	20
Total	1 000

The standard charging facilities mentioned above support different makes of electric private cars and motorcycles available in the market. As regards other commercial EVs, such as light goods vehicles and light buses, the charging facilities are usually installed by operators with regard to their operational requirements.

In addition, there are now three quick chargers in Hong Kong, and the number will be increased to 10 by mid-2012. They will be set up at various locations including the Eastern, Southern, Central and Western, Yau Tsim Mong, Kwun Tong, Sha Tin, North, Yuen Long and Islands Districts. By then, there will be one quick charger within 20 km. The existing quick chargers and those to be installed would adopt the Japanese standard to meet the charging requirement of most electric private cars being used on road.

To promote the use of EVs, the charging facilities available for use by the public are basically offering free services. Providers of these facilities would draw up future fee charging arrangements in the light of market developments.

- (c) The Government first announced in the 2009-2010 Budget a series of measures to promote the adoption of EVs in Hong Kong. As at end October 2011, there are about 220 EVs in Hong Kong, 33 of them are owned by the Government, and the remaining 190 by individuals or private enterprises. By comparison, there were only 16 units of EVs by end 2009 and 74 by end 2010. This reflects that with support of relevant Government policies, the number of EVs has been increasing progressively. We believe that the abovementioned 1 000-odd EV chargers in use and to be installed should be able to meet the needs of EV users. We will continue to closely monitor the growth in the number of EVs and install more chargers in a timely manner.
- (d) The Government will continue to step up our efforts in promoting the setting up of EV chargers at private residential buildings. In respect of new buildings, through granting concessions on Gross Floor Areas for car parks, we have been encouraging developers to put in place at the building construction stage the basic infrastructure (including power supply and electrical wiring) to facilitate future installation of EV standard charging facilities having regard to the needs of car park users.

As regards existing buildings, we will continue to actively liaise with the property management companies to encourage owners' organizations to install EV chargers at the car parks of their residential properties. We have already written to more than 7 400 owners' committees and owners' corporations in Hong Kong to appeal for their support for installing EV chargers at premises under their management upon request by EV users. The Environment Bureau and the EMSD have issued a set of guidelines on the technical requirements and arrangements for setting up EV chargers. The EMSD has also set up a hotline to provide information and technical support to parties interested in setting up EV chargers.

- (e) Currently, the cost of procuring an EV is still higher than its petrol or diesel counterpart. However, the running cost of an EV is much lower. Since most EVs could be charged at a domestic socket, the cost of setting up an EV charger is not expensive. As such, we consider it more effective to provide financial incentives for prospective buyers to purchase EVs rather than subsidies for installation of charging facilities.

To this end, we have already extended the waiver of First Registration Tax for EVs for a period of five years till end March 2014. We have also accelerated the tax deduction for capital expenditure on EVs such that enterprises can enjoy a 100% profits tax deduction in the first year of procurement. Furthermore, the Pilot Green Transport Fund provides subsidies to the public transport trade and goods vehicles not only for procurement of EVs but also installation of relevant charging facilities.

Franchised Buses Running Between Kwai Fong and Yau Tong

13. **MR ALBERT CHAN** (in Chinese): *President, I have recently received complaints from members of the public that they need to take two bus journeys when commuting from Kwai Fong to Yau Tong on weekdays and, including the waiting time for buses, it takes them a total of one-and-a-half to two hours to arrive at their destinations. They have further pointed out that those buses plying the relevant routes break down quite often, rendering the bus schedules highly unreliable. I have learnt that at present a bus trip from Tin Shui Wai to Central only takes 45 minutes, but it takes the residents in some areas in Kwai Fong twice as long to travel to Yau Tong by bus. In this connection, will the Government inform this Council:*

- (a) *whether there are guidelines or criteria in place at present which require the authorities, in planning public transport services (for example, bus routes), to enable members of the public in various districts to travel to other districts in Hong Kong within a reasonable time; if so, of the details; if not, whether the authorities will formulate such guidelines or criteria; and*

- (b) *whether the authorities will assess if it is reasonable for the aforesaid residents in Kwai Fong to spend one-and-a-half to two hours on bus trips to travel to Yau Tong, and whether they need to make improvement; if improvement is needed, what action will be taken by the authorities to improve the aforesaid situation; if no such improvement is needed, of the reasons for that?*

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

- (a) To minimize traffic congestion, improve roadside air quality and promote sustainable development of Hong Kong, the Government's current transport strategy is to accord priority to developing railways, which are environment-friendly, reliable and efficient mass carriers. In planning public transport services, the Administration uses railways as the backbone of Hong Kong's passenger transport system and co-ordinates various public transport services (including franchised bus services) to meet the needs of passengers and to enhance the efficiency of franchised bus networks at the same time. The Government does not encourage the introduction of long haul point-to-point franchised bus services in the railway catchment areas.

At present, members of the public may choose suitable public transport services to reach their destinations with regard to factors such as the routes, journey time and fares. In determining the frequencies and routes of the relevant public transport services, the Transport Department takes into account all the relevant factors, including passenger demand, existing public transport network, utilization and effectiveness of the public transport services, and the impact of the relevant services on the busy corridors in the urban areas. The Administration does not consider it necessary to specify the travelling time for using public transport services to and from any districts in Hong Kong.

- (b) Regarding the public transport services between Kwai Fong and Yau Tong, members of the public may choose to travel by (1) rail; or (2) franchised buses and then change to other public transport modes for journeys to and from different locations in the two districts. Passengers who prefer to take franchised buses throughout their trips

may take Route 38 and then Route 14B, both operated by The Kowloon Motor Bus Company (1933) Limited (KMB). Alternatively, they may take KMB Route 40 and then Route 14B. Given the relatively long distance between Kwai Fong and Yau Tong, an all-bus ride usually takes about 80 minutes. Commuters opting for a faster trip may consider using railway services. A single journey between Kwai Fong and Yau Tong via railway takes only about 36 minutes at a fare more or less the same as the total charges for the all-bus ride option.

Impact of Special Stamp Duty on Property Market

14. **DR PRISCILLA LEUNG** (in Chinese): *President, after the Financial Secretary had proposed on 19 November last year to introduce a Special Stamp Duty (SSD) on residential properties at the point of resale, some members of the Hong Kong Real Estate Agencies General Association stated publicly that the transaction volume of second-hand residential properties had dropped significantly after the introduction of the SSD, registering a cumulative drop of more than 60%, and they anticipated that a considerable number of small-sized and medium-sized estate agents would close down. On 28 September this year, a medium-sized estate agent which had operated in Hong Kong for eight years, running 18 branches in its heyday, closed down, and some members of the trade even anticipate a fresh wave of closures by the end of this year. In this connection, will the Government inform this Council:*

- (a) *whether it knows the total number of estate agents which have closed down since this Council enacted the Stamp Duty (Amendment) (No. 2) Bill 2010 (the Bill) on 22 June this year to implement the SSD; and how many people who were originally engaged in the business of estate agency have lost their jobs or switched to other trades;*
- (b) *of the respective number of transactions of local second-hand residential properties before and after the introduction of the SSD;*
- (c) *of the number of cases of second-hand residential properties being traded by means of transfer of company shares after the introduction of the SSD; how this figure compares with that before the*

introduction of the duty; if the number of such cases shows an upward trend after the introduction of the SSD, whether the authorities have assessed if this trend is directly related to the introduction of the SSD;

- (d) whether the prices of second-hand residential properties in Hong Kong have fallen in tandem with the Government's proposal of introducing the SSD, and of the rate of reduction; whether the intended targets of the introduction of the SSD have been achieved;*
- (e) given that the authorities have indicated that a review of the SSD will be conducted in 24 months after the enactment of the Bill, whether they will conduct the review earlier in response to the current wave of closures of estate agents;*
- (f) whether the authorities have assessed the impact of the SSD on the estate agency trade before studying the introduction of the SSD; if so, of the assessment results;*
- (g) given that there are comments that the estate agency trade is virtually a "thermometer" for the economy of Hong Kong, whether the authorities have assessed if the blow dealt to the estate agency trade by the introduction of the SSD will affect the economy of Hong Kong as a whole; and*
- (h) whether the authorities will look into the provision of assistance, for example, reducing the licence fees and the land search fees of the Land Registry (LR) next year, to prevent closures of estate agents in a larger scale?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government has been monitoring developments in the private residential property market closely and remains vigilant on the risks of a property bubble. Since 2010, the Government has been responding to the situation through the introduction of long, medium and short-term measures in four areas, including increasing land supply, combating speculative activities, enhancing the transparency of property transactions, and preventing excessive expansion in mortgage lending, with a view to ensuring the healthy and stable development of

the property market. The SSD, which is part of the aforementioned package of measures, aims to combat short-term speculative activities involving residential properties.

The effect of SSD in curbing short-term speculative activities has been obvious. Statistics show that on average there were 85 subsale cases (that is, confirmor cases) per month in the first 10 months of 2011, representing a drop of over 70% as compared to the monthly average before the announcement of the introduction of SSD (there were on average about 320 subsale cases per month in the first 11 months of 2010).

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

(b) and (d)

I will first respond to those parts of the question on the residential property market, that is, parts (b) and (d).

With moderating economic growth in the advanced economies recently, deterioration of the European debt problems and the consequential financial market gyrations, coupled with successive hikes in mortgage rates by the local banks since March 2011, there have been uncertainties over the prospects for the residential property market. There were about 75 000 residential property transactions (including first-hand and second-hand residential properties) in the first 10 months of 2011, which represented a drop of about 34% as compared to the 113 000 transactions in the same period of last year (that is, before the announcement of the introduction of SSD). As for the second-hand residential property market, there were about 67 000 transactions in the first 10 months of 2011, which represented a drop of about 34% as compared to the 101 000 transactions in the same period of last year. The overall residential property price index showed a cumulative increase of about 13% in the first nine months of 2011. That said, the index has started to fall since June 2011, and has dropped by 2% in three months prior to September 2011. The development of the property market is affected by various internal and external factors rather than a single measure.

The Government will continue to monitor closely the residential property market, and will take appropriate measures as and when necessary to ensure the healthy and stable development of the property market.

- (c) Since April 2010, the Stamp Office has been compiling statistics on suspected speculation cases in the form of share transfers of "property holding companies", which the Stamp Office has referred to the Assessing Unit for follow-up action. Statistics on the number of suspected speculation cases between April 2010 and October 2011 are at the Annex. The statistics show that there has not been an increasing trend regarding the suspected speculation of properties in the form of share transfers of Hong Kong "property holding companies" since the introduction of SSD.

(a), (g) and (h)

I will give a consolidated response to parts (a), (g) and (h) of the question which are about the real estate agency sector. The number of estate agency business operators, salesperson licence holders and estate agent (individual) licence holders may change as a result of various different factors. According to the information provided by the Estate Agents Authority (EAA), on 22 June 2011 when the Bill was passed by the Legislative Council, there were 4 361 estate agency business operators⁽¹⁾ and 32 961 individual licensees (including holders of salesperson licences and estate agent (individual) licences) in Hong Kong. There were 4 517 estate agency business operators and 34 644 individual licensees on 31 October 2011.

The EAA is a financially independent and self-financing statutory body. Licence fees are its main source of income. The EAA is of the view that, as past experience shows, licence fee concessions will bring financial pressure to the EAA. Having considered all relevant factors, the EAA has no plan to introduce any licence fee concession at the moment.

(1) The EAA counts estate agency firms under a single group and chain shops as a single estate agency operator when working out the number of estate agency operators in Hong Kong.

On the fees charged for the property record searching services provided by the LR, LR advised that as it was required by the Trading Funds Ordinance to be self-sustainable, it would not be feasible to reduce the fees in the short term. It is worth noting that LR reduced the fees per property search from \$15 to \$10 in 2005, and significantly reduced the application fee and minimum deposit for its Online Services Subscriber accounts in 2006 and 2009 respectively. On the whole, property record searching fees only constitute a very small portion of the operating costs of estate agency firms.

(e) and (f)

When introducing SSD, the Government fully took into account the views of the public and the relevant sectors, including the estate agency sector, on combating short-term speculative activities to ensure the stable and healthy development of the property market. Since the announcement of the introduction of SSD, the number of subsale cases has decreased substantially over the past year, which demonstrates the effectiveness of SSD in curbing short-term speculative activities. We have no plan to review SSD at this stage. During the scrutiny and debate of the Bill at the Legislative Council, we undertook to review SSD 24 months after the enactment of the Bill, or as circumstances require.

Annex

Number of suspected speculation cases involving speculation in the form of share transfers of "property holding companies"⁽¹⁾

<i>Month</i> ⁽²⁾	<i>Number of cases</i>
April 2010	30
May 2010	24
June 2010	30
July 2010	27
August 2010	29

<i>Month</i> ⁽²⁾	<i>Number of cases</i>
September 2010	46
October 2010	22
November 2010 ⁽³⁾	33
December 2010	41
January 2011	39
February 2011	19
March 2011	29
April 2011	20
May 2011	21
June 2011	16
July 2011	22
August 2011	16
September 2011	10
October 2011 ⁽⁴⁾	9

Notes:

- (1) Only includes companies registered in Hong Kong
- (2) The Stamp Office has started compiling such statistics since April 2010
- (3) SSD has come into force since 20 November 2010
- (4) Provisional figure

Agreements for Avoidance of Double Taxation

15. **DR LAM TAI-FAI** (in Chinese): *President, according to "The Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income" (the Arrangement), remunerations derived by Mainland and Hong Kong residents from their employment in the Other Side shall be taxed in that Other Side if they are present in the Other Side for a period or periods exceeding in the aggregate 183 days in any 12-month period commencing or ending in the taxable period concerned (183-day threshold). In this connection, will the Government inform this Council:*

- (a) *whether only the actual working periods in the Other Side of cross-boundary residents are counted under the 183-day threshold of the Arrangement, and how the Hong Kong and Mainland authorities calculate the actual cross-boundary working periods of such residents;*
- (b) *as the Secretary for Financial Services and the Treasury indicated in the reply to my question on 20 January 2010 that the practice among tax jurisdictions is to adopt the "183 days in a 12-month period" threshold, whether it knows how the Macao authorities calculate cross-boundary working periods;*
- (c) *as the number of days during which Hong Kong residents stay on the Mainland for sightseeing is also counted under the 183-day threshold at present even though they have not engaged in any work-related activity during such periods, whether it knows the reasons for that, and whether it will plan to conduct a review with the Mainland authorities and introduce improvement; if it will, of the details; if not, the reasons for that;*
- (d) *why weekends and holidays, even though they are not working days, are counted under the 183-day threshold, and whether the authorities will consider revising such arrangement; if they will, of the details; if not, the reasons for that;*
- (e) *why cross-boundary trips taken by residents with same-day return are also counted as one day under the 183-day threshold, and whether the SAR Government will seek exemption arrangement from the Mainland authorities for same-day return trips or cross-boundary trips of less than 24 hours; if it will, of the details; if not, the reasons for that;*
- (f) *as some Hong Kong residents who live in Shenzhen are employed by Hong Kong companies and receive salaries from such companies, and have to work on the Mainland for half day on each working day, how the Hong Kong and Mainland tax authorities assess the tax payable based on their income;*

- (g) *regarding holders of valid Chinese visas leaving the Mainland and returning there later, whether it knows if the days they spend outside the Mainland are counted under the 183-day threshold of the Arrangement; if so, of the reasons;*
- (h) *as Hong Kong and the Mainland are enhancing their economic integration and development, and the number of cross-boundary workers continues to increase, whether the SAR Government will take the initiative to request the Mainland authorities to relax the 183-day threshold, and not just relay to them the views of the trade in Hong Kong; if it will, of the details; if not, the reasons for that;*
- (i) *as the Secretary for Financial Services and the Treasury indicated in the reply to my question on 3 February 2010 that all comprehensive avoidance of double taxation agreements signed by European Union (EU) countries between each other adopt the 183-day threshold, whether the authorities know if EU member countries have signed any agreement among themselves regarding cross-boundary workers to provide specific tax arrangement for cross-boundary workers of both sides; if they know, of the details; if not, whether they will seek an in-depth understanding of the matter;*
- (j) *whether the Hong Kong and Mainland authorities will consider introducing tax rules for cross-boundary workers; if they will, of the details; if not, the reasons for that; and*
- (k) *as the Secretary for Financial Services and the Treasury indicated in the reply to my question on 24 February 2010 that the Inland Revenue Department (IRD) of Hong Kong and the State Administration of Taxation (SAT) meet annually to discuss the implementation of the Arrangement, and the IRD will relay to the SAT specific suggestions from the trade concerning the relaxation of the 183-day threshold and other issues relating to the implementation of the Arrangement, whether the Government had requested the Mainland authorities to relax the 183-day threshold in the past five years; if it had, when each of such requests was made and of the details of the requests; if not, the reasons for that?*

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

(a) to (d)

As the relevant provisions of the Arrangement provides that "the recipient is present in the Other Side for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the taxable period concerned", the Hong Kong and the Mainland tax authorities have to refer to the "days of stay" and not the "actual working days" in determining a person's tax liabilities in the other side under the Arrangement. This "days of physical presence" method is a correct interpretation of the provisions under the Arrangement. It is also the method commonly adopted by other tax jurisdictions and consistent with the standard used by the Hong Kong Board of Review in determining the tax liabilities of a person.

According to "The Arrangement between the Macao Special Administrative Region and the Mainland of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income", the Mainland and the Macao tax authorities also adopt "183 days of stay" as the threshold to determine which party has the taxing right.

(e) and (g)

According to international practice, a day during any part of which, however brief, the taxpayer is present in a tax jurisdiction counts as a day of presence in that jurisdiction. Hence, a same-day trip or a stay of less than 24 hours in the Mainland is counted as a day of presence. This interpretation about the counting of days is consistent with the decision of the Hong Kong Board of Review.

(f) The income of the said person derived from a Hong Kong employment will be assessed to Hong Kong salaries tax in full. If a part of the income is derived from the person's services in the Mainland and he has been assessed to Individual Income Tax in the

Mainland, that part of the income can be exempted from Hong Kong salaries tax under section 8(1A)(c) of the Inland Revenue Ordinance.

Besides, if that person is regarded as a Hong Kong resident under the Arrangement and has not claimed exemption under section 8(1A)(c), he can claim pursuant to the Arrangement to have the tax paid in the Mainland in respect of the relevant income allowed as a credit when computing his Hong Kong tax liabilities. The amount of the credit shall not exceed the amount of Hong Kong tax in respect of that income computed in accordance with the tax laws of Hong Kong.

(h) and (k)

We have raised the suggestion of relaxing the 183-day threshold with the SAT. After discussions, both parties consider that the 183-day threshold should not be changed as it is an international standard which has been effectively applied. Furthermore, it has taken into account and balanced the tax interests of the resident and the source jurisdictions.

- (i) According to our understanding, some European countries have special tax provisions for frontier workers. Pursuant to these provisions, frontier workers only have to pay tax to the government of his place of residence and not to the government of his place of work. These provisions usually cover definitions on frontier cities (for example, the distance from the border) and frontier workers (for example, the frequency of travel between the two countries), as well as allocation of financial resources (for example, the government of the place of residence of the frontier workers has to make financial compensation to the government of the place of work).
- (j) As Hong Kong's taxation system is based on the territorial principle, Hong Kong residents' income derived from the Mainland is not subject to tax in Hong Kong. The proposal of introducing special tax provisions for frontier workers will therefore lead to double non-taxation of the income. Besides, it is difficult to determine the coverage of the exemption area and to define frontier workers on an objective basis. Hence, the proposal requires careful deliberations.

Management of Waste Electrical and Electronic Equipment

16. **MR KAM NAI-WAI** (in Chinese): *President, regarding the treatment of waste electrical and electronic equipment (WEEE) in Hong Kong, will the Government inform this Council:*

- (a) *whether it knows the total WEEE generation in each of the past five years, broken down by way of treatment (recycling, disposal, storage pending shipment overseas or others) and type of WEEE (for example, television set, washing machine, refrigerator, air conditioner, computer product and others, and so on), as well as the respective numbers of organizations or units which use the above ways to treat WEEE and their respective numbers of staff;*
- (b) *as I have learnt that there are about 100 temporary open storage areas (OSAs) in the rural New Territories for the storage of WEEE pending shipment overseas and that many of these sites do not have proper shelter to cover WEEE and are not paved, exposing the WEEE to the open air for a long time, causing land contamination from the leaching of heavy metals, fire hazards, eyesores and other problems:*
 - (i) *whether it knows the number of OSAs in operation in Hong Kong in each of the past five years; among them, the percentage of those OSAs which have exposed WEEE to the open air for a long time, broken down by the 18 District Council districts;*
 - (ii) *whether it had conducted studies or compiled statistics in the past five years on the pollution (for example, land contamination from the leaching of heavy metals) and accidents (for example, fire hazards) caused by OSAs in Hong Kong each year as well as the impact of such pollution and accidents on members of the public (including health hazards and casualties); if so, of the details; if not, the reasons for that;*
 - (iii) *of the legislation, system or measures in place to regulate the operation of OSAs (for example, the maximum number and capacity as well as types of WEEE to be stored); and*

- (iv) *whether it knows in general the final shipping destinations and usages of WEEE stored in OSAs; the existing policies and regulations on the treatment of WEEE in these destinations and whether there will be changes in such policies and regulations in the near future; and*
- (c) *given that premises disassembling e-waste classified as noxious chemical waste must be licensed under the Waste Disposal Ordinance (WDO) (Cap. 354):*
 - (i) *of the details and number of prosecutions instituted for violating the aforesaid provisions in each of the past five years; whether there are cases in which no improvement has been made even after prosecution; if so, of the details and number of such cases as well as the measures put in place by the authorities to step up enforcement;*
 - (ii) *of the details of the vetting and approval of the applications for the aforesaid licence; of the number of units which obtained the licence in each of the past five years; and*
 - (iii) *whether the authorities have any plan to establish a licensing system for the regulation of premises treating WEEE which are classified as non-chemical waste (regardless of whether they contain noxious substances or not); if they have, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, WEEE contains hazardous components that are harmful to the environment and human health if it is disposed of improperly. In the past few years, more than 70 000 tonnes of WEEE were generated in Hong Kong annually, mainly comprising television sets, washing machines, refrigerators, air conditioners and computer products. In 2010, the Government conducted a public consultation which revealed that stakeholders and the public generally supported the introduction a mandatory producer responsibility scheme (PRS) by legislation for the proper management of WEEE. In view of the findings of the public consultation, the Government proposes to implement a mandatory PRS for the five types of electrical and electronic (E&E) products aforementioned. One of the proposed

measures is to introduce licencing requirements for the storage and treatment of used and waste E&E products of a certain quantity and above so as to ensure that the handling of these products is environmentally sound. For details, please refer to the discussion paper issued to the Panel on Environmental Affairs (EA Panel) of this Council.

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

- (a) If not disposed of locally, WEEE generated in Hong Kong is mostly sold through second-hand dealers to developing countries for reuse and recovery of valuable materials. We have collected data in respect of the quantities of WEEE generated and disposed of in Hong Kong through consultancy studies and landfill surveys, and have accordingly estimated the quantity of WEEE that is recycled. The relevant figures between 2006 and 2010 are set out in the table below:

	<i>Generation (Thousand tonnes)</i>	<i>Disposed (Thousand tonnes)</i>	<i>Recycled (Thousand tonnes)</i>
2006	68.6	10.6	58.0
2007	70.1	11.1	59.0
2008	71.4	12.6	58.8
2009	72.0	7.7	64.3
2010	74.0	13.1	60.9

We have not surveyed the quantity of WEEE stored in Hong Kong pending shipment overseas.

In planning for the PRS on WEEE, the Environmental Protection Department (EPD) commissioned consultancy in 2008 and 2010 to conduct surveys on the quantity of locally generated WEEE, with breakdown by product types. The relevant figures are set out in the table below:

	<i>WEEE Generation in 2008 (Thousand tonnes)</i>	<i>WEEE Generation in 2010 (Thousand tonnes)</i>
Television sets	17.9	21.6
Washing machines	9.6	10.5
Refrigerators	8.3	8.4
Air conditioners	11.3	12.6

	<i>WEEE Generation in 2008 (Thousand tonnes)</i>	<i>WEEE Generation in 2010 (Thousand tonnes)</i>
Computer products	14.1	10.4
Other products	10.2	10.5
Total	71.4	74.0

(b) (i) and (ii)

Hong Kong has yet to establish a statutory licensing regime for the treatment and storage of WEEE. As such we do not have the statistics on the relevant establishments and the manpower involved.

Most of the temporary OSAs for the storage of WEEE pending shipment overseas are located in the remote areas in Yuen Long and the North District. By a rough estimate, there are about 120 such OSAs, but the actual number may vary as market situation fluctuates; and their mode of operation may also change from time to time. During inspections at these locations in recent years, the EPD has not found any land contamination cases caused by WEEE storage sites. In order to monitor the situation, the EPD had collected soil samples from WEEE storage sites in the North District and their surroundings for initial analysis. Such analysis showed that the levels of pollutants like lead and brominated flame retardant were low, which were within the relevant standards and did not pose threat to human health.

- (iii) At present, while there is no statutory licensing requirement for WEEE storage sites, such sites should be operated in compliance with various legislation relating to land use, town planning, fire safety, labour, and so on. They are also subject to the control of the relevant environmental legislation such as the Air Pollution Control Ordinance, the Noise Control Ordinance, the Water Pollution Control Ordinance, the WDO and their relevant subsidiary legislation. For the storage sites on Government land, their operation is also governed by the land lease in which there are terms relating to fire safety precautions.

In our proposals and complementary measures for the mandatory PRS on WEEE, we have already included licensing requirements for the storage of WEEE. Our initial thought is to require operators of such storage sites to obtain a licence. During the application process, they have to submit operational details such as the type and quantity of used or waste E&E products being stored and the maximum storage capacity, and so on. The storage sites should be properly equipped to satisfy the relevant safety and environmental management requirements. For instance, there should be a roofed structure and paved areas, a maximum stack height, security measures and record-keeping arrangements, and so on.

- (iv) At present, in accordance with the Basel Convention and the WDO, WEEE containing hazardous substances can be exported overseas only for recycling or reuse purposes. Available information shows that the key export destinations include Korea and Thailand. Apart from this, the current legislation does not require exporters to handle other WEEE separately from other goods exports, and accordingly we do not have the relevant breakdown figures for individual export destinations. In general, the majority of WEEE exported from Hong Kong is sold through second-hand dealers to developing countries for reuse and recovery of valuable materials. Though policy development in individual jurisdictions may vary, WEEE has become a growing concern internationally. It is expected that increasingly more countries will tighten the import control of WEEE.
- (c) (i) In the past five years, one waste recycler was prosecuted by the EPD (in 2007) under the WDO for disposing of cathode ray tubes without a licence. The recycler was fined \$30,000. The recycling plant had subsequently ceased operation. Accordingly, there has not been any case in which no improvement has been made even after prosecution.

- (ii) Under section 16(1) of the WDO, any person who disposes of hazardous WEEE that has been classified as chemical waste (for example, cathode ray tube) must apply for a waste disposal licence in accordance with the Ordinance. The layout and operation of the relevant plant must comply with stringent environmental requirements. The plant must also pass relevant operational tests before a licence could be granted. The number of WEEE recycling facilities holding a waste disposal licence in each of the past five years is as follows:

	<i>Number of Recycling Facilities with a Waste Disposal Licence</i>
2006	0
2007	0
2008	2
2009	3
2010	4

- (iii) As mentioned at part (b)(ii) above, we propose to include licensing requirements for the storage and treatment of used and waste E&E products as we introduce the PRS for WEEE. We will listen to Members' views at the meeting of the EA Panel on 28 November 2011 and further discuss with the relevant trades so as to jointly work out the relevant implementation details.

Pork Prices and Quality

17. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that the statistics of the Ministry of Commerce of the Mainland revealed that the nationwide pork prices have been decreasing continuously since October this year, and the decreasing rate accelerated in late October, and as at 30 October, the weekly average purchase price of live pigs has dropped for the sixth consecutive week, down by 9% in aggregate. In addition, Ng Fung Hong Limited (NFH) announced earlier a 23% downward adjustment in the wholesale price of live pigs supplied to Hong Kong, but some local pork retailers indicated that there is limited room for downward adjustment of the current retail pork*

price, and rebutted that live pigs offered at a discount of 20% to 30% in price by NFH are of poorer pork quality. On the other hand, some members of the trade also indicated that as the prices of live pigs have gradually dropped, there is definitely room for downward adjustment of the retail pork price, and the pork retailers were only using various excuses to not agree to reduce the price. In this connection, will the Government inform this Council:

- (a) of the average monthly wholesale, import and retail prices of fresh and chilled pork imported from the Mainland since January this year, as well as the changes in such prices; of the difference in the retail prices of fresh and chilled pork;*
- (b) whether there has been a corresponding downward adjustment of the retail price of fresh pork imported from the Mainland as a result of the considerable drop in the wholesale price for live pigs supplied to Hong Kong recently; if not, whether the authorities have looked into the reasons for that, and have proactively investigated why the drop in the wholesale price has not been reflected in the local retail pork price, as well as whether there are members of the trade profiteering through price-gouging; what measures the authorities have in place to urge pork retailers to lower the pork price as soon as possible, and to curb members of the trade profiteering through price-gouging, so as to enable the public to buy pork at a reasonable price that reflects the cost; and*
- (c) whether the authorities have looked into the aforesaid situation of poorer quality of pork sold at a discounted price as mentioned by local pork retailers, and have taken follow-up actions?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the policy objective of the Government is to maintain a stable supply of various foodstuffs and to ensure food safety. Food price has always been determined by the free market. It is the Government's responsibility to improve market transparency and enhance market efficiency so as to help consumers make an informed choice.

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

- (a) The wholesale price of live pigs (that is, the price of live pigs paid by live pig buyers to live pig import agents) and the retail price of fresh

pork (that is, fresh lean pork mentioned below) from January 2011 to the present are shown in Annex 1. However, the wholesale price of live pigs is not equal to the wholesale price of fresh lean pork because the weight of a live pig includes not only the weight of pork, but also that of the head, bones, skin and offals. Auction price of live pigs is determined by auction.

As regards chilled pork, the Government does not compile statistics on the wholesale price of chilled pork. We can hence only work out the import price of chilled pork based on the information on the import quantities and value of chilled pork declared for customs purposes. This is however not the wholesale price. The import and retail prices of chilled pork from January 2011 to the present are shown in Annex 2.

The difference in the retail prices of fresh and chilled pork is shown in Annex 3.

- (b) As shown in the price information, the wholesale price of live pigs had been on a rising trend since January 2011 but started to turn downward in October. The change in the retail price of fresh lean pork generally follows that of the wholesale price of live pigs, but at a lesser extent. Take the figures in July as an example, the average wholesale price of live pigs was \$16.8 per catty, an increase of 35.5% over that in January, while the average retail price of fresh lean pork was \$41.6 per catty, marking an increase of 22.4% when compared with that in January. In October, the average wholesale price of live pigs was \$15.4 per catty, an increase of 24.2% over that in January, and the average retail price of fresh lean pork was \$42.1 per catty, showing an increase of 23.8% when compared with January.

As regards the prices of chilled pork, the latest statistics for September showed that the average import price was \$15.6 per catty, representing an increase of 36.8% when compared with that in January. The average retail price of chilled lean pork for the same month was \$36.5 per catty, representing an increase of 38.8% over that in January.

Since January 2011, the difference in the retail prices of fresh and chilled pork has been narrowing from an average of \$7.7 per catty in January to an average of \$5.6 per catty in October.

We have approached the trade (including live pig import agents, buyers and pork retailers) to find out more about the composition of pork price. The trade advised that in addition to the purchase price, other operational costs such as transport cost, wages of workers and rental had to be considered in fixing the price of pork. When the wholesale price of live pigs keeps rising, retailers may not be able to pass on all of the increase to consumers. They will also take other factors into consideration, such as the affordability of the public, and so on. Likewise, when the wholesale price of live pigs goes down, retailers will also need to take into account other factors including the operational cost, and therefore may not be able to make the same level of reduction at the same time. Such commercial considerations are no different from those of other trades.

Live pigs for public consumption mainly come from the Mainland (the rest are supplied by local farms). To maintain a stable supply, the Food and Health Bureau has all along liaised closely with the relevant Mainland authorities and live pig import agents. In July 2007, the Food and Health Bureau and the State Ministry of Commerce agreed after discussion that market for supplying live pigs to Hong Kong should be opened up for healthy competition. Subsequently, the number of agents for supplying Mainland live pigs to Hong Kong increased from one to three in October 2007.

To maintain a stable supply of food and provide consumers with more choices, the Government also encourages the trade to explore different sources of food supply. In August 2006, the trade started importing chilled pork from the Mainland to offer the public an alternative. The consumption of chilled pork increased from around 4 600 tonnes in 2006 to around 15 000 tonnes in 2010.

We have introduced measures to improve the flow of market information. Starting from mid-January 2008, we have announced online on a daily basis the quantity and auction price of live pigs arriving at the slaughterhouse on the day and the estimated number

of live pigs to arrive at the slaughterhouse on the following day. In September 2011, the Food and Environmental Hygiene Department (FEHD) further enhanced the relevant website by providing more detailed information for the current month and the past 12 months. This enables the live pig buyers, retailers and the public to have a clear picture about the supply of live pigs.

- (c) All live pigs supplied to Hong Kong must be imported from the registered farms approved by the State General Administration of Quality Supervision, Inspection and Quarantine for supplying live pigs to Hong Kong. They are subject to stringent monitoring by the Mainland animal quarantine authorities and have to pass inspection before delivery to Hong Kong. The FEHD has been monitoring the sources in the Mainland supplying live pigs to Hong Kong. There was no substantial change regarding such sources before and after October this year. The FEHD also performs ante-mortem and post-mortem inspections on all imported live pigs, so as to ensure that they are wholesome and fit for human consumption before delivery to markets.

Annex 1

The wholesale price of live pigs (that is, the price of live pigs paid by live pig buyers to live pig import agents) and the retail price of fresh pork from January 2011 to the present

<i>Year</i>	<i>Month</i>	<i>Average wholesale price of live pigs* (\$/catty)</i>	<i>Average retail price of fresh lean pork* (\$/catty)</i>	<i>Average wholesale price of live pigs as compared with that of January 2011 (%)</i>	<i>Average retail price of fresh lean pork as compared with that of January 2011 (%)</i>
2011	1	12.4	34.0	-	-
	2	14.0	36.0	12.9	5.9
	3	14.1	37.0	13.7	8.8
	4	13.8	37.5	11.3	10.3
	5	14.3	38.1	15.3	12.1

<i>Year</i>	<i>Month</i>	<i>Average wholesale price of live pigs* (\$/catty)</i>	<i>Average retail price of fresh lean pork* (\$/catty)</i>	<i>Average wholesale price of live pigs as compared with that of January 2011 (%)</i>	<i>Average retail price of fresh lean pork as compared with that of January 2011 (%)</i>
2011	6	16.5	39.9	33.1	17.4
	7	16.8	41.6	35.5	22.4
	8	16.4	42.0	32.3	23.5
	9	16.6	42.3	33.9	24.4
	10	15.4	42.1	24.2	23.8
	11 [#]	13.8	41.4	11.3	21.8

Notes:

* Price information for January 2011 to August 2011 is provided in the Hong Kong Monthly Digest of Statistics published by the Census and Statistics Department (C&SD), while that for September to November 2011 are preliminary figures. Average retail price of fresh lean pork is provided by the C&SD, while average wholesale price of live pigs is provided by the Agriculture, Fisheries and Conservation Department.

Preliminary figures for the first two weeks.

Annex 2

The import and retail prices of chilled pork from January 2011 to the present

<i>Year</i>	<i>Month</i>	<i>Average import price of chilled pork* (\$/catty)</i>	<i>Average retail price of chilled lean pork*[^] (\$/catty)</i>	<i>Average import price of chilled pork as compared with that of January 2011 (%)</i>	<i>Average retail price of chilled lean pork as compared with that of January 2011 (%)</i>
2011	1	11.4	26.3	-	-
	2	10.8	26.7	-5.3	1.5
	3	10.6	28.0	-7.0	6.5
	4	11.2	28.9	-1.8	9.9
	5	12.8	29.7	12.3	12.9
	6	13.0	31.6	14.0	20.2
	7	14.3	34.4	25.4	30.8
	8	15.8	36.0	38.6	36.9

<i>Year</i>	<i>Month</i>	<i>Average import price of chilled pork* (\$/catty)</i>	<i>Average retail price of chilled lean pork*^ (\$/catty)</i>	<i>Average import price of chilled pork as compared with that of January 2011 (%)</i>	<i>Average retail price of chilled lean pork as compared with that of January 2011 (%)</i>
2011	9	15.6	36.5	36.8	38.8
	10	-	36.5	-	38.8
	11 [#]	-	37.0	-	40.7

Notes:

* Price information is provided by the C&SD. As it takes time to process trading data, the average import price of October and November 2011 is not yet available for the time being.

^ Chilled lean pork is only available for sale in supermarkets and a small number of licensed stalls.

Preliminary figures for the first two weeks.

Annex 3

Difference in the retail prices of fresh and chilled pork

<i>Year</i>	<i>Month</i>	<i>Average retail price of fresh lean pork (\$/catty)</i>	<i>Average retail price of chilled lean pork (\$/catty)</i>	<i>Difference (\$/catty)</i>
2011	1	34.0	26.3	7.7
	2	36.0	26.7	9.3
	3	37.0	28.0	9.0
	4	37.5	28.9	8.6
	5	38.1	29.7	8.4
	6	39.9	31.6	8.3
	7	41.6	34.4	7.2
	8	42.0	36.0	6.0
	9	42.3	36.5	5.8
	10	42.1	36.5	5.6
	11 [#]	41.4	37.0	4.4

Note:

Preliminary figures for the first two weeks.

Assistance for Hong Kong People Serving Sentences in Other Places

18. **MR PAUL TSE** (in Chinese): *President, Mr TANG Lung-wai (Mr TANG), a Hong Kong resident, who was first detained for 11 years for suspected drug possession in the Philippines, and recently convicted of drug trafficking and sentenced to 40 years' imprisonment, has relayed to me through his family that the judgment made by the Philippine judge is unfair, and that in the past 10-odd years, Mr TANG and Mr CHEUNG Tai-on (Mr CHEUNG), another defendant in the same case, were not given adequate interpretation services to help them understand the proceedings during the trial (the Philippine authorities claimed that they lacked the financial means to provide each defendant with qualified interpretation services). Besides, regarding the date from which the Philippine authorities claimed to have started surveillance on Mr TANG's activities in the country, the Hong Kong Immigration Department (ImmD) confirmed that Mr TANG had not yet departed from Hong Kong on that date. Mr TANG and Mr CHEUNG criticized that the trial had all along been conducted unfairly with a lack of transparency. They urgently wish to raise questions to the Government through me. In this connection, will the Government inform this Council:*

- (a) *given that the aforesaid Hong Kong people had complained about the lack of a fair trial, why the SAR Government merely advised that they could only follow the judgment of the local court in the Philippines and failed to provide them with any concrete assistance during trial and for lodging appeal;*
- (b) *given that the aforesaid Hong Kong people urgently need pecuniary assistance to meet the expenses for appeal as well as the basic subsistence in prison and correspondence with their families, whether the SAR Government will, apart from considering the request raised in my previous letter to the authorities for exercising discretion to allow their families to apply for the "Scheme \$6,000" on their behalf, consider providing them assistance through other means (for example, the Community Care Fund (CCF)) which they urgently need for appeal; and*
- (c) *as I have learnt that Mr TANG had sought assistance from the Assistance to Hong Kong Residents Unit (AHU) of the ImmD through the hotline 1868 (1868) but was unable to get any concrete assistance, and he criticized the Government for staying aloof from residents who were in distress outside Hong Kong, and there were*

also cases in the past where some Hong Kong people were forbidden to leave Taiwan by the Taiwan authorities concerned owing to traffic accident compensation issues and they had called 1868 for help, but the authorities did not provide any assistance on the grounds that they could not directly interfere with the cross-strait affairs, and the problem was finally solved after I wrote to the Taiwan Ministry of Justice to assist the Hong Kong people in distress, what measures the Government will put in place to improve the ways in which assistance is provided to Hong Kong people who are in distress while travelling outside Hong Kong (including improving the AHU's work)?

SECRETARY FOR SECURITY (in Chinese): President, our replies to the questions raised by Mr TSE are as follows:

(a) and (c)

In general, upon receipt of requests for assistance from Hong Kong residents who are detained or imprisoned overseas, the AHU of the ImmD will, having regard to the nature and circumstances of individual cases as well as the wishes of the subjects, liaise with the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR (OCMFA), Chinese Diplomatic and Consular Missions (CDCM) overseas and other relevant departments to provide practicable assistance. For cases that occurred in Taiwan, the AHU and the relevant Bureau will reflect the wishes of assistance seekers to the relevant Taiwan organizations through the existing mechanism.

In general, the assistance rendered by the AHU include informing the subjects' families in Hong Kong of their detention upon request, so that their families can arrange financial and other assistance to the subjects, approaching relevant authorities to reflect the wishes of the assistance seekers and to make enquiries on case progress, and providing information on local lawyers and translators, and so on. The HKSAR Government and CDCMs will respect and abide by the local judicial system when following up with the requests for assistance.

Concerning the case mentioned by the Member, the HKSAR Government has been working with OCMFA and the Chinese Embassy in the Philippines (the Embassy) for providing assistance to the subjects since receipt of the assistance request in 2003. The Embassy attaches great importance to the case. Apart from visiting the subjects at prison on several occasions, the Embassy has also approached the local judicial authorities to understand the case progress, and urged for prompt and impartial hearings in accordance with the laws of the country. The Embassy and the AHU have been in contact with the subjects and their families in Hong Kong respectively to reflect their wishes to the Philippine authorities on matters such as ensuring the subjects are provided with the basic necessities in prison and provision of translation services. It is understood that the local authorities have, in response to the Embassy's request, agreed to provide free translation to the subjects. Moreover, the Embassy has co-ordinated with the local Chinese for assistance in the employment of interpreter. The HKSAR Government, OCMFA and the Embassy will continue to liaise closely with the subjects and their families in Hong Kong for providing all practicable assistance.

In rendering assistance to Hong Kong residents in distress outside Hong Kong, the HKSAR Government has established an effective communication mechanism with OCMFA and overseas CDCMs. The HKSAR Government will accumulate experience on this basis to render assistance to all Hong Kong residents in distress abroad.

- (b) Regarding individuals' applications under special schemes such as "Scheme \$6,000" and the CCF, the Financial Services and the Treasury Bureau has replied to the Member on the registration arrangements of "Scheme \$6,000". The Home Affairs Bureau advised that the CCF is for drawing up specific programmes for target beneficiary groups, the case in question does not fall within the ambit of the specific programmes already approved by the Steering Committee on the CCF.

Cancellation of Metered Parking Spaces

19. **MS AUDREY EU** (in Chinese): *President, the Government has designated some of the previous on-street metered parking spaces as "no parking areas" with yellow markings in recent years, and drivers who continue to park their vehicles in these areas will be prosecuted. Yet, many vehicles are still illegally parked in such areas with yellow markings where parking has already been prohibited, and some of these areas are even occupied for operating valet parking business, but the offenders are not prosecuted. In this connection, will the Government inform this Council:*

- (a) *of the general reasons why the Transport Department (TD) cancelled some of the previous on-street parking spaces and meters;*
- (b) *of the number of meters cancelled by the TD and the Government's revenue from on-street metered parking spaces respectively in each of the past 10 years; of the number of Fixed Penalty Notices against parking offences issued by the Hong Kong Police Force each year between 2001 and 2007, with a breakdown of the figures by item; and*
- (c) *whether the Government will consider stepping up law enforcement, including increasing the number of law-enforcing officers and frequency of patrols, and stepping up prosecution against drivers who commit parking offences, in order to achieve a deterrent effect; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): *President, to meet the parking demand, the TD provides on-street parking spaces where they do not obstruct the traffic. It also provides parking meters where the demand is relatively high to deter prolonged occupation so that the spaces can be used by more vehicles. Currently, there are about 18 000 on-street metered parking spaces in Hong Kong. In the light of district developments and changes in the traffic situation, parking spaces will be added or cancelled by the TD. In areas with increased parking demand, additional metered parking spaces will be provided by the TD as far as practicable; while on road sections with persistent traffic congestion, some parking spaces will be cancelled to make way for smoother traffic.*

In recent years, the TD has erected traffic signs bearing the words "Vehicle waiting will be prosecuted without warning" and painted yellow hatched markings at locations with keen demand for loading and unloading spaces to remind drivers not to park or wait there. The traffic sign clearly indicates to drivers that parking is strictly prohibited on the road sections concerned, and illegally parked vehicles may be prosecuted by the police without warning. Over the past three years, the TD converted only one designated parking area with metered parking spaces to a no-parking area with the above traffic sign, mainly in response to the local community's request for more loading and unloading spaces to meet the need of residents and business operators in the neighbourhood.

The number of metered parking spaces cancelled by the TD in each of the past 10 years is at Annex A. The public revenue generated yearly by metered parking spaces is at Annex B.

The police conduct patrols on major roads to maintain a smooth traffic flow. Depending on the actual prevalence of illegal parking in various police districts, enforcement action through the issue of Fixed Penalty Tickets will be taken by police officers on beat patrol; police officers from district traffic teams; and traffic wardens. Enforcement is taken at locations including the abovementioned yellow hatched no-parking areas and other illegal parking black spots so as to ensure that the roads in the districts are not blocked and other road users are not jeopardized by illegally parked vehicles. The police will review from time to time the prosecution policy in respect of illegal parking and, if necessary, strengthen the manpower and deployment to step up enforcement at illegal parking black spots. The number of Fixed Penalty Tickets against parking offences issued yearly by the police in the past decade is at Annex C.

Annex A

Number of metered parking spaces cancelled

<i>Year</i>	<i>Number of parking spaces</i>
2001	828
2002	490
2003	380
2004	232
2005	250

<i>Year</i>	<i>Number of parking spaces</i>
2006	205
2007	130
2008	121
2009	163
2010	159
Total	2 958

Annex B

Public revenue generated by metered parking spaces

<i>Year</i>	<i>Annual Revenue (HK\$)</i>
2001	304,190,921
2002	291,418,298
2003	257,027,330
2004	251,950,057
2005	250,049,032
2006	245,210,848
2007	245,119,320
2008	239,874,652
2009	244,208,544
2010	250,880,902

Annex C

Number of Fixed Penalty Tickets
against parking offences issued by the police

<i>Year</i>	<i>Number of tickets</i>
2001	695 118
2002	512 627
2003	506 286
2004	552 339
2005	572 214
2006	631 669
2007	704 860

<i>Year</i>	<i>Number of tickets</i>
2008	696 210
2009	718 258
2010	737 061

Impact of Debt Crises in European Countries

20. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that the European Union (EU) summit had earlier on come up with a preliminary package of solutions (including the expansion of the European Financial Stability Facility (EFSF) to one trillion euros, writing off the total amount of Greek debts by 50%, as well as increasing banks' capital ratio to 9%, and so on) for the sovereign debt crisis in Europe (European debt crisis), but the relevant details have yet to be implemented. The market in general is doubtful whether the package can really solve the European debt crisis, thus generating shocks in the market. In this connection, will the Government inform this Council:*

- (a) how the authorities assess the effectiveness of the solutions for the European debt crisis proposed by the EU summit, and the impact of the implementation of such solutions on Hong Kong's financial industry (including the insurance and banking sectors); in particular, whether serious losses will be inflicted on the banking and insurance sectors in Hong Kong by the arrangement to write off the Greek debts; and whether local banks holding eurozone sovereign bonds (especially those issued by countries such as Greece, Italy, Spain and Portugal, and so on, which are facing a relatively more serious sovereign debt crisis) will have capital financing needs as a result;*
- (b) whether the authorities have a full picture of the risks that local banks need to face as a result of the European debt crisis; whether they have any measure to monitor and control the relevant situation, and formulated a contingency plan to reduce the risks to be faced by local banks under the impact of the European debt crisis; and*
- (c) of the specific policies, proposals and corresponding measures put in place by the authorities, together with the relevant details, to*

tackle the worst impact that the European debt crisis may have on the economy of Hong Kong, such as the shocks and systemic risks that may be caused to the economy of Hong Kong once Greece defaults on its debts and decides to withdraw from the eurozone, as well as the potential impact of the further deterioration of the European debt crisis on the overall economy of Hong Kong, and so on?

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

- (a) We have been closely monitoring the developments of the European debt crisis. We understand that European countries are trying to reach a consensus on the leveraging of the EFSF, the recapitalization of banks, and the write-off rate of Greek debts. In principle, a leveraged EFSF could provide more ammunitions to help troubled eurozone countries to meet their financing demand. Recapitalization of European banks can also help build a buffer against possible losses arising from their holdings of eurozone sovereign debt and address the negative feedback between the banking sector and government fiscal problems. Practically speaking, the eurozone countries still need to cope with the challenges of reducing their structural fiscal deficits and an uncertain economic outlook. In addition, it will take time for the authorities to draw up the details of and fully implement the relevant measures. Global financial markets are, therefore, likely to remain volatile.

As regards the local banking sector, the aggregate exposure of Hong Kong's banking sector to European countries that are facing relatively more serious sovereign debt problems (*viz.* Greece, Ireland, Italy, Spain and Portugal) is less than 1% of the sector's total assets. This risk exposure will not give rise to capital financing needs by local banks.

Although banks in Hong Kong do not have significant exposure to debts issued by European countries facing sovereign debt problems,

the banking sector may suffer from the negative spillover in the event that fiscal problems of some European countries would lead to heightened risk aversion and trigger capital outflows from emerging markets or liquidity squeeze in the interbank market.

For the insurance sector, exposure of authorized insurers in Hong Kong to Greek debt is less than 0.1% of their total investment, according to the Office of the Commissioner of Insurance. The impact of the European debt crisis on the overall stability of the Hong Kong insurance industry is therefore insignificant.

- (b) As mentioned in my response to part (a) above, Hong Kong's banking sector does not have a high level of exposure to the European countries with more severe sovereign debt problems. However, volatility in the global financial markets may still adversely impact the local banking sector.

Two scenarios might occur if the European debt crisis deteriorates further: (1) banks might become reluctant in lending to each other amid the concerns over counterparty credit risk, leading to tightened liquidity in the interbank market; and (2) heightened risk aversion would result in massive capital outflows from the emerging markets, causing considerable exchange rate and interest rate volatility.

The Hong Kong Monetary Authority (HKMA) will continue to monitor banks' risk exposure through its day-to-day supervision, and has requested banks to strengthen risk management and maintain adequate capital and liquidity to address the potential systemic risk arising from the global financial turmoil.

To address the potential credit crisis arising from the global financial market turmoil, the HKMA stands ready to provide liquidity assistance to individual banks if needed and on a case-by-case basis, through the use of foreign exchange swaps and term repos. These measures were utilized following the collapse of Lehman Brothers and managed to relieve tension in the interbank market during the period.

If the Hong Kong dollar exchange rate falls and reaches the weak-side Convertibility Undertaking level due to massive capital outflows under heightened risk aversion, the HKMA will conduct operations under the Currency Board arrangements, using the foreign reserves accumulated from inflow of capital earlier as a buffer to maintain exchange rate stability and mitigate excessive interest rate volatility.

- (c) At this juncture, there remains much fluidity in the European sovereign debt situation, posing downside risks to the global economy. Hong Kong's economic performance next year will hinge crucially on how the European debt crisis will evolve and impact on the global economic landscape. As the EU is the largest economy in the world and also an important export market for Asia (Hong Kong included), any further escalation in the debt crisis would necessarily deal a severe blow to the global economy. Hong Kong as a small and open economy will inevitably feel the pinch.

In face of the uncertain external economic outlook, the Government will stay highly vigilant and closely monitor the developments on the external front. We will, as in the past, stand ready to mobilize the necessary resources and get well-prepared to cope with developments in the global economic environment. We will introduce timely and effective measures to tide the trade over when necessary. The Secretary for Commerce and Economic Development, in his reply to Dr LAM Tai-fai's oral question on 9 November, has provided information on support measures for our businesses, particularly the small and medium enterprises.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

**GENERAL HOLIDAYS AND EMPLOYMENT LEGISLATION
(SUBSTITUTION OF HOLIDAYS) (AMENDMENT) BILL 2011**

CLERK (in Cantonese): General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

**GENERAL HOLIDAYS AND EMPLOYMENT LEGISLATION
(SUBSTITUTION OF HOLIDAYS) (AMENDMENT) BILL 2011**

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I move the Second Reading of the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011 (the Bill).

The purpose of the Bill is to alter the holiday in substitution under the Employment Ordinance (EO) and the General Holidays Ordinance (GHO) should any Lunar New Year holiday or Chinese Mid-Autumn Festival holiday falls on a Sunday, such that the day immediately after instead of before the said holiday will be designated as the holiday in substitution.

Under the existing EO and the GHO, should any of the first three days of a Lunar New Year or the day following the Chinese Mid-Autumn Festival (being both statutory holidays and general holidays) falls on a Sunday, the day immediately preceding the said holiday is designated as a holiday in substitution.

As the social and economic conditions of Hong Kong have changed in recent years, an increasing number of employees now work on a five-day workweek basis with a day-off on Saturdays and Sundays. To these employees,

when any of the first three days of a Lunar New Year or the day following the Chinese Mid-Autumn Festival falls on a Sunday, the holiday in substitution, which is designated as the day immediately preceding the said holiday under the present arrangement, will falls on a Saturday and overlaps with their Saturday day-off.

In order to improve this arrangement, the Government now proposes amending the EO and the GHO to designate the fourth day of Lunar New Year as a holiday in substitution when either Lunar New Year's Day, the second day of Lunar New Year or the third day of Lunar New Year falls on a Sunday. In the same vein, when the day following the Chinese Mid-Autumn Festival falls on a Sunday, the day thereafter (that is, the 17th day of the eighth month of the lunar calendar) will be designated as a holiday in substitution.

This proposed arrangement will enable employees working on a Monday-to-Friday five-day workweek basis to have their holiday in substitution and their Saturday day-off on different days when the Lunar New Year holiday or Chinese Mid-Autumn Festival holiday falls on a Sunday. Besides, employees who work five-and-a-half days a week from Monday to Saturday (including those who follow such pattern on an alternate week basis) will also benefit from such arrangement. The aforesaid proposed amendments are supported by the Labour Advisory Board and the Legislative Council Panel on Manpower.

Lunar New Year's Day will again fall on a Sunday in 2013. According to the usual practice, the Government will gazette a list of general holidays for next year around each April to facilitate different organizations and members of the public to plan for next year's holidays. If the Bill can be passed by the Legislative Council smoothly in early next year, employees will benefit from the amended Ordinance in 2013 at the earliest.

I hope that Members will support the Bill such that it can be passed as soon as possible to benefit employees early.

Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Bill 2011 be read the Second time.

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

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Mandatory Provident Fund Schemes Ordinance to approve the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the motion.

PROPOSED RESOLUTION UNDER THE MANDATORY PROVIDENT FUND SCHEMES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The motion aims to amend the various items on the Maximum Relevant Income Level (Max RI) set out in Schedule 3 to the Mandatory Provident Fund Schemes Ordinance (the Ordinance).

Prescribing a Max RI in the Ordinance is to reflect the policy objective of the Mandatory Provident Fund (MPF) system in assisting the working population to make basic savings for retirement. Higher income employees and self-employed persons may decide whether to top up their mandatory contributions through voluntary contributions or other investment to increase their retirement savings.

The Ordinance provides that unless exempted, an employer and employee must each contribute 5% of the employee's relevant income as MPF mandatory contribution. The law also provides that for an employee whose relevant income is above the Max RI, both he and his employer are not required to make mandatory contribution in respect of the excess relevant income. The same arrangement also applies to self-employed persons.

Section 10A of the Ordinance provides that the Mandatory Provident Fund Schemes Authority (MPFA) must conduct a review of the Max RI and the Minimum Relevant Income Levels at least once in every four years. The Legislative Council approved the proposal to increase the Minimum Relevant Income Level from \$5,000 to \$6,500 in June 2011 and it has come into effect since 1 November 2011. As for the Max RI, the Ordinance prescribes that when conducting a review, the MPFA must take into account the Statutory Factor, that is, monthly employment earnings at 90th percentile of the monthly employment earnings distribution prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department. The MPFA may also consider other relevant factors.

In the latest review conducted by the MPFA in 2010, according to the Statutory Factor, the Max RI should be increased from the existing \$20,000 to \$30,000. In fact, the reviews conducted in 2002 and 2006 have indicated that the Max RI should be increased to \$30,000 then according to the Statutory Factor. No adjustment has been made against the economic environment at that time and the lack of consensus in the community.

As the Max RI has been maintained at the level of \$20,000 since the implementation of the MPF system in 2000 and the review results since 2000 have suggested a level at \$30,000, both the MPFA and the Administration consider it necessary to increase the Max RI. This has the general support of various political parties and a number of organizations.

The MPFA had consulted the relevant advisory bodies in the process of proposing the Max RI. The Administration and the MPFA had also consulted the Legislative Council Panel on Financial Affairs, including attending a public hearing organized by the Panel. Some employers' associations indicated that businesses, especially small and medium enterprises, were still digesting the cost implications resultant from the implementation of the Statutory Minimum Wage in May 2011 and any substantial increase in the Max RI would cause financial

hardship on their operations. As for employees, some supported making additional MPF contributions to provide greater retirement protection, while some others considered that increasing the Max RI would reduce their disposable income and investment flexibility.

The Administration and the MPFA also attended three meetings of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011, including a public hearing. We have explained to the Subcommittee our proposed amendment to increase the Max RI to \$25,000 which strikes an appropriate balance between meeting the basic retirement needs of the working population and fulfilling their existing living needs. As for our proposal to increase the Max RI with effect from 1 June 2012, the intention is to allow employees and employers a longer time to adapt to the new contribution level.

On the daily Max RI, we propose to adopt the current 30-day basis for conversion. The daily Max RI will accordingly be increased from \$650 to \$830. As for the annual Max RI for self-employed persons, we propose a corresponding increase from \$240,000 to \$300,000.

According to the MPFA's review, based on the data for the fourth quarter of 2010, if the Max RI is increased to \$25,000, 424 600 employees and their employers, as well as 89 900 self-employed persons will be required to make additional mandatory contributions.

If the Order is passed, the MPFA will make corresponding amendments to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order which sets out the Max RI for casual employees. We will also proceed with amending the Inland Revenue Ordinance to increase the maximum tax deductible amount attributable to mandatory contributions of employees and self-employed persons, from \$12,000 to \$15,000.

Finally, I would like to take this opportunity to thank members of the Subcommittee for their active participation in scrutinizing our proposed amendments.

President, I move the motion be passed to implement the amendments to the Max RI.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011, made by the Chief Executive in Council on 14 June 2011, be approved."

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

MR WONG TING-KWONG (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (the Subcommittee), I now report on the deliberations of the Subcommittee.

The Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (the Amendment Notice) proposed to increase the Maximum Relevant Income Level (Max RI) for making mandatory contributions under the Mandatory Provident Fund Schemes Ordinance (the Ordinance) from \$20,000 to \$25,000 per month with effect from 1 June 2012.

The Subcommittee noted that the Minimum Relevant Income Level has been increased to \$6,500 since 1 November 2011, but the new Max RI will only come into operation on 1 June 2012 subject to the passage of the Amendment Notice. Some members have expressed concern that the delay in adjusting the Max RI might constitute discrimination. The Administration explained that the proposal of increasing the Max RI has the support of political parties and a number of employers' and employees' associations, albeit their preferences vary from \$22,000 to \$30,000. However, some employers' associations indicated that businesses, particularly small and medium enterprises, were still digesting the cost implications resulting from the implementation of the statutory minimum wage, and that any major increase in Max RI would pose hardship. Moreover, some employees did not support making additional Mandatory Provident Fund (MPF) contributions which would reduce their disposable income and investment flexibility. After taking into account the views received, the Administration and

the Mandatory Provident Fund Schemes Authority (MPFA) consider an increase of Max RI to \$25,000 at this stage would strike an appropriate balance between addressing the basic retirement needs of the working population and their present livelihood. The authorities explained that the reason of scheduling the implementation date of the new Max RI to 1 June 2012 is to allow reasonable time for both employers and employees to adjust to the new contribution level.

The Subcommittee also noted that if taking into account the Statutory Factor which must be considered in the review of the Max RI, it should be increased to \$30,000 in 2002. Members have enquired whether there is a plan to increase the Max RI to \$30,000. The Administration has advised that the MPFA will conduct a comprehensive review of the statutory adjustment mechanism, including the mechanism for adjusting the Max RI, when the effect of the statutory minimum wage is more evident.

The Subcommittee has not proposed any amendment to the Amendment Notice.

Next I will express the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

The Max RI has all along been prescribed at \$20,000 since the inception of the MPF system, and no adjustment has ever been made. In fact, when the MPFA conducted reviews of the system in 2002 and 2006, it had considered increasing the Max RI to \$30,000. However, in view of the poor economic environment at that time and the divergent views of the community, the proposal was shelved. It has been 10 years since the inception of the MPF system, there have been great changes in the current socio-economic conditions, people's income and commodity price indexes. The review conducted by the MPFA last year again proposed that the Max RI should be increased to \$30,000. Against this background, the DAB considers that the Max RI should be appropriately adjusted and put in place.

After consulting public views, and considering that employers are pessimistic about the present business environment and worry that operating costs will be further pushed up soon after the implementation of minimum wage, the MPFA thus proposed to steer the middle course between \$20,000 and \$30,000 by increasing the Max RI to \$25,000. This would mitigate the proposal's impact on

the employers' operation, while at the same time refining the Max RI. The DAB considers that the Administration has already taken heed of the advice and shows understanding of the situation of employers, and therefore properly increased the relevant income level. Hence, the DAB supports the proposed increase of the Max RI to \$25,000. As for the date of implementation, the DAB considers 1 June 2012 an appropriate date. This would provide a grace period for employers, thereby saving them from having to bear additional burden in the short run when the operating environment is currently so difficult. What is more, they can have ample time to adapt to and plan for the adjustment. The DAB therefore supports the proposed implementation date.

President, although the present adjustment proposal helps enhance employees' retirement protection, the MPF schemes have all along been criticized for having many deficiencies, such as low rate of return, high custodian fees, few investment options and low autonomy of employees. Thus, employees have cast doubt on the effectiveness of the MPF schemes in safeguarding their retirement life in the long run. While the DAB supports the proposed amendment, it considers that the constant refinements made by the MPFA to address the deficiencies of the MPF system have only achieved little effect. Therefore, a comprehensive review of the MPF schemes must be conducted. Early this month, the DAB has put forth many proposals during the motion debate on "Comprehensively reforming the MPF Scheme", which include to press trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require trustees to collect fixed administration fees; to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates; to allow MPF Scheme contributors with exceptional reasons to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs; to allow retirees to flexibly withdraw their MPF accrued benefits after the age of 65; to introduce a maximum tax deduction of \$12,000 for voluntary MPF contributions and to enhance the regulation of MPF Scheme intermediaries. The DAB urges the authorities to proactively consider adopting and comprehensively improving the MPF Scheme so that it can genuinely achieve the target of protecting people's retirement life.

With these remarks, President, I support the Amendment Notice.

MS MIRIAM LAU (in Cantonese): President, the resolution moved by Secretary Prof K C CHAN today urges this Council to approve the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 introduced by the Government. It provides for an increase in the Maximum Relevant Income Level (Max RI) for mandatory contributions from \$20,000 to \$25,000. From the perspective of retirement protection, the proposed increase can theoretically speaking, enhance the retirement protection of the eligible people, especially those from the medium to high income group, whose income no longer belongs to the grass-roots level but has exceeded the previous ceiling of \$20,000. However, in view of the fact that the darkest period of the European debt crisis and deficit crisis have not ended, adding that Hong Kong's economy has entered a turning point, we should therefore consider if the proposed measure, which would inevitably increase the costs of employers, has a negative impact on the business environment and the room of survival of small and medium enterprises (SMEs) before deciding whether this resolution should be supported.

First of all, I want to share the views of the beneficiaries. The Liberal Party has recently conducted an opinion poll to gauge public views on the Government's decision. We have randomly interviewed by telephone 419 members of the public between 18 and 20 years of age this month. The findings showed that more than half of the respondents (54.4%) "agree" and "strongly agree" to an increase in the Max RI for Mandatory Provident Fund (MPF) contributions. People who earn between \$20,001 and \$30,000 per month are the most ardent supporter of the proposed measure.

It should nonetheless be noted that more than 25% (26.9%) of the respondents indicated that they "strongly disagree" and "disagree" with the proposed measure. There are more respondents feeling "not satisfied" with the MPF system than those feeling "satisfied". While the former accounts for 46.6%, it is 10% higher than the latter. Among the respondents who "disagree" with the proposed measure, nearly half of them (46.9%) wish to "keep the money in their own pockets", whereas the rest "fears that employers would deduct the additional contributions from other areas" (23%) or "employers' burden of making contributions would become heavier" (15.9%).

We can therefore conclude that most employees basically agree that an increase in the contributions made by both employers and employees would be beneficial to them, and they welcome the proposal. It should, however, be noted

that they are also gravely dissatisfied that the drawbacks of the MPF system, such as exorbitant fees and unsatisfactory investment return, have yet to be rectified. The Government and the MPFA must improve the situation by all means. We have already urged the Administration time and again to strive to lower the MPF fees and expedite the "quasi-free-choice scheme" for MPF, with a view to lowering the administration fees by stepping up competition, thereby preventing wage earners' hard-earned MPF contributions from becoming the hefty commissions of fund managers.

In fact, after Henry FAN resorted to "verbal coercion" by criticizing the MPF Scheme intermediaries for charging exorbitant fees (which was 2% at that time) when he took office as Chairman of the MPFA, the fees had only been slightly reduced from 2.1% to the current 1.8% over the past four years. Many wage earners still found that their hard-earned contributions in the MPF accounts have become less than what it should be. They would rather keep the money in their own pockets or at least save as fixed deposit, as this would save them from suffering losses or negative growth. The "quasi-free-choice scheme" for MPF, which was supposed to be introduced in 2011, was suddenly called to a halt last year because the authorities failed to put the intermediaries under proper regulation. The scheme has to be delayed for more than a year and can only be implemented in 2012. If the Max RI is increased to \$25,000 when the MPF fees have yet to be substantially lowered, will the intermediaries not earn more income as a result and become so fat that they cannot pass through the doors? We therefore urge the authorities again to expedite the "quasi-free-choice scheme" for MPF, and table the relevant legislation at this Council for consideration as early as possible. Increasing the MPF contributions when administration fees have yet to be lowered would only benefit the intermediaries, impose heavier burden on employers and reduce the flexibility of the MPF beneficiaries in using their capital without achieving the good intention of the MPF to enhance retirement protection of wage earners.

President, next I will talk about the impact of increasing the Max RI on employers. We have talked to many SMEs and found that after the adjustment, an employer will at most contribute an additional \$250 per month for each eligible employee, which is no more than 1% of an employee's wage. In fact, only those earning a monthly income of \$20,000 will benefit and the number of people affected will therefore not be too great. The problems will not be too serious either.

The business environment currently faced by SMEs is nonetheless pretty uncertain and filled with pessimistic sentiment. For instance, in May 2011, many SMEs are struggling hard to survive under the implementation of the minimum wage and can barely make ends meet. On the other hand, they are busy coping with the surging operating costs caused by high inflation, high rent and expensive food materials. They are really exhausted. However, the market situation is indeed pretty calm at the moment. Our economy is probably in the final hours of the onslaught of the devastating European debt crisis and United States' deficit crisis.

Recently, the International Monetary Fund warned that the global economy has entered a dangerous phase. For the worst scenario, Hong Kong will experience a negative economic growth of minus 0.5% in 2012 and plunge into recession. More than a week ago, Chief Executive Donald TSANG also expressed pessimism over global economic growth in the short run. Local industries such as export trade, manufacturing, finance and insurance will definitely be affected. It is believed that economic growth for 2011 will only reach the estimated lower limit of 5%, and will substantially slacken to 2% in 2012. It is likely that a technical recession may set in, and we may have to endure a difficult period of several quarters.

When the Financial Secretary briefed the Legislative Council on Hong Kong's latest economic condition the day before, he pointed out that local export volume in September has further dropped to 11% following a reduction of 2.2% over the year in the third quarter. It is projected that export volume will continue to drop in the fourth quarter. Although local consumption, tourism and infrastructural investment may partially offset the projected weak export, we cannot be too optimistic about Hong Kong's overall economic performance early next year. As for the economy in the latter half of 2012, it depends on whether the crises in Europe and the United States can be resolved so as to prevent the world from plunging into another recession.

At this juncture when the economy is entering a new phase, the local labour sector has recklessly requested a substantial increase in labour welfare, which includes an increase in the minimum wage; the introduction of standard working hours and an alignment of labour holidays and statutory holidays. Hence, SMEs worry that once the economy experiences a downturn, they will not be able to cope with the increasing burden. Any changes in the business environment may

become the last straw that breaks the camel's back, which would drive them to a dead end.

Therefore, even if we agree to increase the Max RI for MPF to \$25,000 today, we have to remind the Government of the impending economic chill. It should therefore keep a close watch on various data and trends, and critically assess the situation in order to make timely adjustments. If the resolution is passed in this Council later on, the commencement date will be 1 June 2012 and we will enter a period of economic chill by that time. In case the situation becomes so critical that SMEs have to struggle for survival, the Government will have to introduce measures to relieve the business burden of SMEs and help them tide over the difficult times. This is because if SMEs cannot survive, the workers' "rice bowls" cannot be retained as well. How can we enhance their retirement life then?

Last of all, as I have previously said, since most employees wish to have more protection for their retirement life, but the present increase in contribution has only limited effect, thus the Liberal Party will reluctantly support today's resolution. Nonetheless, the Liberal Party fully appreciates that industries earning meager profits, like the restaurant trade which suffers badly under high inflation and high costs, might have different views. Mr Tommy CHEUNG will further elaborate on this later on.

President, I so submit.

MR IP WAI-MING (in Cantonese): President, the Legislative Council had endorsed the revision of the Minimum Relevant Income Level (Min RI) for Mandatory Provident Fund (MPF) contributions to \$6,500 in June, and the revision has come into effect on 1 November. While the general public welcomes the revision, they have divergent views on a similar increase in the Maximum Relevant Income Level (Max RI) at the same time.

Increasing the Max RI from \$20,000 to \$25,000 will, in theory, benefit employees as the portion of employers' contribution will also increase accordingly. However, in reality, not all wage earners welcome this revision. Some people may find this weird. How come wage earners do not welcome the revision when they can benefit from an increased contribution from employers? The reason is very simple. The mere benefit may not be able to make up for the

inadequacies and deficiencies of the MPF system. Wage earners consider that an additional \$1 of contribution would mean the evaporation of another \$1 of their hard-earned money.

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

It has been 10 years since the inception of the MPF system, but people may not have been benefited. The offsetting mechanism, default contribution, a lack of transparency in the management fees and a lack of initiative have all reflected that the existing system are full of deficiencies and must be rectified. Not only that 5% will be automatically deducted from people's monthly salary as contribution, the salary itself was unable to catch up with the rising inflation. The latest inflation rate as at the end of October is 6.4%. In other words, there will be an automatic reduction of 11.4% from the monthly salary. Suppose the salary is \$10,000, there will be a reduction of \$1,140 on the pay day. Although 5% of the salary is for MPF contribution, yet as some colleagues have pointed out, the MPF contributions have been greatly eroded by the high management fees.

Although the MPF system is well intended to save for future retirement, and both employers and employees apparently share such responsibility, the fact that employers are allowed to use the accrued benefits to offset severance payments and long service payments has nonetheless rendered their contributions meaningless. The longer the service of an employee, the larger amount of MPF contributions will be offset. The amount of long service payments or severance payments being offset under the MPF system is increasing by more than 10% year-on-year, and so is the amount of contributions.

According to the data provided by the Government, the total amount of severance payments and long service payments paid from the MPF accrued benefits in the latter half of 2001 was \$166 million. However, the total amount in 2010 has increased to \$2,103 million, which has risen by 20 times in 10 years. Between 2006 and 2010, the amount used to offset those payments had reached \$1,989 million. This reflects that more and more MPF contributions have been used to offset severance payments or long service payments, and the Government should expeditiously review on this.

The original intention of establishing the MPF system is to safeguard workers' retirement life. However, such offsetting arrangement is actually eroding the employees' retirement protection. At present, many jobs are on contract terms. As the employment periods of these wage earners are limited, their contributions will be offset whenever their contracts expire. In the end, their MPF accounts will only be left with their own contributions. After deducting the management fees, not much will be left. How can the balance achieve the purpose of retirement protection?

We opine that such an offsetting mechanism which threatens workers' retirement life should be abolished, so that workers can receive their well-deserved severance payments or long service payments when they are dismissed, thereby retaining their MPF contributions. We hope that the Government can think out of the box and consider if there is a need to reform the severance payments and long service payments under the new system.

Apart from the offsetting mechanism, the ineffectiveness of the authorities in combating frequent default contribution by employers is another draw back of the MPF. Although the number of complaints received by the Mandatory Provident Fund Schemes Authority (MPFA) has dropped in recent years, the number of cases of default contribution remains high. Take 2010-2011 as an example, the data provided by the MPFA shows that there were a total of 4 157 complaint cases about default contribution, which accounts for 55% of the total number of complaints.

Deputy President, apparently people are dissatisfied with the imperfect MPF Scheme, which is supposed to offer retirement protection, as evident from the strong public reaction of the public against the Financial Secretary's proposal to return money to the public through the MPF accounts. While increasing the Max RI will bring about an increase in employers' contribution, the increased contributions will either go to the pockets of trustees under the existing arrangement or evaporate under the offsetting mechanism. Therefore, the Hong Kong Federation of Trade Unions considers that the authorities should learn from the experience of the implementation of the MPF system over the past 10 years, almost 11 years, and seriously consider establishing a perfect retirement protection system which can genuinely provide retirement protection for wage earners.

Deputy President, I also wish to declare that I am a member of the Mandatory Provident Fund Schemes Advisory Committee. I so submit. Thank you.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, when the Hong Kong Confederation of Trade Unions (HKCTU) and the Government discussed the maximum and minimum relevant income levels, we proposed to increase the Maximum Relevant Income Level (Max RI) to \$30,000 whereas the Minimum Relevant Income Level (Min RI) should be revised to no less than \$6,500 to dovetail with the implementation of the minimum wage. The revised \$6,500 Min RI has come into effect on 1 November, but the Max RI has not been dealt with.

Someone asked me why I did not propose an amendment to revise the Max RI to \$30,000 given that the proposed Max RI is only \$25,000. Furthermore, the revised amount will only come into effect on 1 June 2012, which has delayed in disguise the implementation of the Max RI. The HKCTU finally decided not to propose any amendment. The major reason is that after listening to the views of employers and employees, we find that the Mandatory Provident Fund (MPF) system is utterly unwelcome. It is so unwelcome that even though wage earners may benefit from an uplift of the Max RI from \$20,000 to \$30,000, they prefer not to have the revision. Worse still, they even cast doubt on it. As the Deputy President has said earlier, while some people supported the revision, more than 20% of people voiced their opposition.

People who raise opposition not because they do not want to save more money for future retirement, but because they merely think that an increase in the MPF contributions Employers will certainly increase their contributions as well. To wage earners, however, it is the employers' contribution that is appealing. Yet, the proposed revision requires both parties to increase their contributions. Employees think that, first of all, the increased contributions would benefit trustees or investment funds. Next, the amount would be eroded by the administration fees and the investment management fees before any investment is made. Only the balance would be used for investment. They notice that their contributions are eroding, which is pretty discouraging. The increased MPF contributions will be evaporated or reduced after all. Therefore, there is no point of increasing the contributions.

We have all along opined that if revision is done in accordance with the mechanism, the Max RI should have been increased to \$30,000 as early as 2002. And yet, it was neither revised in 2002 nor 2006. It is already too late to propose such a revision this year. Worse still, the revised amount is only \$25,000. To employees, there is only limited improvement in respect of their entitlements, and as I have said, they may not necessarily like this improvement. I think that our discussion has highlighted one problem, and that is the structural problem.

Here, I wish to point out that as the MPF system is full of deficiencies, both employers and employees have cast doubt on its effectiveness. Considering the deficiencies of the system, the exorbitant administration fees and high investment fees charged by fund managers, who will benefit in the end? There is now a big question mark on who will benefit from the MPF system.

I want to make one point clear on this occasion, that is, right from the very beginning, the Government's philosophy on the MPF system is wrong. What is wrong with its philosophy?

What is the purpose of establishing the MPF system? Later, the Secretary may say that the MPF system is established to provide retirement protection to employees. If this is the case, the MPF system has two problems. First, is the contribution sufficient? The 5% contribution is hardly sufficient. Although employers and employees will each contribute 5%, for how many years can retired employees live on the money? The money may be exhausted in five years.

To genuinely meet the retirement needs of workers, the MPF system must, according to the experiences of other countries What is the rate of contribution in Singapore at present? The rate of contribution is 36%. Can Hong Kong charge a rate of 36% as well?

In Hong Kong, our proposed increase of the Max RI from \$20,000 to either \$25,000 or \$30,000 has already imposed immense pressure on employers, as claimed by them. And yet, the rate of contribution is only 5%. We are only asking for an increase from \$20,000 to \$30,000, not an increase of the contribution rate from 5% to 10%, 15% or 20%. Deputy President, you just described the present revision as the last straw that broke the camel's back. Are

you exaggerating the seriousness of the situation? If it is really so serious I do not mean to cast doubt on the Deputy President. Neither is this the right time to debate on the seriousness of the present proposal. However, if it is as serious as claimed It is downright impossible to rely on the MPF as people's retirement protection. Is it possible to increase the rate of contribution to 36%?

You may certainly say that the Central Provident Fund in Singapore can serve different purposes, such as home ownership and medical treatment. The rate of contribution is actually less than 36% after deducting such expenses, and at least 20% will be left for disposal upon retirement. Can Hong Kong do so? No. The first issue is whether the contributions are sufficient.

The second issue is the permission, without sound justification, of using MPF contributions to offset severance payments. The explanation of the Government is very simple. This is the consensus previously reached between employers and employees. Perhaps I should not say this is a consensus of employers and employees as the latter had not come to any consensus. I should say that this is the provision written in the relevant legislation when it was endorsed by the Legislative Council. The Legislative Council endorsed this legislation. Why would the Legislative Council endorse this legislation in the first place? Because Members do not have a philosophy. They allowed an offset of the contributions right at start.

You may say that this is an outcome of compromise. I clearly remember that Mr James TIEN told me at that time that if I opposed the provision on the offsetting mechanism, he would oppose the entire MPF system. The Liberal Party had clearly told the Government that it should allow the severance payments to be offset by MPF contributions; or else, they would oppose the entire MPF system. This is his stance at that time. In the end, the Government bowed to him and the business sector, and allowed severance payments to be offset by MPF contributions. Under the offsetting arrangement, \$2 billion is offset from MPF contributions each year. How much will be left for employees? Is this fair to them? What is your philosophy? If offsetting is permitted, then MPF should not be destined for retirement purpose.

The entire system has become neither fish nor fowl. Not only is the money accrued insufficient to meet people's retirement needs, the offsetting arrangement has further reduced the amount of MPF, and the administration fees

have benefited fund companies. In the end, the entire MPF system Sometimes, I also wish to defend the MPF system because the contribution from both employers and employees will at least benefit the latter. Sometimes, I also wish to defend the MPF system by giving more positive comments than bad mouthing it.

However, the system is too bad and grossly inadequate. The entire system has become so unpopular that no one has a liking for it. I really do not want to see that. Why would this happen? Because the Government does not have a clear philosophy. It would be better if it has a clearer philosophy and can inform members of the public that the MPF is not the ultimate solution to Hong Kong's retirement problem.

The Government now says that the MPF system should be refined. Yet, regardless of what refinements would be made, they can do nothing to help people in their retirement life. Rather, the Government should have a clear philosophy and state clearly that a universal pension scheme will be introduced, whereby the MPF system will only play a supplementary role. By that time, all members of the public will have pensions whereas the working population will have MPF. It should also address for wage earners issues relating to the offsetting arrangement and the administration fees.

Frankly, I wonder where the Secretary was at that time. I cannot recall where you were when the establishment of a central provident fund was discussed. Perhaps you were studying abroad. What we requested at that time was central provident fund but not MPF. It turned out that MPF was introduced later on.

If central provident fund was established, the administration fees collected would be handed to government departments instead. We can at least see that the administration fees collected will be used to serve members of the public, but not to the benefit of the private sector. However, no central provident fund was established in the end.

If there is something wrong with the philosophy of the MPF system, all other issues cannot be dealt with. Even if the slight revision is made The issue under discussion today is a minor one, which proposes to increase the Max RI from \$20,000 to \$25,000. The limit cannot be further revised to \$30,000 as

many employers and employees are gravely dissatisfied with the MPF system. Under our Government, the system is still neither fish nor fowl.

In my opinion, a major problem of Hong Kong is a lack of philosophy of the Government, such that everything has turned out to be neither fish nor fowl. It is not totally devoid of a philosophy, just that the philosophy is piecemeal; this is why the system is neither fish nor fowl, and fails to address the retirement problem. The Government has not tackled the problem at root and we are gravely disappointed.

The MPF system is so unpopular that we prefer not to move any amendment today to further increase the Max RI from \$25,000 to \$30,000, or amend the implementation date. We do not want to argue with the Government on such minor adjustments. To resolve the problem, we must tackle the retirement problem as a whole by introducing universal pension, whereas the MPF will play a supplementary role. We will no longer rely solely on the MPF to sustain for our retirement life. I believe this is a more reasonable approach, and will not make things appear neither fish nor fowl like what the Government did.

Deputy President, thank you.

MR ANDREW LEUNG (in Cantonese): Deputy President, first of all, I wish to declare that I am a Non-executive Director of the Management Board of the Mandatory Provident Fund Schemes Authority (MPFA), and I have made Mandatory Provident Fund (MPF) contributions for my company employees. On behalf of the Economic Synergy and the Federation of Hong Kong Industries, I speak in support of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011.

To date, the Maximum Relevant Income Level (Max RI) for making MPF contributions has been in effect for 10 years. The MPFA has a set of mechanisms for reviewing the income level. The line is drawn with consideration to the monthly employment earnings at 90th percentile of the monthly employment earnings distribution and the related factors. We, the Economic Synergy very much respect this adjustment mechanism. According to the statistics of the first quarter of 2010, the Max RI should be adjusted to

\$30,000. However, after a series of consultation, the Government has taken the views of the public and those of employers and employees, and has thus lowered the level to \$25,000. We hold that this is able to respond to the latest economic situation and meet public aspirations.

We accept the Government's proposal to implement this contribution arrangement with effect from 1 June 2012. As Deputy President has mentioned, the global economy is still overshadowed by the European debt crisis. In these few weeks, we have witnessed large market fluctuations, while the national debt of the United States and the arrangement concerned have not been properly tackled, casting uncertainties in the world economy.

By mid-2012, apart from enterprise employers who will have to make more MPF contributions, employees with a monthly income level higher than \$20,000 will also have to pay up to \$250 more as their monthly MPF contributions. Based on this figure proposed by the Government, about 500 000 high-income employees and self-employed persons will be affected.

As far as enterprises are concerned, many export trades, manufacturing industries and even department stores industry, retail industry and catering industry in Hong Kong are facing acute operating difficulties. Besides, with the implementation of minimum wage and the impact of high inflation rates, many small and medium enterprises (SMEs) are under immense pressure and may not even be able to maintain sufficient cash flow.

Setting the implementation date on 1 June can indeed alleviate the pressure that enterprises are now facing. However, with the approach of the bitter economic winter, we hold that the situation will be rapidly changing. I hope the Government can keep abreast of the situation and pay close attention to the operation of SMEs. Once any sudden deterioration of the economy is detected, I hope the Government can make appropriate adjustments to alleviate the economic difficulties of SMEs and their employees.

Deputy President, at the meeting held by the Panel on Financial Affairs on 20 April to discuss the adjustment of the Relevant Income Levels, many organizations and members of the public were invited to express their views on the income levels for making MPF contributions. I was deeply impressed as because many deputations of the labour sector told the meeting their general

views of the MPF Scheme over the past decade: its charges were too high, its administrative fees too expensive and its return rates unsatisfactory.

The original intent of the MPF is to assist employees in accumulating a sum of money for their retirement, so as to safeguard their post-retirement livelihood and alleviate the burden of the next generation. Hence, the MPFA should properly play its role as the gatekeeper and seek to bring down the fees charged by MPF trustees. It should also make public the information on the performance of MPF trustees, so that the public will be able to make an informed choice.

MPF is a long-term investment. The MPFA should explain to or analyse for the public which type of funds is more suitable for their retirement and it should also make the public aware of possible fluctuations in their long-term investment. We hope that people are able to choose an investment portfolio which suits them and outperforms the market.

Deputy President, I so submit and support the motion.

MR WONG SING-CHI (in Cantonese): Deputy President, we all know that the purpose of the Mandatory Provident Fund (MPF) Scheme is to safeguard the post-retirement livelihood of the public. When people retire, they do not just eat, drink and sleep, they also have many expenses, including medical expenses or other urgent expenses in their daily life.

The fees charged by MPF trustees have all along been controversial. However, it is only up till now that the Government requests MPF trustees to reduce or remit their fees. The accrued benefits of many people's MPF accounts have already been nibbled away in large or small amounts.

Since the inception of the MPF Scheme in December 2000, the economic environment of Hong Kong has experienced dramatic changes. The consumer price index has increased by 13% from December 2000 to October 2011, coupled with the intensifying inflation problem in recent days, the accrued benefits of MPF are definitely inadequate to meet the daily needs of the retirees. Hence, we hold that the old Minimum Relevant Income Level and Maximum Relevant Income Level (Max RI) are completely detached from reality and should not be

used anymore. Consequently, the Democratic Party supports that people with a monthly income of \$6,500 or above should pay contributions.

With respect to the proposal of raising the Max RI from \$20,000 to \$25,000, we hold that it may be difficult to secure support because \$25,000 is not a very high income. Certainly, there is a difference between a household with a total income of \$25,000 and a person with an income of \$25,000, the latter is certainly better off. However, the difference between \$25,000 and \$30,000 is not so big. As such, why does the Government not raise the proposed Max RI to \$30,000? We all know that there is much argument about this in society.

We have invited members of the public to attend focus group discussions to voice their views on raising the Max RI of the MPF Scheme from \$20,000 to \$25,000. They do not have strong views, because after the Max RI has been raised, they only have to pay \$100 or \$200 more as contribution.

However, the point is, how will the increased MPF contribution help improve their retirement livelihood? They simply do not think that the increase will help in any way. Hence, the bone of contention is not on raising the Max RI from \$25,000 to \$30,000 because the increase will make little difference in helping people maintain their post-retirement livelihood. Even if the Max RI for making MPF contributions is raised to \$30,000, people's post-retirement livelihood can still not be safeguarded.

In fact, society is not very interested in the discussion on raising the Max RI for making MPF contributions to \$25,000 or \$30,000. No one in the Democratic Party or this Council will object to raising the Max RI to \$25,000. Even if it is raised to \$30,000, I believe Members of the labour sector, the Democratic Party or other pan-democrats will not voice any objection.

With much regrets, Members of the business sector or business organizations consider that if the Max RI for making MPF contributions is raised to \$30,000, they will have to make more MPF contributions, thus increasing their operating costs. The focus of our discussion is not on how the accrued benefits attained by raising the Max RI to \$25,000 or \$30,000 will safeguard the livelihood of workers after their retirement. All such issues have not been discussed because we all know very well that the help will only be minimal.

The MPF Scheme has all along been castigated by the public. People have been complaining that their accrued benefits are substantially eroded by the fees of trustees. And after taking the acute inflation into account, the accrued benefits are simply insufficient to support the retirement life. I do not think anyone will consider the accrued benefits sufficient unless one has other savings or income in addition to MPF contributions.

Deputy President, today's discussion has lasted almost an hour. I believe the discussion will not last long because we all think that increasing the Max RI by only \$5,000 will not make a great impact on society, so we might just as well support the passage of the resolution.

Deputy President, instead of discussing minor piecemeal issues such as raising the relevant income levels of the MPF Scheme by tens of dollars to a few thousand dollars, we should discuss whether retirement protection can genuinely be accorded to the people of Hong Kong. With much regrets, even Chief Executive Donald TSANG has said nothing about this in his last address to this Council, except commenting that universal retirement protection is impractical and society does not need it. However, he made a fuss in increasing the Max RI by \$5,000, giving people the impression that the Government lacks commitment.

Deputy President, after all, what we should tackle is the retirement problem. The Democratic Party will continue to press for the provision of universal retirement protection (that is, a universal old age pension scheme), which is the only way to ensure that workers who have toiled all their life will have the resources for their twilight years. The road ahead is long. I hope the Government, in tackling this problem, will not just introduce piecemeal measures; instead, it should join with us in considering how, in the long run, to prevent the elderly from only relying on their meagre MPF accrued benefits for their retirement, and formulate policies, measures and systems to let every Hong Kong citizen has something to rely on after their retirement.

Deputy President, although the Democratic Party supports the resolution (because we hope that the piecemeal amendment can be passed as soon as possible), we hope that the next Chief Executive can resolutely and boldly make a long-term commitment to the retirement protection of the Hong Kong people.

Thank you, Deputy President.

MR TOMMY CHEUNG (in Cantonese): Deputy President, two weeks ago I conducted a questionnaire survey with my sector, asking for their views on the proposal to increase the Maximum Relevant Income Level (Max RI) for making Mandatory Provident Fund (MPF) contributions from \$20,000 to \$25,000, and on their reasons for supporting and opposing the proposal.

I have received 54 questionnaires in return and 94% of the respondents objected to the proposal, only about 6% of the respondents supported the proposal and no one declared that they were neutral. The 54 questionnaires covered about 500 restaurants, most of which were small and medium-sized restaurants. Among the respondents who objected the proposal, 82% of them said that the trade was still digesting the implications of minimum wage and the Government should not further increase the cost of the trade. Another 69% of the respondents pointed out that their operating costs had been increasing and the authorities should not further increase the burden of the trade, which would further undermine the competitiveness of small and medium-sized restaurants. Besides, 53% of the respondents held that there were many hidden economic concerns and it was not an opportune time to increase the Max RI of the MPF Scheme, which would add to their burden.

Some people said that the proposed adjustment has limited impacts on the catering industry because not many people are affected and the amount of money involved is not much. In fact, when the trade effluent surcharge was introduced some 10 years ago, Mr Bowen LEUNG, the then Secretary for Planning, Environment and Lands said, "(The surcharge) is not even enough to buy a BBQ-pork bun; what is the fuss?" However, if one department demands a BBQ-pork bun from you and another department also demands a BBQ-pork bun, and if all departments demand BBQ-pork buns from you, the costs adding together will be equivalent to that of a large abalone. The operating cost of the trade has already increased substantially. This will have a great impact on the catering industry if there is a price hike in every aspect.

Speaking from a macroscopic perspective, the catering industry has to face loads of problems: the surging rents, the increased wages, the mounting pressure from the appreciation of Renminbi, the high import costs which are unlikely to drop (while the price of pork has slightly dropped, the price of beef continues to increase) as well as the recent economic downturn in Europe and the United States, which may at any time trigger a downturn in the local consumer market.

Recently, I discussed the issue of minimum wage with many small and medium enterprises (SMEs). They all pointed out that they had operating difficulties. The overall salary costs have gone up by 8% to 9%, but this is not the end of the story. Due to the rippling effects of minimum wage, which now start to emerge, the pressure of salary increments for medium-to-high rank employees is enormous. In addition, various service charges have increased repeatedly. For instance, the charges for product delivery, transportation and laundry as well as management fees have all increased substantially. At present, the CLP Power Hong Kong Limited has already indicated that the tariff will increase next year and the present tariff system for users of large electricity consumption will be abolished. It is expected that after the income adjustment in February or March next year, the aftermath of minimum wage will even be more apparent.

Hence, the catering industry is of the view that in the midst of the present dire situation, the authorities should not add to the burden of the trade and make things worse for them. Instead, the authorities should leave some room for SMEs to respite. Besides, I do not notice that there are any strong requests from employees for raising the contribution ceiling. In the survey that I conducted, many respondents (about 78%) indicated in their reply that given the acute inflation, their employees did not wish to have another increase in their monthly MPF contributions; instead they wished to have more money to meet their daily expenses. Meanwhile, 37% of the respondents indicated that they did not notice strong requests among their employees for raising the Max RI for making MPF contributions.

In fact, deputations of the catering industry who attended the public hearing in July this year had already voiced their objection against raising the Max RI. At the meeting, the representative of the Institution of Dining Art of the catering industry quoted the result of a survey, saying that 78% of the restaurant employees with monthly income over \$20,000 objected to the increase. Thus, it is evident that the overwhelming majority of the catering employees object the increase.

All along the Government's sole response was that it has to strike a balance between the basic retirement needs of the people and their current daily needs. However, from the questionnaires that I have received, it is evident that we are doubtful about this view. One of the respondents even wrote down in the "Any

Other Views" section that he "questioned whether the MPF can improve and safeguard his retirement life". Another respondent wrote that "with the returns failing to catch up with inflation and persistently running a deficit, the MPF Scheme cannot accord protection to his livelihood after retirement".

As I said three weeks ago in the motion debate on MPF in this Council, in retrospect of the last 10 years, the average return of the MPF was only 5% which basically was equivalent to no return after deducting the expensive management fees. As indicated in the latest MPF quarterly reports, the returns from April to September 2011 are -14.9%. Many employees, after learning the performance, dare not have any expectation that the MPF Scheme can accord any protection to their retirement.

Undeniably, the original intent of the MPF seeks to establish a saving habit among employees, particularly junior-level employees who may wish to increase their savings through investment, so that they can secure basic protection for their future retirement. At present, in order to secure basic protection for their post-retirement livelihood, which the authorities have so promoted, employees with a monthly income over \$20,000 have to contribute, together with their employer's portion, a total of \$2,000 to their MPF account. It is already a very large sum of money. One should know that these employees, though not belonging to the grass-roots echelon, are not affluent either. They have many responsibilities to undertake and expenses to pay in their daily life. Thus, they would prefer to have as much cash in hand as possible, even if it is as little as \$1.

Moreover, medium-rank employees with a monthly income over \$20,000 mostly know how to manage their money. They can well master the different types of investment channels for their savings. The returns which they get from their own investments are often higher than those from their MPF accounts. Furthermore, seeing that their savings have been eroded by the management fees charged by the MPF intermediaries in recent years, they are even more unwilling to increase the amount of contributions, given that they will have to pay another \$500 more every month together with their employers' portions of contributions, which may ultimately end up in deficit.

There is a view stated in a questionnaire I received, which said that "if there is a need to increase the amount of contribution, employees or employers can make contributions on a voluntary basis, the authorities need not mandatorily

impose them to make more contributions which will increase their burden". The view illustrates one point, that is, if employees think that the investment adopted by the MPF Scheme suits them, they will voluntarily increase their contribution, the Government needs not force them to do so. After all, the people of Hong Kong have a stronger sense of autonomy. If they are financially sufficient and are able to manage their own money, they should be given the autonomy to do so. The Government needs not act like a parent and compel them to do so.

Moreover, the economy of Hong Kong has reached the peak of its cycle. By next June, the economy will slow down, and enterprises will encounter greater difficulties in maintaining their businesses. I thus do not support the authorities' proposal to further increase the income costs of SMEs. Based on the above, I do not support today's resolution.

Deputy President, I so submit.

MR RONNY TONG (in Cantonese): Deputy President, this resolution can be regarded as one involving a technical amendment, rather than one involving a major policy revision. I have been listening for a long time and found that many colleagues have actively expressed their views. I believe the Secretary is also aware that colleagues have made use of the subject under discussion as a pretext for some other purposes.

Deputy President, I find it strange Our society is really freakish. How come a system widely criticized by various parties (including employers and employees) is considered very satisfactory by the Chief Executive? Even when someone has proposed another system as a replacement, the Chief Executive still daringly said, without any prior consultation, any other proposals would be impractical.

Deputy President, the measure or the procedure to amend the Maximum Relevant Income Level (Max RI) and the Minimum Relevant Income Level (Min RI) has exposed the basic fallacy of the Mandatory Provident Fund (MPF) Scheme. Deputy President, why do I say so? In the last Legislative Session we already introduced an amendment to the Min RI, and the legislative amendment introduced this year which seeks to amend the Max RI is a necessary step to respond to the prevailing economic condition, mainly because of the enactment of the Minimum Wage Ordinance. However, the amendment

concerned has directly affected the amount of contribution shouldered respectively by employers and employees under the MPF system.

May I ask Honourable Members whether the amendment concerned is related to the purpose of the MPF system? Does the MPF system seek to remunerate the MPF trustees with the contributions or to safeguard the post-retirement livelihood of employees? Deputy President, if the latter prevails, may I ask Honourable Members, for those people who do not need to contribute after the Min RI has been raised, how their post-retirement livelihood will be safeguarded in future?

Deputy President, this is the crux of the problem because the MPF system which seeks to provide the so-called "retirement protection" is linked to employment and income. If employees do not need to contribute, it does not mean that they can enjoy any "special preference", because they may have "zero" or little protection when they retire.

Deputy President, allow me to again ask: who are those people most in need of retirement protection? Are they the ones with a monthly income of \$30,000, \$50,000, \$100,000 or even several tens of thousands of dollars? Does the Secretary in attendance need any retirement protection? No, he does not. Secretary, you have a pension; even if you do not have a pension, with a monthly income of some \$200,000, you have savings. However, can people whose income is below the Min RI have any pension as in the case of the Secretary? Can these people save up money like the Secretary? Or do they have to rely on "fruit grant" or the Comprehensive Social Security Assistance?

Under the MPF system, the group of people in greatest need of retirement protection is precisely deprived of retirement protection. Then, what is the purpose of the MPF system?

Most ridiculously, members of the business sector have come forward to attack the proposal. They are very upset. Secretary, they are very upset and wage earners are very upset as well. Why do we still have to implement the MPF system? It is time for us to think about The MPF system is a complete failure in respect of its purpose, operation or public acceptance. As such, should our responsible Government not consider and explore another replacement system which is more impartial and purpose-oriented?

Deputy President, as I have said earlier, there is a consensus in the community; even in this Council, I think there is also a consensus. That is, we should explore the establishment of a universal retirement protection scheme. The universal retirement protection scheme should not be linked to employment or income; neither should it be linked to the prevailing economic condition. Instead, it should follow the practice adopted in other civilized society and provide practical, foreseeable or even calculable protection to all employees reaching the retirement age.

Is universal retirement protection definitely infeasible? If so, why do other countries adopt such a system? Do they have three heads and six arms? Are their people smarter and wiser than the people of Hong Kong? No. Deputy President, if so, why did the Chief Executive daringly say that without any prior public consultation universal retirement protection was impractical? What kind of a Chief Executive is he?

Deputy President, I am no different from other colleagues, my speech today is also like a pack of grumblings, playing the same old tune. The present MPF system definitely does not deserve any support from any one of the colleagues, and until now, I have not heard of any Members speaking in support of it. As such, I call on the SAR Government Certainly, the Secretary should not be the only person to be charged with this task, but the whole SAR Government (including the Chief Executive) should be charged with this task The SAR Government should not be obstinate and self-opinionated, killing both employers and employees in a car crash.

I hope the three Secretaries of Departments can expeditiously initiate a consultation and explore whether a universal retirement protection scheme should be established.

Thank you, Deputy President.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, Mr Ronny TONG just said that he have not heard of any Member speaking in support of the amendment after listening to a number of Members. However, I can surely tell Mr Ronny TONG that this amendment will ultimately be passed. Why?

In fact, we have also discussed this phenomenon in other debates, which often happens in this Council, that is, Members may have many grumblings about the motion or bill to be passed, but with much regrets, in the end we have to pass it "helplessly" or we are being "forced" to give the green light. Deputy President, why is it so? It is because despite the numerous problems and fallacies in the Mandatory Provident Fund (MPF) system that we have pointed out, unfortunately, the Government to date is still unwilling to face these problems and propose a better replacement system. What should be done then? While the system is defective, it still serves some functions no matter how undesirable the system is. Hence, if we abandon these few functions altogether, we will have nothing at all. After evaluating the pros and cons, many colleagues will helplessly give the green light.

I remember in 1996 when the original proposal of the MPF Scheme was introduced, the situation was very much the same. Many colleagues told me that they really did not want to endorse the proposal. I remember Miss CHAN Yuen-han said to me in the Ante-Chamber, "LEUNG Yiu-chung, will you endorse it later?" I said I would not endorse it because I opposed it. She told me that they also opposed the proposal, but they had no choice but to endorse it because some elderly people had said to them that if the proposal was not endorsed, they would be deprived of the only protection left. What should be done then? Hence, because of the three supporting votes cast by the Hong Kong Federation of Trade Unions, the proposal was endorsed. Those three votes were very important. Deputy President, if the three votes voted against the proposal, the present system would not have existed. Owing to the three supporting votes, the system was endorsed.

In any case, the MPF system has been passed, but what has the Government done? After so many years, 11 years have passed since 2000, what has the Government done? Nothing significant, but many minor piecemeal measures have been introduced, which include adjusting the Maximum Relevant Income Level (Max RI) and the Minimum Relevant Income Level. Today, an amendment is introduced to adjust the Max RI. However, what are the benefits of this adjustment? In fact, the benefits are insignificant. For wage earners, the only benefit is that they have to contribute more, and possibly they can get greater returns by the time they retire. However, will they genuinely be able to get greater returns in future? That is still an unknown factor, Deputy President. Why? It is because the MPF Scheme has weathered a number of financial crises

and other fluctuations of the financial market in the past decade, and the return rate is indeed not very high.

I have made a brief calculation. I take a monthly income of \$6,000 as an example, and because of limited statistics available, I can only include data until 2010, that is, a period of 10 years. For an employee who makes monthly contribution for 10 years, and if he opts for conservative investment with low risks, how much return can he get by 2010? The amount is roughly about \$107,293. Such amount seems to be a large sum of money, but about \$79,000 out of the \$100,000 is the principal. Thus, how much has he earned? Only about \$28,000. In other words, this is the return one will get after 10 years of contribution. After so many years of contribution, one will only earn an extra sum of about \$28,000. If I were to pursue this subject further, I will ask what we can do with this sum of money. Assuming that an ordinary citizen retires at the age of 65 and lives until 80, he will only get \$596 a month from his MPF returns in the 15 years after his retirement.

Deputy President, how can \$596 in any way help people in meeting with their monthly expenses? The money is not totally worthless, but is not of great help. Nevertheless, the Government has stressed that the MPF Scheme is our retirement protection in our old age. Is this not ridiculous? A monthly living supplement of less than \$600 is the so-called retirement support. Perhaps you may say that this only applies to employees earning \$6,000 a month and today's subject concerns employees earning \$25,000 a month. Then, what about them? Similarly, let us take 10 years as the period for calculation, these employees will only secure a total sum of approximately \$357,000 in return by 2010. Again, \$350,000 may be considered a large sum, but what is the capital that they have invested? It is about \$260,000. Hence, how much money have they earned in return? Only about \$90,000. Please note that their returns in 10 years are only about \$90,000, but they have invested about \$270,000 as the capital. Similarly, assuming that they will live for another 15 years after their retirement, how much can they receive from their MPF accrued benefits every month? Obviously, they can get a greater sum, which is about \$1,900, that is, less than \$2,000. Then, I have to ask again: in what way can \$2,000 a month help those retirees who had been earning about \$20,000 a month? How significant is the sum of money?

Hence, how many people can be benefited from this system? It turns out the only a handful of people can be benefited. Nevertheless, our Government still maintains that it will strengthen or optimize the MPF system. Deputy President, optimization of the scheme will not bring any prominent results; nor will it provide greater retirement protection to retirees; only the market may get the benefit. Why? If the Max RI for making contributions is raised from \$20,000 to \$25,000, 510 000 employees will be affected by the change, resulting in approximately \$200 million more in employee contributions and an additional annual income of about \$50 million for trustees who will be more directly affected.

What has our Government been frequently doing? It introduces legislation to assist private enterprises in making money, without seriously considering how the grassroots have been struggling to make ends meet. Today, in discussing how the MPF Scheme protects or safeguards the livelihood of people upon retirement, and as mentioned by many colleagues, the Scheme can, at most, provide some help to employees, but it totally fails to help people who are unemployed or those who look after their family members without pay. Secretary, what is to become of these people? This question has been asked many times for many years. How can these people maintain a living? When can the Secretary provide a concrete answer to these people, reassuring them that there is a system available to help them when they retire? He always fails to give an answer, and gives no hope to these people. However, the Government has kept telling us that the ageing problem is worsening, and that by 2033 one in every four people will be an elderly person. The Government has kept reminding us of these problems; yet when we bring to its attention that some people have not been taken care of, it just turns a deaf ear, pays no heed and takes no actions. This is indeed not the way to solve the problem.

Today, having said so, some people will criticize us as taking the chance to voice our own opinions, because the subject under discussion is only about raising the Max RI from \$20,000 to \$25,000. However, Deputy President, we have to make use of every opportunity to drive the message to the Secretary or the Government, in face of the aggravating problems of ageing and retirement, the Government has to tackle these problems; otherwise, what will be the consequences? If everyone is left with no choice but to apply for Comprehensive Social Security Assistance (CSSA), can society afford the expenses? Even if some elderly persons do not rely on CSSA, and we encourage the younger generation to shoulder responsibility and take care of the

elderly, can young people do so? If they cannot, how are we going to address the family and social disputes triggered? All these are pressing problems, yet the Government has shut its eyes, turned a deaf ear and taken no actions. However, these problems are so imminent that we cannot afford any delay in addressing them.

A number of colleagues have just mentioned that members of the public have also voiced their strong aspirations for the establishment of a universal retirement protection system, which they regard as the only solution to the core problems in future. However, the Government has adopted a stalling tactic and refused to provide any positive answers. It has only kept saying time and again about conducting research, and research again. Regrettably, it refuses to announce the result or the progress of the research. Although universal retirement protection system has been widely adopted in many countries and societies to solve the livelihood problems of their retirees, our Government has paid no heed to this system. Why does the Government not seriously put forth this system for public discussion?

The Chief Executive has only made a brief comment in this year's Policy Address that it is not easy for the middle class to reach a consensus on a universal retirement protection scheme. I do not know under what circumstances the Chief Executive has drawn this conclusion. I only hope that the Chief Executive can again explain to us how he has come to that conclusion, and based on what statistics or information he has come to that conclusion.

Certainly, I agree that several different proposals have been advocated in the community, mainly because the Government has not provided any specific proposals for our consideration, thus many different proposals have been raised by different people. If the Government puts forth a specific proposal, the situation will be quite different, as we can express our views or even propose amendments to improve the proposal; otherwise, different proposals will be put forth in society, making a consensus even more difficult to be reached.

Hence, whether we are using today's discussion to express other views or not, I hope the Government can expeditiously propose a comprehensive proposal on universal retirement protection for public discussion, and then come to a conclusion as quickly as practicable so as to replace the MPF system.

Deputy President, I earnestly hope that the MPF system can be abolished in the near future and be replaced by a comprehensive universal retirement protection system which provides better protection to the elderly. We should no longer let managers of financial institutions keep exploiting the present system to reap profits. The money, which belongs to many wage earners, should not be profits of other people; rather the money should be used to maintain their livelihood after retirement. Hence, as far as the grassroots are concerned, the sooner the MPF system is abolished, the better the protection will be accorded to them. Besides, the establishment of a universal retirement protection scheme can reduce the burden which the Government will have to shoulder in future. This is the most important point. I hope the Secretary as well as the SAR Government or the next Government can face this problem.

Deputy President, I so submit.

MR PAUL CHAN (in Cantonese): Deputy President, the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (Amendment Notice) to be resolved today can in fact be regarded as a belated spring. However, this spring, instead of budding with life, is rather lifeless and is five years late in time. I thus have reservation about the Amendment Notice, though I will support it in the end.

Deputy President, why do I say so? Section 10A of the Mandatory Provident Fund Schemes Ordinance (MPFSO) provides that the Mandatory Provident Fund Schemes Authority (MPFA) should conduct a review of the Minimum Relevant Income Level (Min RI) and Maximum Relevant Income Level (Max RI) at least once every four years. However, the Max RI has never been changed in the past 10 years, still remaining at \$20,000. If we look back to 2001 when the MPFSO was passed but not yet implemented, the Mandatory Provident Fund (MPF) Schemes Operation Review Committee had proposed, based on the result of the General Household Survey, to revise the Min RI from \$4,000 to \$5,000, and to raise the Max RI from \$20,000 to \$30,000. Unfortunately, the Government only accepted the former proposal and rejected the latter, saying that the relevant adjustment was infeasible in view of the prevailing economic condition at the time.

Deputy President, at that time, Hong Kong was in the midst of a financial turmoil and the economic environment was hardly satisfactory. I can reluctantly understand why the Government had made that decision based on the unwelcoming economic condition then. However, if we refer to the actual statistics in 2002 when the MPFSO was already in effect, we can see from the economic data of the third quarter announced by the Government that the economy of Hong Kong had gradually but prominently rebounded and that the unemployment rate had gradually dropped. Was society at that time unable to accept the proposal of raising the Max RI to \$30,000? In retrospect, I think we were too conservative and we have learnt a lesson.

Deputy President, in 2006, after conducting another review on the Min RI and Max RI, the MPFA proposed to maintain the Min RI at \$5,000 but again suggested to raise the Max RI to \$30,000. With much regrets, the Government ultimately did not submit an amendment proposal. Among the many reasons for not doing so, one is very familiar to us. That is, if more contributions had to be made by employers due to the adjustment, thus raising their operating costs, the small and medium enterprises (SMEs), which had already been badly battered by the sluggish economy, would suffer a great blow. This is the same argument as what we have heard from Members of the business sector today.

Deputy President, if this logic is tenable, the Max RI of the MPF Scheme will never have to be revised because the economic environment and economic cycle are volatile. In retrospect of the time since the reunification, we have witnessed a number of ups and downs, but at the same time we have also noted that Hong Kong was able to tide over every crisis, growing even stronger after each of them.

In reviewing my limited personal networks, I note that not only large enterprises but also many SMEs had already launched an occupational retirement scheme for their employees before the MPFSO was implemented and their terms were even better than those offered in the MPF Scheme. The reason is that SMEs need to retain talents more than other enterprises, and they are not as competitive as other enterprises in securing talents. The employer-employee relationship can be better maintained if employers can step up employment protection for their employees and be a caring employer, which will benefit SMEs as well.

Deputy President, I wish to take this opportunity to point out that the Government has an obvious double standard on issues relating to protection of wage earners. Unlike provident fund schemes with a ceiling set on the amount of contribution, the contribution under the MPF Scheme for the Civil Service, including compulsory and voluntary contributions, paid by the Government is calculated according to the basic salary of the substantive rank of an employee. Moreover, the Government is rather generous with the contribution percentage. For a civil servant of three to 15 years of service, the Government will contribute 15% of the salary paid; if a civil servant has served for 30 years or more, the Government will contribute 25% of the salary paid. However, under the MPF Scheme for other people, employers will only contribute 5% of the salary paid.

Deputy President, judging from how the Government treats its employees in contrast to how it treats wage earners who are the majority employees in society, I think the Government is schizophrenic. The Government has provided for the Civil Service a retirement welfare system superior to those offered by private organizations on the grounds that it needs to maintain the Civil Service's stability, continuity and high standards of probity, as well as to attract talents. However, to the majority wage earners in society, the Government has imposed limitations and delayed in making any adjustments on the pretexts of the economic situation, the business environment, and so on. Even if adjustment is made, I think the Government is half-hearted. To be frank, the Government dares not make any adjustment and is unwilling to put forth a reasonable and well justified proposal based on the result of a regular review. As a result, the Government has turned an important supporting pillar for retirement (to the middle class, provident fund scheme is an important pillar of their retirement) into a rotten walking stick, which in turn brings the downfall of the Government. One may as well say that the Government has not provided support for wage earners; or at least, the support is not enough.

Thank you, Deputy President.

MR WONG YUK-MAN (in Cantonese): Deputy President, this is not the first time the Mandatory Provident Fund (MPF) is discussed in this Council. Members had previously proposed similar motions to request for a comprehensive reform of the MPF Scheme. Today's motion seeks to endorse

the Government's amendments tabled by way of notice, but the amendments are totally not conducive to retirement protection.

I remember that on 1 December 2010, Mr WONG Kwok-kin moved a motion on "Comprehensively reviewing the MPF Scheme". In his motion, he proposed to lower MPF management fees and administration fees, implement totally unrestricted choices for employees under the MPF Scheme, strengthen the regulation of intermediaries, step up law enforcement, combat default in contributions, and so on. However, the motion was vetoed under the separate voting system.

Another pro-establishment "big brother" Mr TAM Yiu-chung also proposed a motion on "Comprehensively reforming the MPF Scheme" on 2 November 2011. The motion was basically the same as the one proposed by Mr WONG Kwok-kin last year. It also touched on similar discussion topics and seek to make minor patch ups under the present system so as to perfect the MPF Scheme. The motion was likewise vetoed. However, when it comes to this resolution tabled by the Government, we can do nothing about it. Can we object it? No, we cannot.

By comparing the two, it is evident that the Government is indifferent to the aspirations for universal retirement protection. Furthermore, regarding the present request for improving the MPF Scheme, the authorities are also indifferent because Members returned by functional constituencies in this Council will defend the business sector. Hong Kong is a city where capitalism takes command and fuels extreme exploitation. The two Members representing the labour sector have already debased themselves and only ask the Government to reform the system institutionally. The two Members whom I just mentioned (Mr WONG Kwok-kin and Mr TAM Yiu-chung) are both union leaders. However, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has now turned into a political party of the middle class or the rich, but Mr TAM Yiu-chung, who relied on labour movements to start up the party, remains as a union leader and upholds the position of the union labour sector. These two Members have already debased themselves and reluctantly proposed a reform on the existing MPF system, but their motions were still unable to get through.

Certainly, it is clearly written in the Basic Law that the capitalist system shall remain unchanged for 50 years in Hong Kong. Any calls for socialist

democracy or modified capitalism will be denied. The Government often holds a double standard. The calls for abolition of the MPF Scheme have long existed. We have similar requests long before Prof K C CHAN become Secretary.

The Sunday just passed was the Senior Citizen's Day. Many elderly people participated in a rally. On that day, the Joint Alliance for Universal Retirement Protection (Joint Alliance) called on the Government to establish a universal retirement protection scheme. Many staff members of our district offices have once helped the Joint Alliance in organizing signature campaigns last year. When we met residents and elderly people on the street, we told them some concepts of universal retirement protection. They all applauded, saying that it would be great if universal retirement protection could be achieved. Secretary, these voices are inaudible to you. The Government must shoulder part of the responsibility of providing retirement protection. Mr Paul CHAN has just hit one point, that is, only civil servants can enjoy retirement protection. Only civil servants are human beings; whereas elderly people who have contributed to society and paid their tax in the past few decades are not. Are they "ghosts" then?

I think the Secretary knows very well how serious the problem of ageing population is Our elderly people are in a sad plight. After the recent election, some political parties have blamed their failure on other political parties' offering of snake feasts, vegetarian feasts, moon cakes, rice dumplings and packs of rice to the electors. Honestly, if I am better off, I will also hand out these sweeteners. My purpose is not for canvassing votes. I hold a birthday party for the elderly every month because many elderly people in my constituency are in dire straits. Of the elderly population in Hong Kong, one third of them are poverty-stricken. My idea is, if I can hold a few more birthday parties for them, or hand out more rice dumplings, moon cakes or packs of rice to them, together with the food they can get from the DAB and the Hong Kong Federation of Trade Unions, we can act like food banks and offer some help to elderly people.

Elderly people are miserable. Who want to be bald if they have hair? Do elderly people have no dignity? Some of them who participated in our dinner gatherings packed the leftover food home. At the opening ceremony of our district offices, we invited the elderly to come over and enjoy the food, and we gave BBQ pork to them. I would never invite public officers or Members to attend the ribbon-cutting ceremony, with the intention of getting some press

coverage. I handed out free food every time, with two roasted pigs and dozens of chicken. Some elderly people would take home some food after consuming the food on the spot. Do Members have similar experience? How come in such an affluent society, our elderly people are living in such a pathetic state, with nothing to fall back on in their twilight years? This is a structural problem, it is not what the capitalists have said, people do not work hard when they are young and vainly regret in old age.

I remember that after I became a Member of the Legislative Council, the first question I asked was to request Secretary Matthew CHEUNG to delete a sentence under the page on elderly welfare on the Social Welfare Department (SWD) website. The sentence said that "many elderly people who have not made any planning for their old age have to seek welfare services from the Department". This is really outrageous! Nevertheless, the Secretary had taken the good advice and rectified the mistake by deleting the relevant sentence on the SWD website.

Society needs to undertake responsibilities. Secretary, frankly speaking, we are enraged whenever we talk about the MPF. I am not joking. We have advocated for universal retirement protection for years and we will continue the fight with overwhelming courage. However, under this political system, capitalism takes command, which has also fuelled extreme exploitation. Hong Kong ranks at the top of the world in terms of wealth gap. Poverty-stricken elderly people account for one third of the elderly population. How can the Government turn a blind eye to these statistics? Do the authorities think that dishing out some welfare benefits will be good enough? They have refused to increase the Comprehensive Social Security Assistance (CSSA) payment and turned down the proposal to increase the "fruit grant" to \$1,000. We were infuriated to such an extent that we hurled bananas, making us appear like thugs. Anyone hurling bananas are considered as a thug. We are nothing when compared with members of the Korean parliament, they hurl tear-gas bombs. The democratic camp in Hong Kong is even worse than the pro-establishment camp. The former takes the lead to undermine freedom of speech. I will teach them a lesson later when I speak on the motion about freedom of the press.

Members, what about the elderly? Without universal retirement protection, elderly people today will have to "wait for their death". However, what about elderly people in the future? Can they just rely on the MPF alone?

Civil servants will certainly lead a comfortable retirement life. While they are "human beings" after retirement; we are "ghosts". We cannot share the wealth and economic success of society. I need not make a grand speech to explain this situation because the authorities always put technicality in the first place. I have pointed this out to social welfare officials for many times. What kind of people are they? They act by the rule, just like a cold fund-allocation machine without any sense of humanity. They follow the system and administrative guidelines; they act inhumanely, like a fund-allocation machine.

Two days ago when Mr CHIM Pui-chung was handling housing-related issues, a complainant came and lodged a complaint about rent control, calling for reinstatement of the rent control arrangement. From similar incidents it is evident that in response to our aspirations for increasing rent allowances of the CSSA Scheme, the Government has perfunctorily increase the CSSA allowances in view of inflation. The Government's response is totally irrelevant to our aspiration. Increasing rent allowances of the CSSA Scheme does not require a legislative process. It can be done through the existing executive system, but eventually nothing has been done. The Government is not even willing to do so, and consequently many tragedies have arisen, leading to public indignation. The officials are forever acting like a machine, a cold fund-allocation machine without any sense of humanity or emotion. If civil servants are unjustly remunerated, will they voice their discontent?

These phenomena are often found in a capitalist society. As the Chief Executive has put it, the wealth gap is inevitable and welfare adjustments should be made to address the problem. However, what adjustments have been made? The present CSSA payment has not yet returned to the level before the payment was adjusted down 11.1% in 2003. Besides, inflation is rampant. All these seem irrelevant to the MPF Scheme, but whenever we touch on MPF, we must also talk about universal retirement protection, so that people will have something to fall back on when they get old. Mr TAM Yiu-chung was once a member of the Elderly Commission. He knows very well which system works best for the elderly so that they can enjoy a comfortable retirement life in their twilight years. Most ridiculously, the Government's proposed \$2-trip transport fare concession, taken as a generous and benevolent measure, will only be implemented by the end of next year. By then, the incumbent Chief Executive can go back home and take rest, and if the next Chief Executive (we know not which "Ah Ying" will take up the post) does not implement the proposal, elderly people will not even

have this transport fare subsidy. No places in the world which is as affluent as Hong Kong requires its senior citizens aged over 65 to pay transport fares. Just take a look at the Mainland, the United States, Canada and Europe and you will understand.

In this capitalist society, the annual per capita income is some US\$30,000, but the elderly people are meanly treated. Does the Administration feel ashamed? As an accountability official of the Hong Kong Government, or a member of government team, do they feel ashamed? By saying that elderly people only have to pay \$2 as their public transport fare and that the Government will reimburse the public transport operators the revenue foregone, what exactly does the Government have to reimburse? Should the public transport operators not shoulder part of the responsibility? Why do taxpayers have to pay for the reimbursement? Is this not overly outrageous? All in all, the MPF system is plagued with loopholes. The present patch-up amendments simply fail to scratch the surface of the real problems. As Mr Paul CHAN has just said, why do we not abolish the MPF Scheme altogether? We will keep pressing ahead this proposal.

The reason why Hong Kong has debased to such a state is that many public officers, like the Secretary, are finance academics. These extreme rightists, including John TSANG and Prof K C CHAN, always think from the perspective of a free market. Of course, my prime target is Donald TSANG. Just listen to what he has said and you will know that his governance philosophy and ideology are totally detached from society. More ridiculously, he said that young people have lots of grievances because they have great ambition. I do not know what he was talking about. Fortunately, his term is going to expire. Yet, it is hard to say, the next Chief Executive may be even worse. So long as the system remains unchanged, the future will hardly be promising, no matter who will become the next Chief Executive.

The present opinion polls on the popularity of the Chief Executive hopefuls are the most ridiculous. What is the use of asking for my opinion if I cannot even vote? "If you are going to cast your vote to elect the Chief Executive tomorrow, who will you vote for?" How can I answer if I do not have the right to vote? Nevertheless, some people may answer, saying that they will support so and so. Are these popularity ratings accurate? In Taiwan, opinion polls have shown that the popularities of MA Ying-jeou and TSAI Ing-wen are very

close to each other. Their surveys are reliable because people have the right to vote, so they answer the survey questions seriously.

How absurd is Hong Kong society? Members of the democratic camp are even intending to stand for the Chief Executive Election; they amused themselves in the electoral affairs. Hong Kong is indeed a city of the weird. If you have read the novels by Jin Yong, you will know that the characters from notable families and upright sects are villains; those from the seven major sects, such as Shaolin, Wudang, Emei and Kongtong are all evil, while people like us from evil cult, like the Sun Moon Holy Cult, are upright. Yet, people are complacent. Just look at these political parties, can they be regarded as notable and upright? All is bullshit. They have no conscience at all. They speak for the sake of power and position and for winning a seat in election. They are unscrupulous and have acted against their conscience. What they say today is contrary to what they said yesterday. They once claimed that they could hardly support the proposal of introducing universal suffrage in the Chief Executive Election in 2012; now they eat their words and support a coterie election of the Chief Executive in 2012, they even dare to tell the public that they may not definitely lose if they stand for the Chief Executive Election because it is a coterie election. The election was what they voted for last year. Have they forgotten about that? Are they out of their mind?

Hence, in this Council, there is no opposition camp except three Members, the rest are pro-establishment. If a council does not have an opposition camp, does it or its political system still have a future? Why does the Government still have to act by the rule? While I am still speaking, Secretary Prof K C CHAN has already gone out, he does not even bother to listen. I can say no more.

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): Deputy President, I think a quorum is not present in the Chamber.

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

MR WONG YUK-MAN (in Cantonese): Ring the bell!

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

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

DEPUTY PRESIDENT (in Cantonese): A quorum is now present in the Chamber. The meeting may now resume. Mr WONG Yuk-man, you have one minute left in your speaking time just now.

MR WONG YUK-MAN (in Cantonese): We said just now that Hong Kong is a capitalist society, and there are some fundamental governance philosophies. Several Directors of Bureaux, Secretaries of Departments and Donald TSANG, on the one hand, cling tightly to the market economy of capitalism, but on the other, they have a double standard, sealing their lips about the "right to private property ownership" and "merit-based rewarding system" in a capitalist society. Buddies, the present Mandatory Provident Fund (MPF) system is apparently a vile policy which has infringed on the right to private property ownership. This is the double standard. Right?

Besides, the Government often says that the system has been effective, which only need to be improved. Under the present system of three pillars, namely, personal savings, social security net and the MPF, people's livelihood after retirement will be safeguarded. The three pillars have all collapsed, right? In terms of personal savings, how can elderly people nowadays have any personal savings? One third of the elderly population in the territory is poverty-stricken. Hence, another day delay in abolishing this system and in providing universal retirement protection will only result in another day delay in solving the problem (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MR ALBERT CHAN (in Cantonese): Deputy President, regarding the capitalist system mentioned by Mr WONG Yuk-man earlier, the Chief Executive has made a famous remark, "The wealth gap is an inevitable outcome of capitalism". And yet, he has only stated part of the truth. Wealth gap can be the outcome of many things. It can be an outcome of a corrupt system, or an outcome of the privileged class. Many words can fit in the description. However, the aggravating wealth disparity in Hong Kong is the serious problem evolved under Donald TSANG's seven-year governance. Being the person at the highest echelon of the government hierarchy, the policies and objectives, legislation and public finance arrangements adopted by him have all aggravated the wealth disparity problem, and among which is the Mandatory Provident Fund (MPF) schemes.

If the Government could model on Northern Europe and provide annual income protection for its citizens, the wealth disparity problem could have been improved. If the Government can make reference to the Zhongqing Government in our great Motherland and distribute money to poor people through public finance arrangements, such that their income will increase and the poor population will decrease correspondingly, the wealth disparity problem can be improved. Therefore, public administration and public finance, as well as the distribution and re-distribution of resources will affect people's livelihood and the overall social wealth distribution, thereby affecting the prevalence of the wealth disparity problem.

Very often, when different issues are discussed in this Chamber, many Directors of Bureaux and Secretaries of Departments will only read from the script in response and repeat the established policies. They have turned a blind eye to the existing problems, and do not respond to the absurd and unfair phenomenon prevailing under the system or the pain suffered by the people. Instead, they continue to work as technical bureaucrats, focusing only on technical issues. They only know how to interpret the existing policies and legislation, and repeat time and again the Government's policy objectives.

Can they be more realistic and conscience minded to explore, from a more humanized perspective, how the community is affected under the Policy Bureau led by them and by the relevant policies and ordinances? Can the Government talk about these practical problems? Will the Secretary later respond to the

pains which tens of thousands of people are suffering every day caused by MPF-related ordinances and policies?

We did have many discussions on this subject previously in this Chamber, and the first one was about the relatively high administration fees. Although the Government introduced certain measures last year to require providers of MPF products lower their administration fees, the relevant data is still stunning. I am not sure if the data I have in hand is biased, and I hope that the Secretary can correct me. If I interpret correctly, management fee is currently at 1.7% of the MPF contributions. Given that MPF contributions have currently reached as high as \$300-odd billion, the annual management fee will be \$5.9 billion. I wonder if my projection is correct. I requested my assistant to find out details of the management fees charged by individual companies, but despite his strenuous efforts, only the abovementioned data could be found. I hope that later on, the Secretary can clarify the concrete management fees charged by major organizations for managing the MPF, and the total amount of administration fees and management fees charged over the past 11 years.

MPF contributions will accumulate year-on-year, and as at 30 September 2011, the total amount of contribution has reached as high as \$336.9 billion. If the management fees charged every year may reach \$5 billion to \$6 billion, and as the amount of contribution will also increase year-on-year, the management fees involved may add up to tens of billions of dollars over the past years. If the administration fees can amount to tens of billions of dollars, is that not tantamount to allowing the financial hegemonies to usurp Hong Kong people's hard-earned money? The money involved is people's hard-earned savings and the balance in their MPF accounts had been greatly reduced after the financial turmoil.

In August 2011, the rate of return for MPF experienced stunning changes amid stock market fluctuations. Even those stable funds which were relatively safer suffered a loss of 1.97%, which involved billions of assets. The Greater China Equity Fund even suffered a loss of 12.97%, meaning that nearly 13% of the money had evaporated. The Government has recklessly invested people's savings intended for use after retirement in the stock market to stir up troubles. It did so simply because our senior government officials had the lofty ideals of turning Hong Kong into an international financial centre. In order to strengthen this financial centre, they have invested our pensions in the financial market,

thereby enabling the financial organizations to stir up trouble. Yet, the Greater China Equity Fund suffered a loss of 12.97%, which is nearly 13%, in a minor turmoil.

We have put forth a number of proposals a few years ago. If the Government is genuinely concerned about the retirement problem of the elderly, it can take heed of our proposals. For instance, it can introduce a tripartite contribution scheme and universal retirement protection, or establish a statutory organization for this purpose. Actually, the Government has already established a number of statutory organizations and the Hong Kong Trade Development Council is an example. The Government has even set up statutory organizations to deal with matters relating to airport management, exhibition centres or urban renewal which involve private properties. Why not set up an independent statutory organization to manage people's hard-earned savings intended for use after retirement, but let financial organizations usurp people's money by trick and by force?

I now trust the Government more than those financial hegemonies. Why does the Government not set up any statutory organization to deal with the matter? I prefer to have those retired civil servants take up the senior posts concerned. After all, many statutory organizations in Hong Kong have become the clubs for retired senior officials. Simply let these very senior and capable retired civil servants take up those high-salaried posts offering an annual salary of millions and even tens of millions of dollars. If they can properly manage people's pensions, this can to some extent mitigate the troubles stirred up by the financial organizations.

I had proposed many years ago that, in view of the financing needs of various organizations, the Government may issue public bonds for financing and earn interests. This is better than allowing the financial organizations to recklessly stir up troubles. Yet, the Government has turned a blind eye to all these and continue to act according to the book. It kept chanting the principle of "big market, small government". In fact, the Mainland has already given up this principle and become loyal to "big society, small government". This is because society and citizens are the most important of all.

Governments, no matter how small they are, should not allow any organization to stir up troubles in the market and do whatever they want; should

not tolerate real estate or financial hegemonies which abuse the disadvantaged groups, and should not allow the financial hegemonies to make use of the MPF system to profit from people's hard-earned money. Governments should safeguard the welfare of the general public and the grassroots, and protect them from being exploited or even compromised under various privileges. However, the Government has turned a blind eye to all these, but only exerted a little political pressure on them by saying that they have grabbed too much and should earn less. The rate 1.78% is too high and should be further reduced to 0.12%. The Government can do nothing but force these organizations to lower their fees. Yet, the entire system is still at the disposal of the financial hegemony. Thus, the campaign to abolish the MPF schemes must go on.

More than one month ago, some organizations in Hong Kong responded to the Occupy Wall Street movement and organized the Occupy Central movement. The one single and universal message conveyed by organizations participating in the movement (especially the grass-roots bodies) is to abolish the MPF schemes, apart from opposing against financial hegemony. This is because the majority of grass-roots bodies deeply hated the MPF system. They once thought that the money deposited in the MPF accounts could be used upon retirement, but the fact is that their money was instead used by the financial hegemonies to make a profit. Worse still, they find that they do not have any control over the assets in their accounts. Although they can choose from options A, B and C, namely guaranteed funds, lower risk and higher risk portfolios, and more than 10 companies, these companies are nonetheless "big crocodiles" which are not kind at all. They may appear pretty mild, but are actually fierce deep inside. They will continuously prey on us until we are completely being swallowed, with nothing left behind.

Therefore, further development of the MPF system will only make the public more infuriated, particularly those aged more than 50, jobless and not eligible for CSSA. They have lost their means of living. They just want to draw some money from their MPF accounts for urgent use. And yet, they cannot do so until they retire at 65. Is it really impossible to draw half or some of their MPF contributions to meet the urgent needs? Perhaps perjury is the only solution. Some people really swore that they would leave Hong Kong and settle in the Mainland due to sickness or other reasons for the purpose of claiming back the deposits in their MPF accounts.

However, to many people, their life is completely unprotected. Therefore, we have put forth a number of proposals to the Government over the years, including the provision of unemployment benefit and make arrangements to safeguard people's basic living. However, the Government has rejected on the excuse of safeguarding a free economy. The Chief Executive has gone even further by blatantly claiming that the wealth gap is an inevitable outcome of capitalism. Why did he not say that there is corruption wherever there are officials? They are inseparable. Power gives rise to corruption and abuse. That is why we have policeman raping a girl in a police station. Nothing is impossible under the current system. Many people belong to the privileged class, and they can abuse their power by doing whatever they want. The ordinary citizens are always the ones to be preyed on.

I therefore call on the general public to take a good look at the current system, especially the small coterie in which 1 200 people will elect the Chief Executive. Under the system, which is endorsed with the support of the Democratic Party, the largest party of Hong Kong's pan-democratic camp, 1 200 members have formed a small coterie to elect the Chief Executive. They will certainly elect a Chief Executive who will continue to tilt towards the interests of the major consortium and major businessmen. This small coterie, which is comprised of 1 200 members and supported by the Democratic Party, is basically manipulated by the functional constituencies and the privileged class. Given that the small coterie can manipulate the election, the elected Chief Executive will definitely serve the interested parties. This is a very simple causal relationship, like the hatching of chicken from eggs. The Chief Executive elected by the 1 200-member small coterie will certainly serve this small coterie, which has obviously been manipulated by the real estate and financial hegemonies.

Without democracy, people would never be reasonably treated and protected. As clearly pointed out by the Chief Executive elected from small circle election, the wealth gap is an inevitable outcome of capitalism. It is only that members of the public are not smart enough. They are therefore subject to discrimination, abuse, suppression and bully as they had failed in the fight for democracy. They would think, what can you do about me so long as I am in power? As your seat is far away from me, I will not get hurt even if you hurl things at me. If the hurling of small objects is seen as violence, has the Government never used any violence? There are tens of thousands of elderly people waiting to move into the residential care homes for the elderly but died

before they could get a place. How many people jumped to death in the face of hardships every year? How about the number of people died from burning charcoal? Is our Government not violent?

There are only tyrannies under the governance of this injustice and callous government. And yet, it has never been accused. Contrarily, it accused us of using violence when we staged minor reactions. What kind of pan-democratic camp is this? What kind of representatives of the public are they? Noting that people are living in dire straits and the disadvantaged groups are unfairly treated, the Government still turns a blind eye, this also constitutes violence. Hong Kong people should therefore open their eyes and look carefully to find out who genuinely tolerates violence in this Council. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up.

MR CHAN KIN-POR (in Cantonese): Deputy President, after years of discussion, Members have successfully fought for the Mandatory Provident Fund (MPF) schemes, which at least included employers' contributions in the retirement protection of wage earners. Unfortunately, Hong Kong is the last in this world to develop its own pension system, and the required contribution is also the smallest. What is more unfortunate is that the MPF was not introduced at the right time. Hong Kong and even the world have at least experienced three financial downturns over the past decade or so. As a result, we began to cast doubt on the principles which we were previously loyal to. For instance, the average rate of return of stocks was 10% over the past 10 years, but the highest return for MPF, which comes from equity funds, was only Many colleagues just now have said it wrongly — the return should be 5% after deducting the administration fees, which is far lower than the 10% guaranteed under the previous theories. This explains to some extent why people are so dissatisfied. In fact, the world is changing. Given the low bank interest rates and volatile stock market, we really do not know how we should invest. We are not referring to any single investment, but consideration should be made to the arrangement and direction of various kinds of investments.

Just now many colleagues have expressed their grave concern about the administration fees of MPF. In fact, the business sector is also very concerned

about this. We can therefore see waves of fee reduction in recent years, especially in recent days. I believe the implementation of the "quasi-free choice" or "free choice" schemes will arouse more intense competition, thereby driving a further reduction in the management fees. I nonetheless noticed recently that many parties have introduced products with management fees lower than 1%, or some are even lower than 0.2%. Yet, we can see that Hong Kong people and employees are very smart. They will not flock to buy these products with low management fees. Why? Because they understand that low management fee is not necessarily good. What matters is the return. What is the point of paying high management fees for products with high return? What is the point of paying low management fees for products with low return? MPF must go with long-term retirement arrangements. If it does not have reasonable or high return that can catch up with inflation, it is practically meaningless. Furthermore, I believe the return of equity funds has already reached such a state that a MPF administrator can charge a lower fee for an equity fund under the MPF system than in the open market. In other words, with economies of scale, management fees under the MPF system can be reduced. However, if we further suppress the income in this respect, the administrators will either lose interest in managing the funds, or refuse to put in additional resources and efforts in exchange for higher returns, but simply switch their attention to funds other than those under the MPF schemes. I hope that Members will understand that the fees cannot be too low for some reasons. In fact, we should not look only at the fees charged by an administrator, but the return generated.

Furthermore, I hope Members would understand that MPF is a business with heavy initial investment and high computer cost. When we invested large sums of money in the system at that time, it was projected that we could only balance the book in at least five to 10 years. What is more, Members should not belittle the costs involved in handling the contributions and fees paid by some 2 million people, the cost of compliance, as well as the costs incurred in issuing statement, employing staff to claim default contributions and teaching employers to make contributions. These so-called labour-intensive activities, which require lots of manpower, are actually very costly, but they can create lots of job opportunities. Therefore, at this point, I would find it more important to consider how the MPF system can be improved.

I also understand that the MPF system has many limitations, which include persons who are jobless or have low income, just as we have frequently

discussed. These people only have little benefits under the MPF system because They do benefit for at least employers will make contributions, and they receive an additional 5% in any way. Hence, we cannot say that the system fails to help them. The point is that the Government has difficulties in balancing various interests. The review, for instance, conducted by us 10 years ago originally suggested an increase in the Maximum Relevant Income Level (Max RI) to \$30,000. Yet, after considering the economic condition, the business sector and employees, the proposal was not put into place. Today, the review is again brought up for discussion in this Council. This time, we all understand that we cannot retain the *status quo* as this would only render the MPF system more inadequate or ineffective. Even if the system is good, the limitations have prevented it from achieving its intended goals. Therefore, the Government's present proposal to increase the Max RI to \$25,000 has already balanced various interests. In fact, the Government should increase the Max RI at once, but the various scenarios and the onslaught of the financial turmoil have again clearly shown that the MPF system was not introduced at the right time. If it was introduced 20 years ago when the economy was setting off, with wages increasing by more than 10% year-on-year and high return for contributions coupled with constant reviews, we should have accrued a hefty sum of money. Nowadays, the numerous setbacks have left the system saddled with thorny problems. Lucky enough, the Government has finally agreed to increase the Max RI, which is at least a step forward. I will absolutely support this move. I also believe my support does not come from the perspective of the industry concerned. Rather, we are obliged to support, under this one and only system which is the result of our longstanding fight, a continuous increase in contributions to ensure that our future retirement needs can be met. In fact, when compared with other countries like Singapore, our system is still far lagging behind. I therefore hope that Members would understand that the present review is absolutely essential. It is also hoped that the Government will timely and sternly implement the system in accordance with the law, and increase the contributions when such a need arises. It should certainly not change its practice in the face of any economic turmoil, as this would render the only system we have more ineffective.

On the other hand, I also consider it necessary for the Government to explore a universal retirement protection scheme with MPF as the pillar. On the basis of the MPF system which acts as a pillar, we can further explore the feasibility of a universal retirement protection scheme. Many people have

retired and the MPF system has nothing to do with them. For housewives or low-income people, the MPF is downright insufficient to meet their needs. Although the Government can certainly fill this gap with the CSSA Scheme or other welfare systems, in the absence of thorough studies or comprehensive analysis to give people a clear understanding, it would be difficult for the Government to convince people with the mere remark that "a consensus can hardly be reached". In my opinion, if the Government can squarely consider the views expressed by various parties and give us the whole picture, or invite representatives from the Joint Alliance for Universal Retirement Protection for a discussion so that they can express views on the difficulties and implementation methods of the system, everyone will feel happier regardless of whether the proposals are actually put in place. The Government cannot refuse to follow up by simply saying that without ample study, the proposal can hardly be implemented. I hope that the Government will be determined and genuinely improve the present MPF system by introducing a universal retirement protection scheme, which is trusted by everyone, to help them cast away the fear of future.

Deputy President, thank you.

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

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, Donald TSANG said that he was scared because someone threw eggs at him. He is actually pretending. Earlier, when he consulted Members' views on the Policy Address, I already told him that if he failed to resolve the problem of universal retirement protection, I would surely protest against him and throw eggs at him. He should know that I would throw eggs at him. I only asked him to make an undertaking, and he did not need to put it into practice right away. I just asked him to undertake that he would take actions and change his stance. As usual, he accused the universal retirement protection proposed by the community as "unrealistic and without any consensus". These are his comments. In other words, he would not introduce universal retirement protection. I certainly have reasons to throw eggs at him. Since Jasper TSANG had evicted me by mistake on that day, I missed the target in a rush.

After I threw eggs at him, he said he was scared. This is understandable. But did he also feel distressed? Did he feel distressed when he saw elderly people living in desperation? How come human beings have only one feeling, and that is, scared? Do human beings have a sense of sympathy?

The amendment proposed by the Government today actually fits in with its style. If you say the fresh water tap is not working, the Government will instead fix the sewer and then tell you the sewer has been fixed. After years of negotiation, non-governmental organizations (NGOs), which comprised mainly of grass-roots people, have finally come up with a concrete universal retirement protection scheme. They have also consulted the actuaries on the method of calculation, and suggested practicable ways of implementation. If the Government still considers the proposal unrealistic, it would be obliged to explain how unrealistic it is in order to be responsible. Will the proposal put forth by the NGOs not be able to provide sustainable development? This is the first point. If you say the proposal is unrealistic, then how unrealistic it is? If the Government is genuinely sympathetic, it should not recklessly reject a proposal on the ground that it is unrealistic. How can it tolerate this situation?

A son took his father to see a doctor, and after examination, the doctor told the son that his father was incurable. Will the son take his father to see another doctor until he gets a realistic diagnosis? Is it right for a son to give up after consulting one or two doctors who diagnosed that the treatment was unrealistic, or should the son just give up and let his father wander about or die after listening to the advice of a quack doctor? A son who acts like this is considered unfilial, whereas a person in power who behaves like this will be considered injustice or apathetic. Apart from spending a minute or two saying that he was scared, did Donald TSANG explain what was meant by unrealistic? What did he mean by unrealistic?

Secondly, he said that there was no consensus. Among the policies implemented by the Government, nearly all of them failed to forge a consensus. Not even one. Being a leader or a ruler, he is obliged to take the initiative to forge a consensus by all means when a problem arises. As the Chinese idiom goes "throwing out a brick to attract jade"; no matter how rough the brick is, so long as you have thrown a brick out, it will certainly attract jade. There is always someone to throw something back. The problem is, the Government has not made any proposals, hence the community has thrown a brick to attract jade,

but the Government first accused this as unrealistic, and then went further to say that no consensus has been forged. There is certainly an absence of consensus. The Government is duty-bound to forge a consensus, right? Is it not the intention of the Secretary to forge the greatest consensus in the Legislative Council for approval of funding applications or enactment of bills? Is this not what he is doing? Is this not the way how things work? What is the point of the Secretary sitting here then? Therefore, we can simply say that what Donald TSANG said was totally rubbish.

Let us review why the Mandatory Provident Fund (MPF) system was established. The MPF system was established in the colonial era when everyone considered it necessary to resolve this problem and fight for retirement protection. Chris PATTAN had put forth a proposal but was opposed by the business sector. According to Miss CHAN Yuen-han of the Hong Kong Federation of Trade Unions, although this is just a "rotten orange", it is better than nothing. The birth of this "rotten orange" can be traced back to the year of 2000, meaning that it was in 2000 when the system was ready for implementation. In other words, after the then Legislative Council accepted the "rotten orange", the Government had proceeded with the preparatory work, and it was not until 2000 that the "rotten orange" was born. And yet, either because the orange did not ripe at the right time or the seeds had congenital deficiencies, the orange turned bad soon after it was ripe. However, the authorities had not conducted any review, and it has been 11 years since the inception of the MPF system. So far the Government has failed to make any improvement amid serious public resentment. What kind of Government is this? The Government reminds us day after day in this Council that it is the genuine ruler of Hong Kong. Given that it is vested with so much power, does it have any responsibility?

So, what is MPF? The participants have no choice but to gamble. The majority of people who are required to make contributions under the Mandatory Provident Fund Schemes Ordinance have no choice, because employers or employees who do not contribute will commit an offence. Their contributions will then go to the pockets of fund managers. For the participants, they may either choose their own investment portfolio or give up their choice. If they wish to have more money in their twilight years, they may choose the high-risk portfolios. However, this is indeed gambling as they have actually used the money originally in their own pockets to gamble in the market. What else do employees gain apart from the 5% contribution from their employers?

According to the Government, without the MPF, employees cannot even get the 5% employers' contribution. The question is, however, it has allowed employers to offset long service payments or other compensation payments with their contributions. Under the offsetting arrangement, no accrued benefits are left. In other words, the MPF is designed in such a way that is absolutely unfavourable to employees.

Shall we change the offsetting arrangement today? No, because they are bound by contracts. Eleven years have elapsed, is it not the right time to make some changes? Has the Government ever listened to public views in respect of its policies? Which policy has been introduced for the sake of employees? Now that they propose to increase the Maximum Relevant Income Level to \$25,000, but what is the point of it? We can save without the help of the Government. Who needs the help of the Government in making savings? What kind of system do we want? We want a retirement system that allows wealth re-distribution. During the first re-distribution, the well-off ones distribute salaries to wage earners. However, the salaries are so low that employees can hardly save any money. This is the first point. The second point is, given that employees are required by law to make contributions, they suffered losses with an immediate reduction in cash. It is essential therefore to initiate a change in the system.

If we consider from this perspective, we will naturally think of increasing the wages of wage earners, am I right? This must be the approach. The minimum wage level at \$28 is already outdated. We originally said that the minimum wage of \$28 can pay for a dish of rice with chicken and roast goose; but now the same dish of food costs \$42. What should we do then? We can neither request for an increase in wages, nor call for an upward revision of the minimum wage. Can you imagine how wage earners can contribute to MPF when their wages are being suppressed? Are they genuinely willing to make contributions? With such low wages, no future plans can be made. The Government advised that the other two of the three major pillars — savings and CSSA — can still be relied upon. Are you kidding? The Government should know that wage earners do not have much savings, adding that the CSSA net has a small coverage. Not only the retired elderly people are not included, housewives are also not included. Yet, they continue to praise that it is effective.

What is the crux of the issue? Firstly, wages in Hong Kong are too low. Even if our wages are comparable with the rest of the world, how come our middle class is not subject to a 30% tax? Why do they have so many grudges — "Oh, poor me! The 18% or 15% tax payments almost kill me!" Of course, because the majority of the middle class are subject to the payment of mortgage loans or high rental, right? Unlike the MPF, under Singapore's Central Provident Fund, the 30% contribution can be seen as an insurance, which includes the unemployment insurance and children's insurance as mentioned by Mr Albert CHAN earlier. They whole family is insured. In case a person is dismissed, the Singaporean Government will make the contribution for him, but the money has to be repaid later on.

Does Hong Kong have such a system? The Government has, on the one hand, allowed the real estate developers to grab the money of the middle class, and threatened the latter that an increase in tax would have serious consequences on the other. Middle class who wishes to receive a total of \$2,500 will have to contribute as well. Here, I dare to say that whoever claims to fight for the interests of the middle class in this Council are hypocrites. Who have the guts to oppose real estate hegemony? The middle class has been plagued by the mortgage loans and owing to the poor education system in Hong Kong, they are forced to send their children to study abroad or reputed local schools. The Government, however, has turned a blind eye to all these problems and has diverted the attention.

Deputy President, as I cannot agree to the present proposal of further increasing people's contribution, hence I will not support this resolution. The point is that a ruler is obliged to give an explanation. I certainly cannot throw anything at the Government. And if Donald TSANG dares to explain what is meant by unrealistic or without any consensus, or have a half-hour debate with Audrey EU, I will tie myself to a pole outside the Legislative Council and let senior officials throw things at me. I will even give them some eggs to throw at me in revenge. Do they have the guts to do so? What kind of Government is this? Donald TSANG only dared to have a debate with Audrey EU once. He had likened himself to the Korean team, which had suffered a humiliated defeat by 4-1. This is nonetheless a setup — he pretended to be defeated by Audrey EU but then collaborated with the Democratic Party, and gave rise to the present situation.

Since he has the guts to debate on constitutional issues, why did he not have the guts to debate on issues which all Hong Kong people are concerned about? The issue is not only the concern of the middle class, but of the poor and the rich as well — who fear that the provision of universal retirement protection will undermine their profits. Why does Donald TSANG not have the guts to take part in an open debate? Why would he be scared away by an egg? "Bowtie", it is useless for you to hide away. Do you think you nobody will hurl eggs at you when you leave the Legislative Council Complex? Someone will hurl eggs at you anyway. If you continue to exercise tyranny, you have to watch out.

(THE PRESIDENT resumed the Chair)

The Chief Executive Election will soon commence and there are currently two candidates. The third one is Mrs Regina IP — I do not know where she has gone today, probably to campaign for the Chief Executive Election — coupled with some king makers. Who will ask the would-be Chief Executive if he supports the introduction of the universal pension scheme and the abolition of the MPF schemes? Why no one has ever asked these questions? What kind of questions will be asked? Will questions about extramarital affairs or wife abuse be asked? President, it would be too lenient to ask the two candidates questions about extramarital affairs or wife abuse. May I ask Henry TANG and LEUNG Chun-ying if they have the guts to state their stance? If not, they no longer have to climb up stairs to stage shows.

MR CHIM PUI-CHUNG (in Cantonese): President, it is a miracle that the Mandatory Provident Fund (MPF) system can be implemented in Hong Kong. Another miracle is the sins of the Government as accused so far. Why did I say so? The introduction of the MPF system by the Government was alleged by people as creating business opportunities for sectors such as the insurance and banking sector once I had represented. Being a member of the financial services sector, I must clarify that the sector which I represent does not have the slightest relationship with the MPF system as local Chinese brokers are not eligible to engage and have never engaged in such businesses. You may certainly say that the insurance sector might invest the money collected in stocks, but the money

would still remain in the financial market. I nonetheless strongly believe that the majority of trade members would not want to be the scapegoat and be badmouthed.

In my opinion, the Government should courageously undertake responsibilities and conduct a review. We are aware that the Secretary is a scholar who genuinely wants to do his job properly. Chief Executive Donald TSANG, on the other hand, said he wanted to do his job properly only after being misled. We sternly believe a person who takes up the post as a Director of Bureau must be ready to serve the community, but not simply to get high remuneration. If he is not ready to serve the community, he can simply work as a professor with similar remuneration package.

President, I once said that "smart guys will be managers while the dumb guys will be the boss". Some people do not agree with my comment. It does not matter as people may have different views. "Smart guys" refer to people with high academic qualifications, like the Secretary. He is a professor and an economic expert, so he is "smart". What is so odd that he works as an employee? Will he like to be the boss of a peanut shop? People have different understanding and viewpoints, which is absolutely especially in Hong Kong. We will discuss the topic "Defending freedom of the press" later on, during which Members can enjoy their freedom of speech. I am not going to say too much about other issues.

President, I have something to say about Members' request for the President to ring the bell to summon Members to the Chamber. At this moment, there are now only six persons at the meeting, including the President. Other Members have left after giving their speeches. This is the culture of the legislature which should be reviewed. President, I am not asking you to count the quorum, just be relaxed. And yet, this problem has actually been aggravated after moving into this Chamber. Nonetheless, while something gets worse, something gets better. The majority of Members have become more capable as they have to do many things at a time, study papers in their offices, meet their voters or "pave way" for other duties. Whenever the bell rings, it only takes less than three minutes for Members to go to the Chamber from levels 6, 7, 8 and 9, not to mention that the actual time limit is as long as five minutes. In fact, they can enter the Chamber at any time.

I nonetheless think that Members should not think that they are too powerful. Are the super District Council (DC) Members to be returned in 2012 not more powerful still? I therefore opine that Members can air views or criticize government policies, but they should not make use of the policies to highlight their representativeness. While they assert with all righteousness when they speak, they bow and scrape outside this Council.

President, Mr WONG Yuk-man just now mentioned that yesterday I It is also the duty of a Member to receive members of the public. Yesterday, more than 10 people from West Kowloon, such as Sham Shui Po and Mong Kok, who are mainly elderly people, came to the Legislative Council to lodge a complaint. I was on duty with Ms Starry LEE, but they requested to see Mr Alan LEONG, Mr WONG Yuk-man and Mr LEE Wing-tat.

When the five of us met these elderly people, they put forward two requests and one of them certainly does not relate to the MPF. Their requests on housing and on income or housing subsidies have been put on record. Also, after listening to them, we had relayed their views to the Government. I would like to take this opportunity to state clearly that I am not as bad as Mr WONG Yuk-man has described. He said that after meeting the elderly people, I In fact, when meeting the public and the complainants, we were absolutely not in a position to make any immediate response or comment. We can only relay their views and aspirations to the Government.

President, I absolutely agree to the criticisms made by various sectors on the exorbitant MPF fees. I absolutely do. However, what can we do about the exorbitant fees? The Government should consider two possible solutions: first, set up a body to supervise the operation of the MPF system on behalf of the general public; and second, people may choose to save the money if they consider the relevant fees too high. In other words, they may deposit their own contributions and those of employers in a separate account. In so doing, they would at most forfeit the price differences. After all, it might be too costly for them to grab the price differences and they might suffer a loss in the end. There is no reason for the Government to force them to suffer losses.

President, you should understand that there is a force prevailing in the global market, and that is, the hedge funds. Having abundant capital and talents, hedge funds are equipped with various facilities. Under this circumstance, they can actually do whatever they want and stir up troubles in the traditional funds

around the world, especially those in Hong Kong. Hong Kong usually does not invest in funds. It has its own investment portfolio. Therefore, it is downright impossible for traditional funds (especially the retirement funds or MPF funds) to fight against hedge funds To put it more bluntly, it is downright impossible for us to gamble against them.

In that case, the Government must properly respond and adopt a proactive stance. To our greatest regret, I am sorry to say that after securing enough votes, the SAR Government turned a deaf ear to any proposals put forth by Members, regardless how constructive they are. This is the reason why I always impolitely make suggestions to and criticisms against the SAR Government. This is the rule or practice of the political game. The Government should not stick to rules rigidly, especially towards the introduction of the universal pension scheme proposed by Members. Why does the Government not study the proposal?

President, as I have said, the HKSAR is now subject to rampant inflation. This is attributable to a lack of local capital and the pegging of Hong Kong dollar to United States dollar. We are heavily tied down by our currency system as our non-staple food mainly comes from Europe, China and Japan, and their currencies often appreciate with respect to United States dollar. I had once proposed to review the pegged exchange rate system, but the Chief Executive openly responded that whoever dared to raise such a proposal, he would slap on his face. In other words, I would be slapped on the face. Does the fact that someone threw things at him have anything to do with me? I made a suggestion but he gave such a response, which is indeed an indirect way to ask me to shut up. Nonetheless, in practice, a review is essential. Given that the United States dollar is so weak and Singapore and Malaysia still survive without the pegged exchange rate system Being a responsible Financial Secretary or Director of Bureau, they must sincerely bring out the issue for discussion and accept criticisms. Why can they not do so? What is more, I also sternly believe that managers of insurance and investment funds No doubt, they have to earn a living. They are not born to serve the community or the entire world, but they must earn their living in a proper way. On the other hand, they have to comply with the system. It is therefore unfair for us to place them under severe attacks and criticisms.

President, as we have also said before, a responsible government must be brave to carry out researches at any time. It might be true that there is a group of pro-establishment and pan-establishment Members in the Council, but all we

need is a mission and a hope, and that is, to have Hong Kong developing in the right direction. We must understand that there is currently a force led by the United States with Japan playing the supplementary role, and it is pointing at the Chinese Government via different combinations. Hong Kong is just a tiny special administrative region, what is the big deal about people having opposing political views? Our greatest mission and goal is to see Hong Kong developing properly.

President, in our opinion, people do not support a person simply because he shouts loudly. Or, people will not vote for someone because he criticizes the Government loudly. The recent District Council elections had fully demonstrated that people have a very advanced mindset. Although they do not have the right to participate in every single political affair, they have used their votes to show their smart decision. Therefore, it is silly to think that irresponsible criticisms will win the heart of voters; voters absolutely do not support these criticisms.

We therefore think that the Government should immediately review the MPF system. Certainly, Members may say that a review is underway. However, given the strong views of people, the Government should be aware that it cannot always ride on their heads and recklessly search their pockets. Why did the Government insist not to set up a committee to carry out a review? If it can properly carry out a review which wins the hearts of the people, this can indirectly act as a booster to Members of the Legislative Council (be they pro-establishment or pan-establishment). After all, we did not act without reason, we also want to see the community developing properly. It is absolutely normal that our decision is made on the basis of votes. We do not oppose to Members' adoption of alternative tactics and procedures, but we must stress that our impetus, vitality and pressure would have encouraging effect on the Government. Therefore, if the Government always acts so indifferently, we will definitely criticize it and it should listen to our criticisms.

President, regarding the amendment proposed by the Government today, I will, in principle, abstain from voting. However, if the Government will conduct a review which is beneficial to members of the public in the near future, I will have the unshirkable responsibility to support it.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to respond.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I would like to thank the Members who have just spoken and those who have indicated their support for the proposed increase of the Maximum Relevant Income Level (Max RI) from \$20,000 to \$25,000, which will come into effect on 1 June 2012.

The Government understands that some people in the community have reservation about the proposed increase in the Max RI. President, as I have pointed out in the opening speech, the level has not been revised since 2000, and the proposed level has already balanced various views and needs.

Under the Mandatory Provident Fund (MPF) system, we have prescribed the maximum and minimum relevant income levels. While the Minimum Relevant Income Level (Min RI) is used to relieve the burden of the low-income people, the Max RI should be timely revised to provide better retirement protection for the employed persons in the long run.

We have conducted a study on the Min RI in June 2011, and subsequently increased the Min RI to \$6,500 in consideration of the implementation of the minimum wage. Max RI, on the other hand, has not been revised for many years. According to the law, apart from the income level, other factors must also be taken into consideration.

Mr Paul CHAN asked why no review has been conducted over the past decade.

The Government has not proposed any increase in the Max RI in the past 10 years not simply in consideration of the income level, but also the economic environment. And yet, for this year, we are of the view that the development of

the MPF system would be undermined if the Max RI has remained unchanged for 10 years.

Nonetheless, we understand that there are uncertainties in the economic environment, and people from the business sector might have reservation about an increased contribution on their part. We also understand that wage earners might have grudges over the increased mandatory contribution on their part. Therefore, we consider it necessary to conduct adequate consultation on the increased Max RI, with a view to making a good and appropriate proposal after balancing different views.

Over the past period of time, we have increased the Min RI on the one hand, and conducted a thorough consultation on the Max RI on the other. Members, the business sector and labour organizations have given us lots of opinions in this regard, and we would like to forge the greatest consensus before proceeding with the matter. We ultimately decided that the prescribed level should be \$25,000. We think that this is a very good balance, which is the outcome of an extended consultation.

Just now, we heard that Members have expressed grave dissatisfaction against the existing MPF system in their speeches. During this period of time, we have also heard some calls for review of the MPF system. A review is underway, and we do not want to repeat the justifications and discussions on the review of the MPF system.

Generally speaking, the Government's stance towards the fees is crystal clear: We think that there is still room for downward adjustment of the fees. A lot has been done by the Mandatory Provident Fund Schemes Authority (MPFA), and the effects began to emerge with a lowered fee level.

In order to lower the fee level, I think there is a need to reduce or fine-tune the administrative work required of the MPF schemes. In this connection, we have advised the Legislative Council earlier that the MPFA has engaged a consultant to prepare a more comprehensive report on the review of the administrative flow of the MPF system, with a view to lower the fees.

A Member has expressed concerned about other measures, such as the arrangement of the quasi-free-choice scheme. We will submit a report to the Legislative Council shortly on how we are going to introduce the relevant

arrangements through a bill on MPF intermediaries. We will actively proceed with the work in this regard.

The MPFA and the Government will put in place other measures to improve the MPF system, so that it can continue to earn wider public recognition. The MPF system does not have a long history, it has only been implemented for 10 years. As it is still very "young", there is still plenty of room for refinement and improvement. We think that only if we work towards our goal, retirement protection for the employed persons will definitely be improved.

Here, I would like to thank the Members who have expressed views and spoken, and hope that they will support the resolution.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised hands)

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

(Members raised hands)

Mr CHIM Pui-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr CHIM Pui-chung 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.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Prof Patrick LAU, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou, Dr Samson TAM, Mr Alan LEONG and Miss Tanya CHAN, voted for the motion.

Mr Tommy CHEUNG, Mr Albert CHAN and Mr WONG Yuk-man voted against the motion.

Mr CHIM Pui-chung abstained.

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

THE PRESIDENT announced that there were 46 Members present, 41 were in favour of the motion, three against it and one abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending four items of subsidiary legislation relating to mandatory building and window inspection schemes made under the Buildings Ordinance or the Buildings (Amendment) Ordinance 2011, which were laid on the table of this Council on 2 November 2011.

I now call upon Ms Audrey EU to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS AUDREY EU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

At the House Committee meeting held on 4 November 2011, Members agreed to form a subcommittee to study four items of subsidiary legislation which were laid on the table of this Council on 2 November 2011, namely, the Building (Inspection and Repair) Regulation, the Building (Administration) (Amendment) Regulation 2011, the Building (Minor Works) (Amendment) Regulation 2011 and the Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011. To give the Subcommittee sufficient time for deliberation and report to the House Committee the result of its deliberation, in my capacity as Chairman of the Subcommittee, I propose to extend the period for amending these items of subsidiary legislation to 21 December 2011.

President, I implore Members to support this motion.

Ms Audrey EU moved the following motion:

"RESOLVED that in relation to the —

- (a) Building (Inspection and Repair) Regulation, published in the Gazette as Legal Notice No. 146 of 2011;
- (b) Building (Administration) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 147 of 2011;
- (c) Building (Minor Works) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 148 of 2011; and
- (d) Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011, published in the Gazette as Legal Notice No. 149 of 2011,

and laid on the table of the Legislative Council on 2 November 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 21 December 2011."

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Audrey EU 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; the mover of the second motion may have another five minutes to speak on the amendments; the movers of amendments to the motion each may speak for up to 10 minutes; and the mover of amendment to an amendment 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: Defending freedom of the press.

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

I now call upon Ms Emily LAU to speak and move the motion.

DEFENDING FREEDOM OF THE PRESS

MS EMILY LAU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, the SAR Government has recently submitted a report to the United Nations on its implementation of the International Covenant on Civil and Political Rights (ICCPR). President, as you are aware, the ICCPR was signed by Beijing as early as October 1998, yet it has not been ratified by the National People's Congress to date. Hence, amongst the various international human rights treaties, the ICCPR is probably the only one where the HKSAR can remain as a contracting party with the permission of Beijing. It is likely that we will attend the United Nation's hearings next year on this report as well as other supplementary recommendations. I also believe that the hearings will be attended by many local non-governmental organizations.

Regarding the motion today, if we review the contents of the ICCPR, we will know that Article 19 is the relevant provision. As stipulated in Article 19(1) of the ICCPR, everyone shall have the right to hold opinions without interference — I just wish this provision is given due respect both inside and outside the Council. Under Article 19(2), everyone shall have the right to freedom of expression, including that either orally, in writing or in print, as well as the freedom to seek, receive and impart information and ideas of all kinds. These are the provisions under Article 19 of the ICCPR.

In this connection, some people will ask, "What then is the provision under the Basic Law?" Under Article 27 of the Basic Law, it has been clearly stipulated that "Hong Kong residents shall have freedom of speech, of the press and of publication". In paragraph 19.2 of the current report submitted by the SAR Government to the United Nations, it is stated that, "The HKSAR Government is firmly committed to protecting the freedom of speech and of the press, and maintaining an environment in which a free and active press can operate under minimum regulation."

President, I hope that through this motion debate today, Members can discuss whether the SAR Government is really as good as its words or it is just putting on an act of window dressing? One of the reasons I move this motion is that according to the findings of an opinion poll released by the University of Hong Kong on 20 September, the rate of people's satisfaction with freedom of the press has dropped 10%, from 68% to 58%. That is of course quite a drastic decline. Having discussed the matter extensively with members of the public, the media and persons from various sectors, I conclude that the situation is caused by several reasons.

Nonetheless, when speaking on the declining satisfaction rate of the public with freedom of the press, let us not forget that there is an organization in the United States — the Freedom House — which publishes annual reports on the level of press freedom in countries and places around the world. Some eight to 10 years ago, the Freedom House has already put Hong Kong under the category of "partly free places". Of the rankings adopted by the Freedom House, that is, "free", "partly free" and "not free, China ranks in the bottom of "not free" places, while Hong Kong, originally belonging to the "free" category, has been downgraded to the "partly free" category subsequently. Should some unfortunate incidents happen, Hong Kong could possibly be on the same rank with China some day.

Why is there such a perception in the international society? Certainly, part of the reason is the media's self-censorship which is closely related to Beijing and the financial magnates. Although the media have the courage to criticize the SAR Government, they dare not offend some powerful and influential people and organizations. Another reason is that from what the Administration has done, media workers sense that the scope and freedom of news reporting have become more constrained.

During the visit of Vice-Premier LI Keqiang to Hong Kong, a number of incidents have occurred locally. In one incident, a police officer held down the camera of a photographer; and the police subsequently alleged that it was a reflex action of the police officer on spotting a black shadow. This remark has now become an international joke. Moreover, the media were not allowed to cover certain events during the visit. For example, regarding the reception held in Grand Hyatt Hotel attended by the Vice-Premier, the Administration had locked up the reporters in a hotel room so that they could only watch live broadcast of the reception as filmed by the Government. Arrangements had also been made to keep the media in locations far away from scenes requiring coverage such that they could neither see nor hear anything. In addition, some reporters who entered the Central Government Complex adjacent to the Legislative Council Complex had been outrageously arrested and detained for seven hours. The media are gravely dissatisfied by all these incidents. As the Administration does not allow coverage by reporters, how does it disseminate the news? The answer is that filming is done by government staff, "propaganda footage" and "propaganda articles" are distributed, and "informal briefings" by "informed sources" are frequently held to release the news. Of course, there is the incident about Asia Television Limited (ATV) which we are gravely concerned about. Although I cannot go into details today given the time limit, as I said in the previous debate, the incident involves ATV staff being pressurized to broadcast phoney news and "paid news".

Separately, regarding the handling of spot news, the police often do not disseminate information to the media in a timely manner, making it difficult for reporters to cover the events. As such, public interest is deemed to be undermined. A case in point is the four stabbing attacks which occurred successively in Tseung Kwan O from 8 pm on 2 October to 7 am the following day. No reports had been made; and the cases were only disclosed one week later, when the matter was revealed and the media informed. Furthermore, several female students had been indecently assaulted in Kwun Tong on 11 and 12 October. Likewise, the matter was only revealed a few days later.

The media were infuriated by such practices. Hence, this Monday, President, I think you are also aware — 1 600 media workers as well as students and teachers of journalism of various universities have placed a full-page advertisement in newspapers on Monday, demanding the authorities' release of case information in real time, so as to safeguard the public's right to know. Let

us see how the Government responded this time. While the Government claimed in its report to the United Nations that the matter had been adequately handled, over 1 000 persons had placed such an advertisement in newspapers.

At a meeting with the Commissioner of Police yesterday, the Hong Kong News Executives' Association requested that information should be timely disseminated by the police to facilitate reporting. While the police indicated at the meeting that improvements would be made, I think the Secretary will not have any good news for us today. Hence, members of the public query why the police would not disclose to the public cases like indecent assault and wounding? In this connection, I move this motion in the hope that the Administration will truly respect the freedom of reporting of the press.

Why do the media place such an advertisement in the press? A few years ago, subsequent to the digitalization of the police's communications system, the media could no longer receive the radio frequencies of police communication, and hence could not follow up on spot news. At that time, the relevant authorities asked the media to be at ease and undertook to disseminate information on at least 30 to 40 cases each day, and to notify the media within 20 minutes after the receipt of the case report. However, according to the Hong Kong Journalists Association (HKJA), only 1% or 2% of the cases have been disclosed by the authorities. In other words, 98% or 99% of the cases have not been disclosed. Recently, possibly as a result of grave response in the community, the authorities have made public 200 cases all of a sudden, yet not much information has been disclosed.

One cannot help but ask, as the authorities are not members of the press, how can they make a choice? Editors who station in the news office have to face great difficulties. For example, there was once a case of family massacre causing four deaths, but the information disclosed by the authorities was a case "requesting for police assistance". How could reporters in the news office know that an alarming case of four deaths had happened simply by the words "requesting for police assistance"? Therefore, it is hoped that the authorities can make timely and proper disclosure so that reporters can make the informed decision themselves. If 100 to 200 cases are being disclosed each day, no news organization would have sufficient manpower to cover all the news. Moreover, it is still uncertain whether the authorities will continue to disclose such a large number of cases. The selection criterion for disclosure is another issue.

According to the present criticisms of the press, pre-screening has been conducted by the authorities before they decide on the types of information to be disclosed.

President, another complaint is related to "official media". According to an example cited by the media, Mr Simon PEH Yun-lu, Director of Immigration, retired in March this year. In the past, a press conference would normally be held, but no such arrangement was made at that time and the media's request to interview Mr PEH was also declined. Subsequently, Mr PEH was interviewed by the Government's online news platform, and the interview was uploaded onto its website on 1 April. That was all. That is what I mean by "official media"; that is why during the visit of LI Keqiang to Hong Kong, only government staff were allowed to film, edit and release news about his activities. Therefore, the media found it difficult to cover the news independently and freely.

In respect of "informal meetings", according to some non-exhaustive information provided by the HKJA, from March to May last year, 29 articles in the Chinese press were attributed to "informed sources", rather than official sources, while nearly four articles in the English press were clearly attributed to "informed sources" every day during the same period. After all these events, the media would feel that the authorities do not want them to cover the news freely, and no assistance would be provided.

With the digitalization of the communications system of the Fire Services Department (FSD) in July this year, the HKJA is concerned that the FSD will follow the footsteps of the police in the dissemination of case information; and in future, other disciplined forces will follow suit. While this matter will be discussed by the Panel on Security this Friday at 8.30 am, I think it is not just a question for the press because firstly, it relates to the issue of whether the Administration has complied with the Basic Law as well as various international human rights treaties; and secondly, it relates to the right to know of you, me as well as every member of the public, particularly when the authorities have repeatedly failed to disclose the relevant case information such that there is no way for the public to stay alert.

Recently, the Administration has indicated that it would review the situation. But how long does it take to complete the review? When will the outcome of the review be made public? At the meeting with the Democratic Party in October, the Administration indicated that discussion would be held with

the media. But it is now November and the media has placed a full-page advertisement on this issue. President, what should we do? Some people say that my motion would be voted down today. Hence, I must listen to the views of those people, particularly Members of the pro-establishment camp, as to why we do not need to defend freedom of the press.

President, I so submit.

Ms Emily LAU moved the following motion: (Translation)

"That, freedom of the press has recently sustained severe impact, and the findings of an opinion poll released by the University of Hong Kong on 20 September showed that the rate of people's satisfaction with freedom of the press dropped from 68% to 58%; the occurrence of such a worrying situation is due to the authorities' restrictions on media news coverage, including obstructing filming by photographers, expelling reporters, setting press positions a long way from scenes requiring coverage, rejecting media news coverage and instead distributing only official footage and press releases (commonly known as 'propaganda footage' and 'propaganda articles'), and replacing press conferences with informal briefings by informed sources; the recent misreporting of former State President JIANG Zemin's death by the News and Public Affairs Division ('News Division') of Asia Television Limited ('ATV') has revealed that the head of the News Division was not able to stop the broadcasting of incorrect information in news programmes, and someone had interfered with the editorial independence of the News Division; ATV staff have also complained that the broadcasting of 'paid news' by the station has severely damaged the credibility of news reporting; in this connection, this Council urges the authorities to:

- (a) arrange for the media to freely cover all official activities;
- (b) lift the news coverage restrictions imposed on the press;
- (c) stop distributing 'propaganda footage' and 'propaganda articles'; and
- (d) inquire into whether anyone has interfered with the editorial independence of the News Division of ATV and forced the News Division to broadcast false information and 'paid news' in news

programmes, and study whether the continued holding of a domestic free television programme service licence by ATV is in the interest of the public."

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, thanks to Ms Emily LAU for proposing the motion on "Defending freedom of the press".

Freedom of the press, being a value treasured by the people of Hong Kong and protected under the Basic Law, is pivotal to the effective functioning of our constitutional system, as well as the development and progress of our society and economy. Today, the Secretary for Constitutional and Mainland Affairs has also attended the meeting and if issues such as the rights safeguarded under the Basic Law, the fulfillment of obligations under international treaties, and so on, are raised in the debate later on, the Secretary will respond if necessary.

The motion proposed by Ms Emily LAU also touches on an incident about a news report of Asia Television Limited. In order to respond to this issue, the Secretary for Commerce and Economic Development is also present today. However, as far as I know, the same matter has been discussed at the meeting of the Legislative Council on 19 October. On that occasion, the Secretary for Commerce and Economic Development had already explained to Members details of the incident, as well as the progress of investigation conducted by the Broadcasting Authority on the relevant complaints. The Secretary had also explicitly stated that the Government would not interfere with the day-to-day operation of the licensees. Hopefully, it will not be necessary for us to repeat those points today.

Ms LAU's motion is primarily concerned about the dissemination of government information, as well as press arrangements for official activities. That falls within the purview of the Information Services Department (ISD). As the Home Affairs Bureau is responsible for the overall resource allocation of the ISD under the government framework, I would like to explain several points on behalf of the SAR Government first.

Firstly, given the people-based administration of the SAR Government, it is our hope that all government policies and measures are known, understood, supported and monitored by the people. Hence, while we ensure the dissemination of government information to the public through various media, we strive to provide a suitable environment for the media to develop freely. The Chief Executive has all along requested individual Policy Bureaux and executive departments to adopt a proactive and positive attitude, as well as uphold an open and transparent policy, such that government information would be timely disseminated whenever important policies and measures are to be introduced, or issues of major public concern have happened in the community. Press conferences have been frequently held by the Government, and government officials would always answer questions from the press on public occasions, and attend interviews on television and radio to explain government policies. The Government also issues a lot of press releases and photographs every day so as to enable the public to have a clear understanding of the various aspects of the Government's administration. Last year, more than 40 000 press releases in Chinese and English, as well as some 5 000 photographs have been released.

The Government relies on the mass media to disseminate information to members of the public. Hence, the ISD has all along regarded the media as a partner and has taken the initiative to facilitate its work. The ISD has absolutely no intention, nor is it possible, to take over the role of the media. Last year, the Government has responded to almost 1 million enquires from the media and government officials have met the media more than 1 000 times.

Secondly, guided by the principle of openness and fairness, the ISD has strived to facilitate the media's coverage of official activities. Taking into account factors such as the media's need, site requirements and security considerations, as many media organizations as possible would be allowed to cover these activities. Subject to site constraints, the ISD would arrange for joint coverage by the media on a voluntary basis as far as practicable.

Regarding visits to Hong Kong by national leaders or foreign political dignitaries, we must give due regard to security considerations while catering for the need to cover the events by local, Mainland as well as overseas media. In this regard, site constraints can pose great challenge in making the relevant arrangements. Overall speaking, media arrangements for covering official activities would depend on the specific circumstances of individual activities, such that a plan most acceptable to all can be formulated. We hope that all

parties can work together with mutual respect and understand the work requirements of each other, so that we can jointly safeguard freedom of the press in Hong Kong and ensure a good standard of reporting.

Press reports by the mass media, as well as films or articles released by the Government are part of public information and can co-exist. Given the limitation in terms of coverage and airtime of commercial media, as well as their different perspectives and angles, their reporting is by nature selective. On the other hand, the Government disseminates information for the overall interest of society. As illustrated by many actual examples, information released by the Government is welcomed by both the media and the public. In a recent case, staff of the ISD were deployed to report the life and work of 15 volunteers of the Services Corps in schools in Shaoguan, North Guangdong. The story was adopted by many media. Hence, I think there is no need to generalize the films and articles produced by the Government as "propaganda footage" and "propaganda articles" in this Council. This is not only a misunderstanding of the services of the ISD, but a disrespect for the media who used the material and the public who viewed such material.

Thirdly, as news professionals are aware, there are many forms of reporting such as direct reporting with named sources, quotes from un-named "informed sources", and so on. As I just said, press conferences are often held by the Government. As spokesperson for their respective departments, department heads often attend meetings of the Legislative Council to explain government policies and meet the reporters. Under the department head, colleagues of various departments are also involved in the formulation of policies, and they are conversant with the history and background, foci and priorities, impact and consequences, and so on, of the Government's policies and measures. Whenever new government policies are introduced, briefings, attended by department heads or other colleagues, would be arranged for the media for the purposes of exchanging views and enabling them to gain a deeper understanding on the rationale of these policies. Given its interactive nature, this arrangement is popular with the media as they can gain a deeper understanding on the contents and details of the policies. Generally speaking, the media will produce un-named reports on such briefings, and this practice is generally adopted in the media industry. There is no need to regard the same as "informal briefings" with ulterior motives.

President, I will stop at these three points first. I will now listen to the speeches of Members and respond to them later. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, in the West, the press is regarded as the fourth branch of government apart from the executive, the legislature and the judiciary, having the functions of monitoring the Government and informing the public the latest situation in society. In a civilized society, the press is indispensable. Hence, we agree that the SAR Government should, as far as practicable, facilitate news reporting and avoid creating unwarranted obstacles.

Undeniably, the press arrangements made by the SAR Government during the visit of Mr LI Keqiang, Vice-Premier of the State Council, to Hong Kong in August were less than desirable when compared with the past. Inconvenience was created for the media in the course of their reporting, arousing series of complaints. It seems that there is indeed room for improvement in this regard.

President, seemingly, the demand in the original motion that the media are allowed to freely cover all official activities is not unreasonable. The Liberal Party also considers that the Government should respect the "right to report" of the media as this has a direct bearing on the "right to know" of the people. Moreover, the Basic Law has specifically provided that Hong Kong residents shall have freedom of speech, and of the press. The Government has no reason not to facilitate reporting by the media. But the reality is that media reporting is not appropriate for all occasions. Many a times, free reporting by a group of media is not feasible due to site constraints. Furthermore, it may neither be suitable nor practical to allow the media to freely cover all official activities, regardless of the size and nature of the events. Nonetheless, the Government should not use this as an excuse to obstruct normal reporting activities of the media. Even if an activity is held in a small venue, arrangements for joint coverage should be made as far as practicable so as to maximize transparency.

Regarding the demand in the original motion that the Government should stop distributing "propaganda footage" and "propaganda articles", we consider that it is obviously another impractical request for the Government to stop releasing information. Furthermore, once the Government stops releasing information all of a sudden, will the Government come under criticisms of black-box operation? More importantly, the Government is duty-bound to

account for its administration to the public, for example, officials should respond to comments on government policies or matters of public concern. However, the overriding principle is that the Government should not seek to replace media reporting by articles, footage or photographs produced by the Government.

Looking from another perspective, editorial independence is enjoyed by the media of Hong Kong. The media are not mandatorily required to use the information released by the Government as the media can decide for themselves whether articles or footage provided by the Government should be used or not. If considered not suitable, the media can always choose not to print or broadcast the materials provided, and the angle of their reporting may also differ from what is intended by the Government. We have no reason to believe that the media will easily relinquish their rights on editorial and reporting independence, and play into the hands of others.

President, the Liberal Party staunchly safeguards freedom of the press in Hong Kong as we consider it the cornerstone of our prosperity. The question is really about how the Government maintains the right balance between security considerations and press freedom so that unnecessary restrictions can be minimized. As in the case of the visit by Vice-Premier LI Keqiang to Hong Kong, the press arrangements had aroused great controversies. MAK Yin-ting, Chairperson of the Hong Kong Journalists Association (HKJA), criticized that the Government had failed to set its priorities appropriately and proportionately when balancing press freedom and security considerations. Hence, the Liberal Party urges the Government to carefully review and learn from the incident so as to refine press arrangements for future visits of political dignitaries to Hong Kong, so as to prevent any unnecessary scuffles and conflicts with the media and avoid giving the public an impression that the Government attempts to encroach on press freedom.

Lastly, regarding the repeated demand made by Ms Emily LAU to investigate into the saga of Asia Television Limited (ATV), I have stated on behalf of the Liberal Party last month that while there is a need to find out the truth, investigation by the Broadcasting Authority (BA) is in progress. At this stage, there is no need for any intervention by the Government or the Legislative Council.

However, Ms Emily LAU now demands specifically that the Legislative Council should urge the Government to inquire into the incident. It is doubtful whether Ms LAU's request has the endorsement of her former fellow journalists because when it comes to defending freedom of the press, it would be most important to uphold the independence and autonomy of media organizations. We are concerned that a very bad precedent would be set by asking the Government to interfere with the operation of a media organization arbitrarily. Should the Government readily probe into media organizations, the media will have reservation when covering and reporting the news for fear of reprisals. It can easily create the worry of white terror in the media industry. Even in its statement issued after the ATV saga, the HKJA only demanded for an explanation by ATV and investigation by the BA, without seeking interference from the Government. Therefore, it is difficult for us to support this move of Ms Emily LAU which can potentially undermine freedom of the press seriously.

Nonetheless, it has been four months after the BA undertook to conduct an investigation into the case. It is unsatisfactory that the BA has yet to complete the investigation, and the public has not been informed of the progress of investigation in the interim. The Liberal Party urges the BA to complete its investigation expeditiously so that a clear account of the incident is provided to the public.

President, I so submit.

MR WONG TING-KWONG (in Cantonese): President, all kinds of opinions and views are embraced by the society under the vibrant and lively media scene of Hong Kong. If we take a look of the newsstands and MTR stations, we can find that there are many newspapers and magazines of various types, which truly reflects the high degree of press freedom we enjoy. There is no denying that freedom of the press in Hong Kong is duly safeguarded under the Basic Law. We consider that many wordings of the motion are questionable.

First of all, the motion demands that the Administration should stop distributing "propaganda footage" and "propaganda articles". I consider that it is unnecessary to make such restriction. For media organizations with limited resources or cannot make timely arrangement to cover the event, "propaganda footage" and "propaganda articles" are indeed useful, and can also serve as

reference material for media organizations. The distribution of "propaganda footage" and "propaganda articles" does not mean that the media are forced to use such material; they have full discretion in the matter. The request for the Administration to stop distributing "propaganda footage" and "propaganda articles" is simply unnecessary, given that the media are free to decide for themselves how to use these material. The assumption that the media will just use the "propaganda footage" and "propaganda articles" as distributed by the Government *per se* is tantamount to insulting the professional standard of the local media. While the reporting and editing of "propaganda footage" and "propaganda articles" may not be well liked by all people, given that Hong Kong is a free society, media organizations have the right to report the things they see so long as their reporting is in line with media ethics and the rules of society. The Information Services Department (ISD) is merely assisting media organizations in acquiring information; the distribution of "propaganda footage" and "propaganda articles" is merely a means of releasing news information. The media can make a professional judgment on the usage of these information. Simply put, the ISD has the freedom to distribute "propaganda articles" or otherwise, and media organizations have the freedom to use "propaganda articles" or otherwise. There are no reasons why the Legislative Council should interfere with this kind of press freedom.

Secondly, the motion reprimands the Government and Asia Television Limited (ATV) for the declining rate of people's satisfaction with freedom of the press, claiming that they have damaged the credibility of news reporting. I think such criticisms are unfair. The findings of opinions polls only serve to reflect some phenomena, rather than their cause. If a conclusion is hastily drawn to blame some parties for undermining freedom of the press without any prior in-depth investigation and conclusive evidence, I think it is highly unfair. Moreover, as the Broadcasting Authority (BA) is still investigating into the ATV incident, it is inappropriate to come to any premature conclusions. If criticisms that ATV has interfered with the operation of its News Division are raised at the meeting of the Legislative Council, I think this might create unnecessary pressure on the investigation authority.

Separately, regarding the demand in point (d) of the original motion that the authorities should investigate into ATV, the BA is actually investigating into the matter, and we are still waiting for its conclusion. If the authorities are requested to set up another inquiry panel to investigate into the matter again, it is

a waste of resources and the two investigations may interfere with each other. This may slow down the progress of investigation such that the public cannot learn about the truth behind the ATV incident as soon as possible. Moreover, I think it is even more unfair that the authorities are requested to consider sanctions against ATV even before findings of the BA's investigations are available. In a civilized society, I think nobody should be sentenced before trial. People who advocate for democracy would not tolerate such practice.

Under the air of freedom, Hong Kong's media have all along performed their duties of reporting current affairs, criticizing social evils of our times and monitoring the Government. According to the worldwide ranking of press freedom released by the Reporters Sans Frontieres (RSF) in 2010, Hong Kong ranked second among Asian countries, ahead of Korea, Taiwan and Singapore. The RSF also pointed out that among 170 countries and places in the world, Hong Kong's press freedom index has improved for two consecutive years from the ranking of 51 in 2008, to 48 in 2009, and then 34 in 2010. Recently, in its Six-monthly Report on Hong Kong (1 January to 30 June 2011) presented to the Parliament of the United Kingdom, the Foreign and Commonwealth Office of the United Kingdom also noted that freedom of press and publication had been upheld in Hong Kong.

The media's contribution to Hong Kong has generally been recognized by the people. According to the findings of a survey released by the University of Hong Kong (HKU) on 20 September, the rate of people's satisfaction with the performance of the media in general has increased by 2%, while 68% of the respondents considered that Hong Kong's media have given full play to press freedom. Press freedom has always been an invaluable element in Hong Kong society, and it has been steadfastly upheld by various sectors of the community which refuse to yield an inch. However, I would like to draw Members' attention to the fact that in the same HKU opinion poll, 57% of the respondents considered that the media have misused or abused press freedom. I consider that if the media have abused press freedom and violated media ethics, negative social impact would be created as the media's credibility is undermined to the detriment of society. It seems that this point has not been mentioned in today's motion. I therefore implore Members to take note of my view.

Freedom of the press has all along been duly safeguarded under the Basic Law, and society has never let down its guard in defending press freedom. As

the wordings of the motion as well as some of its suggestions are not acceptable, I will not support the original motion.

President, I so submit.

MR WONG YUK-MAN (in Cantonese): President, the title of my speech today is "Freedom of the press under media hegemony". Apart from defending press freedom against entities holding political powers in the administration, a more pressing task of the media is self-reflection, as well as a comprehensive review on the objective reality. Apart from government or an autocratic government which poses the greatest detriment to press freedom, one of the culprits in suffocating press freedom must be media hegemony.

Not long ago, perhaps under the influence of a fascist complex, the Commissioner of Police Andy TSANG dared put police power above human rights and then tried to cover up the police's acts of power abuse in obstructing media coverage on the visit by Vice-Premier LI Keqiang to Hong Kong with his "black shadow remark". This incident, together with the suspected interference wielded by WANG Zheng (also called WONG Ching), a major investor of Asia Television Limited, in the misreporting of the death news of JIANG Zemin, have undoubtedly rekindled the community's pledge to defend freedom of the press.

In addition to freedom of reporting, of access to information, and of expression of the press, defending press freedom entails the protection of reporters against political or economic interference. Ultimately, it is about protecting the people's freedom to fully access to the truth of news. In other words, the government and the press must protect and safeguard the right to know of the people; and more importantly, the government must duly uphold its obligation to inform, so as to keep the people informed.

After the reunification, the situation faced by Hong Kong's media has become increasingly dire under the shadows of the autocratic rule of the Communist China and the hegemony of the SAR Government. Even though not all press organizations have taken sides, they would engage in self-censorship. It is rare to find media workers who steadfastly adhere to their professional ethics.

Nowadays, Hong Kong's media organizations either take sides with the establishment or fall prey to the manipulation of media tycoons. Under the blatant or covert manipulation of autocracy or the financial magnates, the ecology of Hong Kong's media has been deteriorating such that the phenomenon of media hegemony emerges to monopolize the press. This hegemony has deprived people of their right to know and they are only left with the residual right of "given to know" by the media. I feel most deeply about this situation as I have worked over 35 years in the fields of journalism and education.

The phenomenon of media decay is not limited to Hong Kong, it has existed in the early days of the founding of the United States. I recall that Thomas JEFFERSON, the third President of the United States, was also one of the victims. During his eight years in office as the President, JEFFERSON was fiercely attacked and smeared. Yet, despite the ferocious smear attacks he braced through, JEFFERSON steadfastly defended freedom of the press as he was firmly guided by the belief that the people's right to know should take precedence over the government's power to rule. One of his famous quotes reads as follows, "Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." He preferred newspapers to government.

JEFFERSON also clearly pointed out that press freedom was an indispensable safeguard in a democratic system as the people could not make their judgment without first being fully informed.

In the 1960s, the press in Europe and the United States first started to engage in self-reflection because capitalists were controlling large corporations at that time. They were not only champions of market philosophies, but also vanguards of political conservatism. This has triggered off a movement of not trusting the press.

In an issue of *Time Magazine* published in December 1983, the phenomenon of press decay at that time has been analysed in great details. The people were growing more distrustful or even resentful of the press as press reports were often factually incorrect or even fabricated. When reporting or penning the news, the reporters were biased, slanted and accusatory, verging on trials of public opinion. It was also pointed out in the article that some reporters who were arrogant and self-righteous shunned professional ethics in the pursuit of

personal gains. This created the impression that the press were not fighting for justice.

More than three decades have passed and the situation of Hong Kong press is almost the same as that depicted in *Time Magazine* of yesteryear. The press have fallen as a whole.

Press freedom is now facing a new wave of threats. Not only have the press failed to escape from the clutches of persons or political parties in power, they are being eroded by market economics. Some media tycoons, having neither professional training nor media ethics, and guided by business profits, have blatantly used public assets for private purposes, interfered with editorial independence and manipulated the release of news, so as to dominate mainstream ideology in society through the manifestation of their personal views by insinuations, indirect reporting or even distortion of facts.

Worse still, there is a media tycoon who has even used his own financial prowess to gain control over some political parties through political donations. According to the underlying rule that "a person who accepts money from others must resolve their misfortunes", he intended to reap political influence for himself. It is by no means insignificant that media tycoons have manipulated the press and encroached on press freedom.

What is meant by the "fourth estate"? It refers to the press — or the "fourth branch" in addition to the three official branches of the executive, the legislature and the judiciary — having the function of monitoring the government. The thesis of "fourth branch" was first postulated by Justice Potter STEWART of the United States Supreme Court in 1974, referring to a fourth institution outside the three official branches which was independent from government, autonomous and free from government interference, having the functions of monitoring the government and preventing power abuse of the government. Regrettably, Justice STEWART did not foresee that the power of monitoring of the press would be corrupted in a totally commercialized society. Absolute power corrupts absolutely.

Prof Leonard CHU, a veteran scholar in communications, once pointed out that "power" would encroach upon freedom of the press. What is that "power"?

He specifically stressed that apart from the encroachment by political powers, press freedom would also be harmed or undermined by "economic powers".

While it is generally recognized that media workers should abide by professional ethics, given the ongoing hegemony of the media, press freedom is not only restricted by political powers, but also harassed by media hegemony. In face of such a situation, I would like to quote the words of Ignacio RAMONET, editor-in-chief of *Le Monde diplomatique*, as follows (and I quote), "We have to create a new estate, a fifth estate, that will let us pit a civic force against this new coalition of rulers." (End of quote)

Given the lack of social control in Hong Kong and the lack of an autonomous civic force which counteract media hegemony, media hegemony has, just like the Government, wrought its damages fearlessly with the result that press freedom in Hong Kong has been crippled and pinched.

President, I so submit.

MR ALBERT CHAN (in Cantonese): President, any person who supports democracy, human rights and the rule of law should support freedom of the press.

From the legal and institutional perspectives, freedom is still enjoyed by the press of Hong Kong. But in reality, operation of the press has been controlled by various hegemonies, for example, *Wen Wei Po* and *Ta Kung Pao* are directly controlled by the Chinese Communist Party. There is no denying about that. Television Broadcasts Limited and Asia Television Limited are basically controlled by parties or forces close to the Government. In respect of radio broadcasters, Metro Broadcast Corporation Limited is basically an easy target of developer hegemony. Moreover, some media organizations which used to be relatively impartial have come under tighter control exerted by the Chinese Communist Party upon the fall of TUNG Chee-hwa in 2003 after the march on 1 July. As a result, the relatively wide scope of free expression used to be enjoyed by Hong Kong Commercial Broadcasting Company Limited (CR) had been strangled. Thereafter, the media have repeatedly engaged in smearing attacks against the so-called "radical forces" or "radical political powers" in Hong Kong. Personal feeling is definitely a factor that affects news reporting; in these

cases, personal enmities have overridden fundamental professional ethics, fairness is out of the question.

Earlier, I have cited a famous quotation from Martin Luther KING on hatred and love in my own programme. I want to repeat this quotation here for the sake of our media workers, in particular those celebrity hosts, columnists and editors of *Apply Daily*, *Ming Pao* and CR whose hatred against "Yuk-man" due to their personal feelings or opinions has made them relinquish humanity and professionalism. President, these are the words of Martin Luther KING: "Hatred paralyses life; love releases it. Hatred confuses life; love harmonizes it. Hatred darkens life; love illuminates it." The same applies for news reporting; if media workers are full of hatred, they would forget their purposes and the overall interest of society, and merely focus on personal feelings, rather than the ideals held by individual organizations and persons in their fight for democracy and freedom. In their minds, they would presume that there are always ulterior motives or sinful intentions behind the acts of certain individuals; they do not see the ideals held by these people.

Today, I read an article written by Chip TSAO, which I found quite ironic. Citing the words of Lu Xun, he said that people should struggle, criticize, dare to fight and express their opinions under an autocratic government. That is what People Power is doing. But in the eyes of Chip TSAO, People Power, particularly "Yuk-man", always create hatred in whatever it does, and we are always wrong. While Chip TSAO cites Lu Xun to criticize Chinese traditional culture, he considers that members of People Power who fight against and criticize the Government are "rascals" who use foul language. But what foul language have we used exactly, he cannot tell.

The hearts of these so-called celebrity hosts and writers have been overshadowed by hatred. That is the same for CR. In 2009, I lodged complaints against some CR current affairs programmes to the Broadcasting Authority (BA), and the BA also found that CR had violated paragraph 34 of the Radio Code of Practice on Programme Standards. But in the past two years, CR kept making the same mistake. The feelings of individuals have been ignored by some relevant persons of the radio broadcaster who are really sick and mentally ill. Yet they continue to manipulate terrestrial airwaves to perpetuate acts of smearing and oppression, and their criticisms are completely unprofessional.

Furthermore, speaking of press hegemony, Hong Kong is plagued by the abnormality that one media tycoon's contribution has taken up the majority of the total donations received by the two largest political parties in the pro-democratic camp. The absurdity of one such political party is that contribution from this media tycoon made up 99% of its donations from non-party members. As there is neither political donations law nor political party law in Hong Kong, the matter will be concealed by those responsible persons in the said political parties if it has not been revealed by some organizations. Hence, one can make a judgment as to how fair and just a news organization is by its donations and support given to particular bodies, as well as its reports publicizing the good measures of particular bodies. If this news organization engages in smear tactics against some other bodies, how professional can that be?

Therefore, I am a great fan of the *New York Times* — a newspaper founded some 140 years ago which is still publishing today. I think all media workers should make reference to the fine example of the *New York Times*. The *New York Times* is run on the principles of political detachment and independence, as well as printing all the news that is fit to print, rather than resorting to yellow journalism, or attacking and smearing enemies and opponents, in order to enhance its own position. That is neither the stance nor value a media worker should adopt. Nowadays, the media of Hong Kong, albeit print or broadcast media, are basically filled with hatred and their positions are biased because of some personal goals or political stands. That is really pathetic. President, I think only through God's miracle can this problem be rectified to bring about an independent and professional media.

MR RONNY TONG (in Cantonese): President, freedom of expression and of the press are the most important core values of Hong Kong, as well as the cornerstones of our success. I think nobody will dispute this statement. Nonetheless, how much time have we actually spent on reflecting on the meaning of "freedom of expression" and "freedom of the press"?

President, I think if put in the simplest term, the distinction is that under "freedom of expression", a person is free to say whatever he wants according to his own liking, whereas "freedom of the press" is not quite so. "Freedom of the press" is premised on facts, and its value on the dissemination of facts. In other

words, its value hinges on the transmission of news that is based on facts to the nationals or the people.

President, the number of newspapers is not the only yardstick in assessing press freedom. According to some people, Hong Kong enjoys press freedom because a large number of free newspapers are readily available in the market. Is that really a yardstick of press freedom? Can press freedom be gauged on the number of television and radio broadcasters? President, it is not possible. All these are merely channels, whereas freedom of the press is about the knowledge and access of the nationals or the people to all the facts.

Many people have cited the Mainland situation as a negative example. Undoubtedly, for many people, press freedom does not exist in the Mainland. Why? Does the Mainland have any television broadcasters or newspapers? It has indeed. These people hold such a view because only the good news and no bad news is reported in the Mainland. Any news regarded as good news by the Central Government will be widely covered, whereas the so-called "negative news" will be blocked out completely and "seamlessly".

President, unfortunately, within the 10-odd years since reunification, we have witnessed more and more cases of news being blocked "seamlessly" and "only reporting the good news and not bad news". Although the number of paid newspapers has increased, and even that of free newspapers, sources of news have been contaminated and "washed". We have no way to learn about the things we want to know. President, it is the same for the reporting of reporters, the dissemination of news by the Government, or even the archives law we debated last week. Suppression of news is the primary force of encroaching press freedom.

President, when we speak on "defending freedom of the press" today, it does not simply mean whether press freedom or editorial independence is enjoyed by the media. Of course, this aspect is important. For example, the Government's recent decision to appoint an Administrative Office to run the Radio Television Hong Kong has created the impression that the Government has interfered with editorial independence. Yet the crux of the question is: If sources of news have been "washed" or filtered, the press freedom that we enjoy can never be complete.

President, a number of recent cases have created the impression that this core value which is the founding stone of our success as well as our pride is under some serious challenge. I am of course referring to the series of news events triggered off by LI Keqiang's visit to Hong Kong. Regrettably, the Hong Kong Journalists Association has detailed 10 charges against the police after Vice-Premier LI Keqiang's visit to Hong Kong. President, let me briefly highlight those charges as follows.

First, activities of reporters were confined to press positions that were too far away (while free access was allowed for residents, reporters were confined within iron railings such that news coverage was prevented); second, reporters were misled by phoney press positions set up by the police such that they went to the wrong place; third, cameras of reporters were obstructed by the police (the best example is the shocking "black shadow remark"); fourth, reporters were pushed around by the police; fifth, reporters' interview with demonstrators was obstructed by the police; sixth, reporters on the scene were subject to verbal threats by the police; seventh, reporters were chased away in places where members of the public can freely access; eighth, police officers undertaking official duties refused to identify themselves; ninth, the police has conducted body checks excessively such that it infringed on personal privacy; and tenth, reporters were denied access to toilets by the police.

Of course, there is the eleventh charge, that is, the police even have the right to move "news focus" to back staircase, or even carry him directly to other places out of the sight of reporters. All these are key examples to illustrate the suppression of news sources by the authorities.

President, these examples are growing in number. If similar cases were to happen a few years ago, huge uproar and great resistance would definitely be aroused in the community. However, it seems that the people of Hong Kong have grown accustomed to these situations. They might think: If reporters are not allowed to go inside, then they should not do so. Why making all the fuss?

Similar situations have also happened during the initial commissioning of the Legislative Council Complex. Fortunately, sensible actions have been taken by the Legislative Council Secretariat subsequently to minimize different kinds of restrictions. However, the SAR Government fails to adopt the sensible approach and no actions to reflect on the incident have been taken to date.

President, if we do not rethink the matter thoroughly and seek improvements, the core value we value most and freedom of the press in Hong Kong will soon vanish.

Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, freedom of the press in Hong Kong has been retrogressing since reunification. The SAR Government adopts the carrot and stick approach for the purpose of controlling the media and public opinion. On the one hand, the carrot approach of "informal briefings" and "informed sources" is used such that information would be selectively imparted to "friendly" media organizations, so as to tally with the governance of the so-called "differentiation between close and distant relationships" held by the Chief Executive. On the other hand, the police force is deployed to obstruct filming and reporting activities of reporters to achieve its political objectives. According to the Basic Law, the Government is duty-bound to comply with the International Covenant on Civil and Political Rights and ensure the freedom of speech, of the press and of publication of Hong Kong residents. However, it is obvious that over the years, the Government has started to blatantly ignore the rights of Hong Kong people as provided under the Basic Law.

During the visit of LI Keqiang, Vice-Premier of the State Council, to Hong Kong, the Government has sacrificed freedom of speech and of the press for the sake of protecting the personal safety of political dignitaries, as well as saving them from embarrassment. First, a member of the public wearing a T-shirt with the words "Vindication of the 4 June incident" was arrested by plainclothes police officers who refused to identify themselves. Subsequently, when the media tried to cover the news, their reporting activities were obstructed by plainclothes officers again. It is even more ridiculous that Andy TSANG, the Commissioner of Police, tried to explain the incident with his "black shadow remarks" afterwards.

I am worried that should the Government go unchecked, the Hong Kong Police Force which is now serving the people of Hong Kong may, in a more extreme case, gradually become a tool of political suppression against the voice of the opposition — similar to the Gestapo of Nazi Germany — such that Hong

Kong will be overshadowed by white terror with every member of the public fearing for their own safety.

Apart from the stringent measures, the Government also adopted evasive measures. For example, when meeting the Chief Executive Donald TSANG, LI Keqiang reproached the governing team of the SAR Government that they should "spare no effort to safeguard Hong Kong's overall economic and social stability" and be "proactive in helping residents, especially those with low incomes, to overcome anxiety and difficulties". The relevant footage of the meeting was deliberately withheld by the Information Services Department from the media, with the intention of covering up the embarrassment of the Chief Executive. Fortunately, the news came to light after the information was released by the official media in the Mainland.

Moreover, the police have adopted a selective approach recently in the dissemination of case information. As a result, such information was withheld from the general public. This has not only encroached on press freedom, but deprived the right to know of the people. Earlier this week, the Hong Kong Journalists Association has published a press statement with the signatures of over 1 000 persons and organizations, demanding that the Government should deal with the problem squarely. It is clear that the Government will stop at nothing to tighten the scope of free speech in Hong Kong.

Moreover, while the Government suppresses the media, it also makes use of the media. In recent years, informal media briefings were often held by senior government officials in their capacity as "informed sources", with the intention of influencing the angle of reporting of the media and in turn, steering public opinion. Worse still, some so-called "exclusive news" would be released to individual "friendly" media organizations. When reporting the news, the relevant media organizations must of course follow the line of the "informed sources" to defend the policies or decisions of the Government. On the part of the media, it is obvious that such actions are in conflict with their role of monitoring and criticizing the Government, which is regrettable.

President, press freedom is an important contributing factor for Hong Kong's prosperity, stability and vibrant economic development. Having press freedom means that the people can monitor the Government's administration and prevent abuses. Moreover, press freedom can serve as a thermometer of public

opinion such that the Government's governance can stay closer to public opinion. Without press freedom, Hong Kong will not be what it is today. For the sake of Hong Kong's future, I hope the media will cherish this right and do a good job. Of course, the Government should also enhance transparency to allow monitoring by the media, rather than controlling or interfering with the editorial independence of the media.

President, I so submit.

MS STARRY LEE (in Cantonese): President, it is the general consensus in society that press freedom is one of the core values of Hong Kong. The importance of press freedom is seen and felt by all because in a society without press freedom, media workers can neither perform its role to monitor the Government nor present an alternative view to the public other than that of the ruler. The media will just become a propaganda tool which only "reports the good news and not the bad news", and the unfairness in society will remain undisclosed such that the black-box operation of rulers can be perpetuated. Therefore, in addition to monitoring the Government's administration, press freedom can actually act as a "safety valve" for maintaining social stability by allowing people to vent their anger and dissatisfaction, as well as channelling public discontent.

Given the importance of press freedom, how does Hong Kong safeguard its freedom in this regard? According to Article 27 of the Basic Law, Hong Kong residents shall have freedom of speech, of the press and of publication. Separately, provisions under the International Covenant on Civil and Political Rights on safeguarding freedom of opinion and freedom of expression in relation to the press, publication and information have been incorporated in Article 16 of the Hong Kong Bill of Rights.

While press freedom is protected by law, do people find the actual situation satisfactory; or is it a case as depicted by Ms LAU that press freedom has been greatly impacted that the public find it worrying? According to the ranking of press freedom compiled by the Reporters Sans Frontieres for 170 countries and places in the world, Hong Kong's press freedom index has improved for two consecutive years from the ranking of 51 in 2008, to 48 in 2009, and then 34 in 2010. Moreover, in its Six-monthly Report on Hong Kong presented to the

Parliament of the United Kingdom, the Foreign and Commonwealth Office of the United Kingdom also pointed out that freedom of press and publication had been upheld in Hong Kong.

President, we must on the one hand defend freedom of the press; but on the other hand, we cannot forget the social responsibility of the media because the concepts of press freedom and media responsibility are closely linked. Greater power comes greater responsibility. While enjoying press freedom, media workers must also shoulder a major social responsibility.

In addition to press freedom, the motion proposed by Ms LAU also touches on the credibility of news reporting. According to the opinion poll released by the University of Hong Kong (HKU) as cited in the motion, 57% of the respondents perceived that the media had misused or abused freedom of the press. While 30% of the respondents perceived that the local news media was responsible in their reporting, it turns out that an even higher percentage, that is, 33% of the respondents perceived that the local news media was irresponsible in their reporting.

Media workers should find this outcome alarming and worthy of their reflection and contemplation. All in all, it is important to maintain a wholesome media ecology; and media workers must maintain high moral standards before they can win public trust. Incidentally, that is the only way the media with its licence to press freedom can truly fulfil their social responsibilities, rather than using press freedom as a pretext to wreak havoc on society.

Examples quoted in the motion, including the misreporting of former State President JIANG Zemin's death by Asia Television Limited (ATV), the broadcasting of "paid news" by ATV staff, as well as security arrangements during the visit of Vice-Premier LI Keqiang to Hong Kong, have in fact undermined the credibility of and the people's trust on news reporting. The Government and relevant authorities must handle these matters seriously through careful review, so as to prevent any recurrence of similar events.

Nonetheless, the motion is by no means exhaustive in terms of cases which undermine the credibility of and the people's trust on news reporting. President, I will now turn to the recent incident involving the *Sharp Daily*. First of all, I should point out that given the time of polling, the HKU's opinion poll just

mentioned cannot reflect the strong views of the public against the *Sharp Daily*. However, as Chairman of the Panel on Education, I have received numerous views from many schools, parents, and even students against the newspaper for containing indecent contents which promote pornography and violence. In fact, since the publication of the *Sharp Daily* a month or so ago, at least 21 items of its contents have been classified as indecent articles by the Obscene Articles Tribunal. In fact, this situation has seriously undermined the people's trust on the media.

Some people may say that at present, paid newspapers also contain porn pages, and porn materials are extensively, readily and blatantly available on the Internet. Not much can be done in terms of regulation. Hence, actions taken to prevent the infiltration of indecent materials into school campuses and the young people from coming into contact with such materials will just be futile.

However, I think the most important question is not whether regulation is feasible technically, but what sort of attitude we want to display. As pointed out in the submission made by a Form Four student to the Legislative Council, "A ban must be imposed to check these unhealthy tendencies; otherwise, this evil trend will prevail." Hence, we should on the one hand start from education, proactive measures should be taken to ensure good moral education for young people so that they can face these indecent materials with a correct and healthy attitude; on the other hand, we must not slacken in our work such that every means should be used to prevent young people from coming under the influence of violent and pornographic information disseminated by free newspapers.

In order to say "No" to the *Sharp Daily*, a group of educators have issued a joint statement calling for open actions against this evil trend in a "Three Don'ts" campaign — "don't take a copy of the newspaper, don't read it and don't distribute it in school campuses". The number of organizations participating in the "Three Don'ts" boycott campaign has increased to 27, including parent-teacher associations in many districts, the Subsidized Primary Schools Council, the Hong Kong Aided Primary School Heads Association, and so on. In addition, 420 teachers and students have signed a joint petition calling on the attention of the Legislative Council to the dissemination of indecent information by the *Sharp Daily*.

Hence, the credibility of news reporting is not only undermined by the cases cited in the motion. When freedom of the press is abused by the printed media to promote pornography and violence, they will of course lose the support of the people and their credibility undermined. Moreover, the media, while having the role of monitoring the rulers, are also monitored by the public. Notwithstanding their awareness on the importance of press freedom, members of the public should reflect their dissatisfaction through various means, including making known their criticisms, complaints, opinions and even launching boycott campaigns, so as to monitor the performance of the media.

MR ALBERT HO (in Cantonese): President, when Ms Starry LEE of the Alliance for the Betterment and Progress of Hong Kong spoke just now, she first talked about the importance of press freedom, that is, the news media are performing a very important social responsibility of monitoring the Government. We of course agree with this statement as this is also the consensus of a free society.

However, she went on to quote some studies of the Reporters Sans Frontieres to point out that Hong Kong's press freedom ranking has climbed up from 51 in the past to 34 now. Seemingly, she feels complacent. I do not know whether she is really satisfied with such a ranking, but she seems to think it is quite good. However, I think this situation deserves our reflection. Why is it that Hong Kong ranks 30-ish in press freedom while our economic freedom ranks first or second in the world? Why is that so? Why is there such a big difference? Why are there some 30 places in the world having a higher press freedom ranking than Hong Kong — a renowned international metropolis which prides itself on its freedom?

President, as we all know, press freedom is indispensable for a free society. Without press freedom, it is meaningless to talk about freedoms of expression, assembly, organization or demonstration as these rights are not something we can actually enjoy without press freedom. Without press freedom, basic rights and freedoms which we should rightfully enjoy when being "replaced" or detained illegally might also be prejudiced and unsafeguarded. Hence, press freedom is very important.

Just now, some Honourable colleagues including Mr WONG Ting-kwong said that we are protected under the Hong Kong Bill of Rights (Bill of Rights). He seems to be very assured. President, the Bill of Rights is of course a very important tool which safeguards our basic freedoms within a statutory framework. However, President, I must point out that this legal tool can only guarantee minimum protection because a large area is not covered within its scope. Our freedoms may be threatened and suppressed by many forms of soft power, namely economic and political control and influences as infiltrated in society.

The Government can restrict and suppress press freedom through its authority and influences. The Government can influence the media by controlling the source of exclusive information including sensitive information. For example, preferential treatment can be given to media organizations on friendly terms with the Government by feeding exclusive news to them, while media organizations not on friendly terms with the Government will be discriminated against.

As we all know, a local newspaper, the *Sing Tao Daily*, is called "the unofficial gazette" as it always carry exclusive news. As Members would know, this newspaper always get hold of information which is even unknown to the Legislative Council, and incidentally, such news items would be 70%, 80% or even 90% correct. If such information does not come from the Government, where else will it come from? If such information is not released with the Government's permission, does it mean that many people have infiltrated the Government to steal government information in private and release the same to the media in private? Has the Government investigated into the matter? Has an investigation committee been established to inquire into whether there is also a WikiLeaks in Hong Kong which steals government information and releases to the media?

I think the Secretary should also respond later as to why information provided by informed sources is always published by some "civic gazettes", which are fairly accurate. Moreover, the Government's control over the source of such news has also created enormous intangible pressures on the media. The Government must regard its position carefully. As we all know, this power is possessed by governments all over the world.

I would also like to give a special note of caution to Secretary TSANG Tak-sing here. I recall an incident related to the Secretary in which he had allegedly interfered with a social welfare organization by demanding the dismissal of one of its social workers. A reporter of one media organization had confronted him with a question — I think quite impolitely or bluntly. I think perhaps he was quite upset, and he responded directly by asking the reporter which media organization he worked with. President, I think such response is inappropriate.

Of course, the Secretary has the right to ascertain the identity of that reporter, but what was his true intention when he asked the reporter which media organization he worked with? Would this create an impression that the Secretary was so upset that he asked the question for the purpose of reprisal? That is what we are worried about. I believe the pressure he exerted at that time would be even more forceful when JIANG Zemin commented that a Hong Kong reporter was "simple and naive". Therefore, I hope senior ranking officials with great powers would be mindful of their status and influence.

President, as mentioned by a number of Honourable colleagues, security measures adopted by the Government in recent years for visits of political dignitaries to Hong Kong are unnecessarily formal and excessively restrictive on media reporting. We consider that these measures have gone much beyond the requirements of security. We are given the impression that the Government only intends to save the political dignitaries from embarrassment by ensuring that they will neither see any potentially embarrassing signs, nor hear any offensive slogans. That is absolutely inappropriate. The security officers have over-reacted and obstructed press reporting. As a result, some reporters have been arrested while on duty. We are gravely concerned about these incidents.

President, finally, I would like to say that while we are of course most concerned about the media's self-censorship, our focus today is not the problems of the media *per se*, but the problems created by the Government for the media. Therefore, we consider that there is another urgent matter to be dealt with, that is, the early formulation of clear policies for the corporatization of Radio Television Hong Kong (RTHK). Over the years, the parachute-style appointment repeatedly made by the Government for an Administrative Officer to head RTHK has indeed affected the work and morale of RTHK staff. I think the

Government should take the lead to guarantee and safeguard freedom of the press. I so submit.

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

MR CHIM PUI-CHUNG (in Cantonese): President, regarding today's motion debate on "Defending freedom of the press", I think the crux is about self-censorship and self-positioning of the press.

We must understand that the so-called "press industry" (that is, the "media industry") in Hong Kong is just operated like businesses having profits or losses, as well as their own stance. We notice that many media organizations have their own political affiliation, and reporters or staff of the editorial department would come under the influence of their employers or the policies upheld by their organizations. I firmly believe that any reporter or staff member of the editorial department, either serving or outgoing, would flatter his employer and understand the employer's requirement as to how a particular story should be written. Therefore, in respect of defending freedom of the press It is a matter of choice for owners of media organizations, even more so than us.

President, another point is that self-censorship of media organizations is practiced for particular purposes; for example, some media organizations would flatter big consortia for the sake of getting more advertisements. Pardon me for saying so, but media organizations will definitely play along with big consortia. Hong Kong is regarded as one of the freest place in the world, while the media have been described as the "uncrowned king", which well illustrates that the powers and influence possessed by the media are so great that there is no need for us to come to their defence.

I have a rather special relationship with Hong Kong's media industry, particularly the press industry. I have had a rather special relationship with sports reporters since 1970s because I was the manager of two football clubs successively, namely the Seiko Football Club and the Bulova Football Club. The reporters needed my information to write their articles.

In the early 1970s, I ventured into the stock market. I was given the epithet of "Golden Banker" by friends in the press who went to the stock exchange every day for market updates.

In the meantime, I also get involved in the catering industry. Recently, my name is tainted in the Legislative Council because of my omission in making the relevant declaration.

Furthermore, since I became a Member of the Legislative Council, friends from the media would ask me for information. This happens quite frequently.

Do people really feel that the Legislative Council has to defend freedom of the press because the local media has been severely impacted? President, honestly speaking, the people absolutely have no such feeling.

We understand that over the years, Hong Kong's economy is really Of course, we are not singing praises for the good work done by the SAR Government, yet Hong Kong still has its competitive edges. However, many a times, the mainstream newspapers and media in Hong Kong only made criticisms, painting a grey picture. Of course, some criticisms are not necessarily correct, and some have definitely stepped over the line.

As we express our views on the motion about "Defending freedom of the press" today, I think violent, pornographic or even obscene articles are contained in many newspapers. How can we defend their press freedom? On the contrary, these newspapers deserve the public's condemnation and criticisms. They cannot override everything by hoisting the flag of "press freedom" because the most important quality is conscience. Just like Members of the Legislative Council who were elected by voters, we must also have self-discipline.

President, I personally consider that the Government should review its stance towards the media because the Government is too weak. I once told the Chief Executive that the SAR Government should boost its internal morale and face the reality and the facts. When faced with due criticisms from the media, the Government should not only accept these criticisms, it should also rectify the problems immediately, or even write to the relevant media (especially the newspapers) to thank them for the reminder.

When media organizations publish misleading news based on incorrect information, the SAR Government is of course duty-bound to correct and clarify the misunderstanding. If clarification fails, the Government may even have to engage in some "self-publicity" so that people will understand the Government's stance and policies.

If some media organizations maliciously attack the Government or deliberately mislead the public, the Government should take proper legal actions to maintain credibility. However, the Chief Executive indicated that such a course of action was not feasible. It just shows that he does not have the courage to mess with the press industry. Under the circumstances, I cannot agree with the criticism that he has overly interfered with freedom of the press.

We must understand that differentiation between close and distant relationships does exist in this world. Hence, I just hope no action will be taken by the SAR Government excessively. That is what I would like to see.

MR LEE CHEUK-YAN (in Cantonese): President, people of Hong Kong like to say that though we do not have democracy in Hong Kong, at least we have freedom. Of course, as people of Hong Kong, we definitely want to have both democracy and freedom, but we are most afraid that even freedom is under threat now.

President, over the past year, we can clearly see signs of regression in terms of freedom of expression and of the press. Just now, Ms Starry LEE mentioned the findings of some previous surveys, and claimed that Hong Kong's situation was not too bad, because according to the Reporters Sans Frontieres, Hong Kong's press freedom ranking has improved again. I dare her to bet on the Hong Kong's ranking in 2011, which is not yet available. I am confident that Hong Kong's ranking will deteriorate for certain. Of course, Hong Kong can maintain its ranking if something else happens, that is, when press freedom in other countries is generally poor. I believe the situation in other countries will not be as poor or regressed as Hong Kong. Hence, the truth is plain for the people to see.

President, according to a survey conducted by the Public Opinion Programme of the University of Hong Kong between 5 and 10 September 2011, compared to five months ago, the rate of people's satisfaction with press freedom

has dropped significantly from 68% to 58%, which represents a drop of 10%. It is clear that people can sense the regression of press freedom. What is the proof then? One obvious case is the recent visit of LI Keqiang to Hong Kong.

As a matter of fact, the Hong Kong Journalists Association (HKJA) has cited a number of examples to illustrate that freedom of the press during the visit of LI Keqiang to Hong Kong had been greatly impacted. I consider it vital to mention on this occasion all charges made by reporters for record purpose. First, the arrangement of setting up press area is unreasonable. In other words, there is no reason to set up press areas to restrict the personal freedom of reporters. But it is now a usual arrangement adopted by the authorities. When a press area is set, reporters would be required to stay inside the press area. For example, during the visit of LI Keqiang, press areas were set outside the Hong Kong Housing Authority Exhibition Centre in Ho Man Tin, the Laguna City and the hotel LI stayed during his visit. Reporters covering the activities were confined to stay inside the press area. Very often, reporters had to go outside because they could not possibly conduct any reporting activities when trapped inside the press area.

I have of course witnessed the same situation myself. In fact, it is obvious that Hong Kong's press freedom, particularly during the visit of LI Keqiang to Hong Kong, has regressed. Moreover, regression clearly also applies in terms of the setting of press positions. A case in point is the press position set outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office). I am not sure if the Secretary has ever protested outside the Liaison Office. Did he know where the press area outside the Liaison Office was in the past? That was the area around the planter on the footway outside the front gate of the Liaison Office where reporters could conduct their reporting and filming duties. But what is the situation lately? Without any reason, the police took over the area, declared it the police operational area and cordoned off the entire area around the planter. While the demonstrators can stage protests in that area, the space originally used for filming is now within the police operational area. Which location can reporters use for filming then? Reporters must go to a relatively farther location some 30 ft away to do their filming. That area becomes the press area. The situation is the same during the visit of LI Keqiang to Hong Kong where press area was set without reason to restrict the personal freedom of reporters. That is the first problem.

Second, outdoor press areas have been set at a long distance away. The Commissioner of Police Andy TSANG once said in the Legislative Council that the distance was less than 50 m. But as illustrated in many examples, the distance was more than 50 m. I will not give details of all these examples. The HKJA has listed out some eight locations where the press areas were set too far away.

Another ploy is to set up a phoney press area for the purpose of misleading reporters. What do I mean by "phoney press area"? Actually, it was not only intended to mislead reporters, but demonstrators as well, so that they would wrongly think that LI Keqiang would go past them to the Central Government Complex. But it turned out that his vehicle took a detour to enter through a faraway entrance. Demonstrators like us and reporters inside the press area could not get any pictures of the public reflecting views to LI Keqiang. That is the purpose of the phoney press area. Similarly, in the example I just mentioned about the new Central Government Complex, a phoney press area has been set up.

Separately, there is the infamous "black shadow incident" which illustrates the Government's obstruction on press reporting. The incident has been discussed by Members repeatedly, and Andy TSANG has also stated in this Council that there was a black shadow. But we all know that there is no black shadow. Obviously, the police was obstructing press reporting. Police officers had obstructed filming by reporters with their bodies, and scuffles followed. In this example, the police's intervention has created obstacles for press reporting, as well as threats and obstruction against reporters. During the visit of LI Keqiang to the Tung Wah Group of Hospitals Wong Cho Tong Social Services Building in Ho Man Tin, the police also threatened reporters that if they did not move back, lorries would be sent to block the road to prevent live coverage of the event by reporters. Given such threat, reporters could only go inside the press area. At the same time, incidences of expelling reporters have also happened, for example, at the Laguna City, the footbridge at Tim Mei Avenue and the road outside the Hong Kong Convention and Exhibition Centre. Obviously, the police was obstructing press reporting.

President, I cite these examples to illustrate the fact that once the Government abuses its power, dire consequences will follow. Once the Government abuses its power, freedom of the press will disappear right away. Therefore, the biggest threat to press freedom is ultimately the Government's

power. If the Government abuses its power, freedom of press coverage will disappear.

Of course, another factor impacting freedom of the press is the power of money. Let us picture this scenario. If newspapers, media organizations and "big bosses" in the territory all have their respective political affiliation, it is difficult to say when they will use the power of money to control reporting and editing. I am not saying that reporters and editors will definitely follow the orders of their "big boss", but if he wants to "press the button", he can do so. In fact, the question of whether the "big boss" will "press the button" depends on whether he considers it necessary to "press the button" on the one hand, and on the other, whether reporters or editors working for him will second-guess the wish of the boss and finish the work for him. Hence, it is a question about the so-called "self-discipline" of the press.

All in all, the power of money and the power of politics will always threaten freedom of the press. Freedom of the press is inherently fragile. If we do not come to its defense, freedom of the press can easily and completely be destroyed by the abuses of the Government. Thank you, President.

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

MR ALAN LEONG (in Cantonese): President, 1 600 members of senior management of media organizations, front-line reporters, students and teachers of journalism in universities, as well as three professional press organizations have recently placed advertisements with their joint signatures in the press. The number of signees has broken previous records of the Hong Kong Journalists Association for joint signature campaign. What is the purpose of this joint statement? The purpose is to object to the screening of case information before their release to the media by the police and the Fire Services Department after digitalization of their communication systems. For example, the police have delayed the dissemination of information in previous indecent assault cases in Sau Mau Ping. As the media cannot release information involving public safety immediately, members of the public cannot protect themselves from harm. Once freedom of coverage by the press is restricted, members of the public will suffer ultimately.

President, freedom of the press has all along been the core value of the people of Hong Kong. But under the governance of Donald TSANG who is keen of spin doctoring, freedom of the press in Hong Kong has been regressing, and the right to know of the public has been seriously undermined. Numerous ploys have been used by TSANG's team to obstruct the media's objective portrayal of factual events for the people. The media have often complained about the Government's deliberate decision to release several major news or policies in one go on Fridays, so that media organizations with limited manpower cannot despatch reporters to cover these events concurrently. Even when reporters are made to cover five events consecutively, there is neither sufficient airtime in television news programmes nor space in newspapers to carry all the reports. More importantly, members of the public cannot possibly digest information about so many policies in just one day. As such, the Government can circumvent monitoring during the ensuing Saturday and Sunday.

Even when livelihood policies are involved, the responsible Secretary of Department or Director of Bureau will only arrange very short briefings for the media, casually take several questions from the floor, and then leave hurriedly. Most of the reporters do not even have the opportunity to ask questions. Afterwards, the same Secretary of Department or Director of Bureau will appear in an "informal briefing" as an "informed source" to explain the policies. In such briefings, reporters are not allowed to record or film the proceedings, and they can only quote information from "informed sources" in their reports. Given that it is the same Government official, why does he speak in the capacity of an "informed source"? The reason is that the Government can avoid taking responsibility for their words. If the feedback is positive, the Government will claim credit for its policies; if the feedback is negative, the Government will deny any knowledge of the information source so that the relevant officials can shed their responsibility. It is then up to the general public to find the "informed source" and take him to task.

According to a survey conducted by independent stock market analyst David WEBB last year, "informed sources of the Government" were literally flying around. Moreover, according to a relevant survey conducted by the HKJA between March and June 2010, among the Chinese press in Hong Kong, an average of nearly 30 articles per day were based on information released by unnamed "informed sources". Within the said three months, the number of closed-door "informal briefings" is quite staggering, that is, at least one informal

briefing was held every week on average, whereas only 1.8 formal press briefings were held by the Government every week on average. It is likely that such "informal briefings" without any responsibility will replace government press briefings.

Policies involved in these "informal briefings" are closely related to the general public, such as measures in relation to vehicle idling and revitalizing the Home Ownership Scheme Secondary Market, as well as the legislative proposal on cracking down unfair trade practices. All these are related to the immediate interest of the general public. If members of the public can only see "informed sources" promoting government policies and refuting criticism in the press or news programmes on the Internet or television, how can they know which department is responsible? How can the Government be accountable?

"Informal briefings" aside, the Government is also used to cosy up to the media through information from "informed sources". Media organizations which are "obedient", "restrained" and "friendly" will be rewarded with exclusive news upon the announcement of policy addresses, budgets, senior government appointments, and so on. Obviously, the differentiation treatment between close and distant relationships of political parties is now used on the media.

While Donald TSANG stressed the importance of accountability and affinity with the people in front of the camera, yet, behind the camera, the Government uses all sorts of means to restrict press reporting and deprive the right to know of the people. TSANG's team is like a drug addict getting increasingly "hooked": the Government not just uses official information to affect media reporting, but even tries to replace traditional media with official media.

President, according to the survey conducted by the University of Hong Kong in September, nearly 60% of the people considered it highly inappropriate that the Government has used "propaganda footage" to replace media reporting during the visit of Vice-Premier LI Keqiang to Hong Kong. Moreover, regarding the Government's "parachute-style" appointment of the Director of Broadcasting, the police's obstruction of a reporter's filming on the pretext of "black shadow", as well as the alleged intervention by senior management of Asia Television Limited on its News and Public Affairs Division, nearly 70% of the respondents considered that these are factual cases attesting to the threats on press freedom.

President, cases involving journalists who are warned, dismissed or even killed in their attempt to speak out the truth for the people happen every day in China. At least, Hong Kong reporters do not have to risk their lives when undertaking assignments. But if the situation is left to deteriorate such that the reporters on duty are intercepted, the Government can evade responsibility through "informed sources", and the media are replaced by official media, Hong Kong will not only lose freedom of coverage by the press, but the fundamental right to know of the people will be left undefended, and public interest unprotected.

With these remarks, President, I support the original motion.

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

(No Member indicated a wish to speak)

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I am sorry.

President, thank you I am so sorry.

MS EMILY LAU (in Cantonese): President, shall we suspend the meeting while the Secretary locates his speech?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Here it is. I can start now.

President, I thank Members for their views on the motion. I will respond to a few points.

Ms LAU's motion refers to an opinion poll conducted in September, claiming the public's declining dissatisfaction with press freedom. That is of course something we should pay attention to and stay vigilant. But as pointed out by Mr WONG Ting-kwong, should we jump to the conclusion that this is due to "the authorities' restrictions on media"? In fact, there is no logical relation

between the two. Moreover, are the concerns of the public caused by the covert political donations made by some media tycoon, as described by the two Members just now? As such, more investigation and study into the matter is required.

In my opening speech, I have already stated that freedom of the press is safeguarded under the Basic Law. The Government needs to disseminate official information to the public through the mass media. The Government is committed to providing a suitable environment for the development of a free press in Hong Kong. As a matter of fact, under the vibrant media scene of Hong Kong, local and international newspapers and magazines can freely publish news about Hong Kong and overseas countries, as well as make commentaries about government policies, social condition, and so on. At present, Hong Kong enjoys a high degree of press freedom which far exceeds that before the handover in 1997, and on a par with the most developed places in the world.

The SAR Government has no intention of restricting the freedom of news reporting. Whenever officials of the Central Government or foreign dignitaries visit Hong Kong, the Information Services Department (ISD) will strive to provide assistance to facilitate media coverage of the relevant activities. Arrangements will be made after considering the particular circumstances of individual activities to cater for security considerations, the media's reporting, as well as the requirements of the activity *per se*. After each activity, we can of course review the relevant arrangements to see whether adjustments are required, and what lessons can be learnt. In this regard, the ISD will maintain communication with the media. For instance, Mr WANG Guangya, the Director of the Hong Kong and Macao Affairs Office of the State Council, and Mr LI Keqiang, the Vice-Premier of the State Council, had visited Hong Kong successively from Beijing this year. The media have different reactions to press arrangements for the two visits. Hence, it is not appropriate to draw the conclusion that the Government has deliberately restricted freedom of press coverage merely on account of press arrangements for one single visit.

In respect of striking the right balance between security considerations and reporting activities, the Commissioner of Police held a meeting with representatives of the Hong Kong News Executives' Association yesterday to exchange views on the dissemination of information about unforeseen incidents. At the meeting, the police agreed that the existing mechanism for information

dissemination will be improved continuously, and exchanges with the media would be maintained in this regard. I am aware that the police is reviewing the mechanism for information dissemination, and studying the use of information technology so that the procedures of information dissemination will be refined further.

All disciplined forces in the Government fully respect the media's freedom of reporting, especially if a case involves public interest, public safety or is a major incident. The disciplined forces, in handling and dissemination of case information, should strictly follow the requirements under the Personal Data (Privacy) Ordinance and ensure that all the important principles governing disclosure of third party information under the Code on Access to Information have been complied with. We are aware that public interest may override privacy of individuals when major incidents happen. Hence, the disciplined forces concerned will consider the dissemination of information as far as practicable. The disciplined forces concerned will disseminate information in good time to facilitate media's reporting after making proper arrangements to protect privacy of individuals as far as practicable. In fact, enhanced measures have been adopted by the Hong Kong Police Force in October this year to improve the mechanism of disseminating information of unforeseen incidents. In the meantime, the Fire Services Department will also continue to liaise with media organizations and journalists' associations in the process of introducing the Digital Trunked Radio System, with a view to enhancing the arrangements for disseminating information of emergency incidents. Of course, any information disseminated should not affect covert operation, rescue or investigation of the disciplined forces during response to emergencies, and should not affect any possible judicial procedures in relation to the incidents.

The Government is duty-bound to disseminate information to the public. We trust that after communication with the media and constant adjustments, information will be released more expeditiously through various channels in future, so that both the media and the public can grasp the Government's work and policies in a more comprehensive manner.

With these remarks, President, I urge Members to oppose the original motion.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, a detailed response has been provided by the Secretary for Home Affairs just now. Here, I would like to briefly highlight a few points in relation to the safeguard of human rights in respect of freedom of the press.

First, Hong Kong residents enjoy freedom of speech and of expression, and these freedoms are protected by the law. As Ms Emily LAU has said in her opening speech, Article 27 of the Basic Law has clearly provided that Hong Kong residents shall have freedom of speech and of the press. Moreover, Article 39 of the Basic Law provides that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force. The provisions under the said Covenant concerning the protection of freedom of opinion and expression have been incorporated into section 8 of the Hong Kong Bill of Rights Ordinance (BORO) and implemented through local legislation. Hong Kong laws, as well as the measures and acts of the Government and public authorities shall not contravene the above provisions for the protection of human rights.

After the enactment of the BORO in 1991, the Government has reviewed the local laws in accordance with the provisions of the BORO, and proposed amendments so that the provisions therein are consistent with those of the BORO and also the Basic Law. Moreover, the Government has established procedures according to which the Department of Justice must be consulted about the impacts on human rights in the course of drafting and amending all legislation so as to ensure that all new legislation and amendments to the existing legislation will not contravene the provisions of the Basic Law and the BORO for the protection of individual rights and freedom.

The HKSAR Government is firmly committed to protecting the freedom of speech and of the press, and maintaining an environment in which a free and active press can operate under minimum regulation.

Hong Kong has developed a respect for the freedom of speech and of the press. In fact, the people of Hong Kong enjoy freedom of speech and expression, as well as freedom to hold rallies, processions or protests. That is plain for all to see. Any attempt to undermine freedom of speech and of the press will be closely monitored by the public. As always, the local media rigorously performs its role as a watchdog over the Government. It reports

freely in Hong Kong, commenting extensively and liberally on local and external matters, and on the policies and work of the Government.

Just like the masses, the Government also values and treasures the freedom we have. Such freedom is the cornerstone for Hong Kong's success. For Hong Kong to maintain its position as an international city and for society to sustain development, freedom of the press and of speech is indispensable. The SAR Government will resolutely protect the rights and freedom enshrined in the Basic Law and local legislation.

Thank you, President.

PRESIDENT (in Cantonese): Ms Emily LAU, you may now reply and you have two minutes 34 seconds.

MS EMILY LAU (in Cantonese): President, I thank Members for their speeches, but I feel highly regrettable that the authorities have urged Members to oppose this motion. Nonetheless, I also encourage Secretary TSANG Tak-sing to fix his computer. It seems that he is, like me, not very good at information technology, and hence, it might be better if he just holds his script and reads from it next time.

President, as we all know, freedom of the press mentioned in this motion has an extensive scope, but I am primarily concerned about the authorities, as well as the monitoring of the Legislative Council over the authorities. Hence, if Members want to talk about the donation made by some "media tycoon" or the media's abuse of press freedom, we can find another time to discuss those matters in detail.

What I want to say now is that the authorities should not do certain things to affect the operation of the news industry. President, Ms Starry LEE and Mr WONG Ting-kwong of your party have talked incessantly about the Hong Kong ranking 34th in press freedom. But as Mr Albert HO said, Hong Kong ranks first in economic freedom, yet 34th in press freedom. Why have Members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)

not spoken in defence? Do they feel happy about it? Why do we not rank first? Why does Hong Kong rank first in economic freedom, yet 34th in press freedom? As Mr LEE Cheuk-yan said, let us wait and see what Hong Kong's ranking is this year.

Moreover, the authorities said that both reporters and the public are very happy. President, if they are happy — this page of advertisement is not placed solely by the Hong Kong Journalists Association; it is placed jointly by the Hong Kong Press Photographers Association, the Foreign Correspondents' Club of Hong Kong, the Hong Kong Chinese Press Association, as well as students and teachers of journalism in universities. This advertisement is placed by 1 601 persons in total. If these people are so satisfied, they will not place this page of advertisement in the press, President.

Therefore, we hope that by this motion, Members will urge the authorities not to do such things. Yet Members of the DAB consider that there should be more "propaganda articles" and "propaganda footage". President, it is exactly because the authorities have produced such "propaganda footage" — particularly the "propaganda footage" — that media coverage is not allowed. The first point of my motion is about making arrangements for the media to freely cover the activities. Of course, it does not matter if arrangements are made for the media to freely cover the activities in parallel with the production of "propaganda footage". But the problem is that the authorities dare not tell us how many times such approach has been adopted previously. They just would not allow media reporting; and they just film, edit and release the footage to the media. The authorities said, "You are being disrespectful. These footage are used by other media organizations and watched by the people." Honestly, I have no respect for those media organizations. If the authorities claim that they allow independent operation of the media but produce their own footage every time, and the media organizations are expected to open their mouths like ducks so that the authorities can feed them with food and the media just broadcast the footage, is that something worthy of respect? I do not think that it is something preferred by many media organizations, President, and hence, the fact should not be distorted. If free coverage is allowed, then it is alright for the authorities to provide "propaganda footage". Therefore, if this motion is not carried I really do not know what kind of Council is this, President.

PRESIDENT (in Cantonese): Ms LAU, time is up for your reply.

(Mr WONG Yuk-man stood up)

PRESIDENT (in Cantonese): Mr WONG Yuk-man, what is your point?

MR WONG YUK-MAN (in Cantonese): I seek elucidation from the Secretary on one point

PRESIDENT (in Cantonese): Mr WONG, it is not your time to speak.

MR WONG YUK-MAN (in Cantonese): I want him to clarify one point. He just said that the reporting arrangements made by the Government during the visits of LI Keqiang and WANG Guangya were good

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

MR WONG YUK-MAN (in Cantonese): I would like to ask the Secretary whether his judgment is based on his ideologies as the former Chief Editor of *Ta Kung Pao*, the mouthpiece of the Chinese Communist Party, or as

PRESIDENT (in Cantonese): Mr WONG, the debate has already ended, please sit down immediately.

MR WONG YUK-MAN (in Cantonese): the Secretary for Home Affairs? That is most absurd.

PRESIDENT (in Cantonese): Mr WONG, please stop speaking.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

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

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

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

Functional Constituencies:

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

Dr Raymond HO, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU and Mr IP Kwok-him voted against the motion.

Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM 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, Mr WONG Sing-chi, Mr Alan LEONG, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

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

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, four were in favour of the motion, 13 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 16 were in favour of the motion, 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 motion was negatived.

PRESIDENT (in Cantonese): Second motion: Improving further education and employment of sub-degree students.

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

I now call upon Ms Cyd HO to speak and move the motion.

IMPROVING FURTHER EDUCATION AND EMPLOYMENT OF SUB-DEGREE STUDENTS

MS CYD HO (in Cantonese): President, early this year, I conducted a survey on the prospect of sub-degree students. Five hundred and twenty-one students had accepted our interview and filled in the questionnaires which covered issues relating to their financial burden, further education and employment. I was deeply impressed by their answers to two of the questions. One third of the students interviewed considered that sub-degree courses provide a refuge for losers of the Hong Kong Certificate of Education Examination or the Hong Kong Advanced Level Examination, so that they need not step into society to work; moreover 52.5% of the students considered that sub-degree courses were introduced by the Government as a measure to avert the worsening situation of youth unemployment. It is evident that the self-image of many students studying sub-degree courses is extremely low and they do not have much confidence about their prospect. Hence, I would like to first boost the morale of students studying sub-degree courses.

Siddhartha Gautama was born a prince, the crown prince. He would have ascended the throne had he been able to cope with the royal life. However, as Gautama went out of the palace to travel around, he witnessed life, deaths, sickness and sufferings of people, and he decided to give up his comfort life in the palace to seek a way to escape from sufferings for mankind. First, he led a self-mortification life by sleeping in the wild and going hungry all the time, and even whipping himself. Yet the efforts he made over the years were in vain, he could not come up with any solution. He then gave up the self-mortification practice and accepted the donation of a shepherd girl. He bathed to cleanse himself and then sat under a bodhi tree in meditation. Eventually, he attained the knowledge of spiritual enlightenment.

This example rightly illustrates that in the course of knowledge-seeking and personal development, sometimes we may have to make detours; we may not take a direct path that takes us forward smoothly as if we are on a passenger conveyer. The same applies to students taking sub-degree programmes, for they may not go straightly from primary, junior secondary and senior secondary school to university. They may have to make detours on the way, which may be classified into several channels.

These days, we often say that sub-degree students have passed the HKAL and obtained the qualification for studying in universities, yet, owing to the limited number of subvented university places, about 5 600 to 6 000 students have to pursue further education by taking sub-degree programmes or via other channels every year. These students have passed the HKAL and obtained the qualification for university education, but their results may not be good enough to allow them a higher ranking.

However, apart from the students mentioned above, there are students who choose to take sub-degree courses due to the financial status of their families or their different personal experiences. These students include: first, owing to financial needs, some students have to work immediately after graduation from secondary school for several years to save enough money before they can pursue study again; second, HKCEE graduates who fail to obtain the qualification for taking the HKAL, and they have to take the three-year sub-degree programmes as a pathway to study in universities. If students take diploma course after graduation from secondary schools, they may also choose to advance to universities direct or work for a few years first. Furthermore, some students may be so involved in thinking or pondering about themselves, society and the world when they are in their teens that they have no time to cope with the competitive mainstream education. Eventually, these students left the mainstream education to explore their life, and after some time, they may return to the mainstream education system.

These students may have to go along a relatively winding and bumpy path. However, if students can capitalize on their experience gained when they tread along these winding paths, their gains in the process may be comparable to those going to university direct. Besides, they know better how to overcome setbacks. Hence, I encourage students taking sub-degree programmes not to feel depressed, for different achievements can be attained via different paths.

Colleagues from various political parties and groupings have put forth amendments to supplement the motion today, so I think the debate today will be extremely substantial.

President, my speech for the first round will end here. I will listen attentively to the amendments and supplement of Members and respond to the salient points shortly. Thank you, President.

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

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Ms Starry LEE, Dr Priscilla LEUNG and Miss Tanya CHAN will move amendments to this motion; while Mr CHAN Hak-kan will move an amendment to Mr WONG Kwok-hing's amendment. This Council will now proceed to a joint debate on the motion and the amendments.

I will call upon the above Members to speak in the above order; but they may not move the amendments at this stage.

MR CHEUNG MAN-KWONG (in Cantonese): President, some time ago, Donald TSANG openly apologized for the housing policy blunders of the SAR. In my view, he should also apologize for the dereliction of duties and the wrong governing policy in education. Though the policy on "85 000 sub-degree graduates" was not initiated by Donald TSANG, he failed to clear up the mess of TUNG Chee-wah after all these years. No improvements have been made with regard to the quality of courses and student loans. His indecisiveness has left numerous graduates in the deep waters, struggling to further their studies while running up huge debts. He should be held accountable for this.

Over the past 10 years, the experience of associate degree holders has been heart-rending, particularly in terms of quality assurance. Up to date, the Education Bureau is still "exploring the possibility of eventually setting up a single quality assurance body". It is evident that the Government is only striving to achieve targets in figures by condoning the expansion of student number in an uncontrolled manner, which eventually strangles associate degree education.

In fact, associate degree programmes have long since been proved a "market failure". The University Grants Committee (UGC) states in its report, to the effect that, "What may not be so apparent is the fact that a very significant element of the self-financing provision is in reality provided by community colleges closely or loosely affiliated with UGC-funded institutions or by self-financing units within the institutions themselves. Approximately 80% of

all self-financing provision is carried out by subsidiaries and arms of publicly funded institutions. This would be highly unusual in other jurisdictions, and has implications." The report highlights that, "However, far more impressive has been the response of the institutions to launching self-financing taught postgraduate programmes."

There is great implication for the UGC to use the words "unusual" and "impressive" to describe the over-expansion of self-financed programmes. A point worthy of attention is that this type of self-financed programmes with subvented institution background is not required to pass the academic accreditation of the Hong Kong Council for Academic Accreditation (HKCAA) nor is it within the purview of monitoring of the UGC, which means they are not required to comply with the stringent academic and appeal procedures adopted by the mother institutions. As such, these programmes are subject to no supervision from the three authorities concerned. Yet, the names of the universities concerned are used in the promotion of these programmes to attract students. These subsidiary programmes may overshadow the programmes of the institutions, for the number of students and tuition income from self-financed associate degree, degree and taught-master courses may exceed the amount the institutions received from public subvention.

At the same time, the number of complaints about self-financed programmes is on the rise. For instance, more lax requirements are imposed on programme students, a large class teaching approach is adopted with a teacher to student ratio of 1:100, and contracted teaching staff are employed at low pay. The former Chairman of the UGC, Laura CHA, revealed before leaving the office that many university students had lodged complaints in recent years about a sudden increase of students, up to 50%, from self-financed programmes attending lessons with them. They worried that the quality of teaching might be affected. She said that one of her final tasks was to handle the confusing accounts of the eight universities which run self-financed programmes. She was expected to complete the task in two years and to urge the eight universities to make public the accounts of their "private reserve". Her frankness is extremely alarming.

President, with the oversupply of programme places and the lack of quality assurance of such programmes, it is only natural that employers are unwilling to recognize the qualification. The most pressing task for the Government at present is to establish an effective mechanism for quality monitoring and

assurance. It should face squarely the vicious results of the continual expansion of the self-financed programmes by subvented institutions. Universities should stop providing sub-standard programmes on the excuse of upholding academic freedom, trying to disguise their attempt of using self-financed programmes as money-spinners. The monitoring of these programmes should not be prevented on the pretext of upholding the autonomy of universities, for in the end, the good reputation of universities will be tarnished and subvented programmes will be affected.

Moreover, there is a serious bottleneck problem regarding the chance for sub-degree graduates to study in universities. In the academic year 2008-2009, among the 19 800 sub-degree graduates, only 1 884 graduates could secure an articulation place to enter the senior year of subvented undergraduate programmes, with an articulation rate of less than 10%. The Government has promised to double the articulation places in senior years to 4 000 per year starting from next academic year, yet there is still a bottleneck and the shortage is acute. Moreover, institutions adopt their own criteria for student admission. Many students have complained about the practice of favouritism by institutions, where more publicly-funded university places are offered to graduates of the community college organized by the same institution. This practice is extremely unfair to students taking programmes at tertiary institutions with no university background.

In the face of the bottleneck in further education for sub-degree graduates, one of the options is to increase the number of subvented university articulation places substantially, and the other option is to provide university vouchers or subsidies to enable eligible sub-degree graduates to enrol in quality self-financed bachelor's degree programmes. At the same time, the Government should set up a credit accumulation and transfer system to ensure that institutions will admit students according to their merits in a fair and impartial manner. Institutions should not offer publicly-funded articulation places only to students of their subsidiary colleges to expand the market effect of their subsidiary colleges.

President, sub-degree graduates not only have difficulties in finding employment, they also have to bear heavy debts arising for their studies. Back then, the Government had reduced the assistance for university, where the grants for students were changed to student loans, and student loans were then changed to high interest loans. Students have been victimized due to the "legend of 60% school leavers receiving tertiary education", and they also have to repay mortgage

instalments on behalf of those institutions. Despite the recent abolition of the risk-adjusted factor under the non-means tested loan schemes by the Government, sub-degree graduates are still facing heavy pressure in loan repayment given their low income, which may be lower than that of senior secondary graduates. Hence, the Government should abolish the practice of charging interest during the study period of students, particularly in the case of full-time students who have no income at all during the study period. The Government should not haggle with them over these small amounts. Besides, the Government has provided interest-free loan to institutions for campus construction.

It is worth noting that after the Government abolished the risk-adjusted factor for non-means tested loans, the interest rate of loan repayment is lowered to 1.674%, yet for students granted the means-tested "low interest loans", they have to bear the interest of 2.5%. The interest rate of the low interest loans was set at 2.5% since 1987, yet this low-interest rate loan has been reduced to one in name but not in reality. The low-interest loans are provided for needy students, where they have to pass the means tests and asset tests. If so, why do they have to pay higher interest rate? In 2009, the Audit Commission recommended that the Student Financial Assistance Agency should review whether the 2.5% interest rate should be adjusted and re-examine the loan repayment capacity of borrowers. The Government must give an explanation and response about this issue.

President, the Legislative Council has had repeated debates on motions on the policy failure in sub-degree education, where Members have requested the authorities to increase the number of subvented places or ensure the quality of such programmes, which are the consensus of society. However, the Education Bureau keeps conducting reviews and drafting reports, which is in fact continual procrastination. It even fails to provide a standardized quality assurance. As a result, the sub-degree qualification is subject to queries, and sub-degree graduates fail to further their studies. Worse still, the impact of the aftershock of the "85 000 education" blunder will be escalated, affecting not only self-financed sub-degree programmes, but also self-financed bachelor's degree programmes and master's degree programmes. Despite the appreciation of the qualification of these young people, the value of their degree and their income depreciate, and they have run up heavy debts. The result of all these sufferings is that the rich universities have higher surplus; yet students of sub-degree programmes are in deplorable plights.

President, with this remarks, I implore Members to support my amendment.

MR WONG KWOK-HING (in Cantonese): President, at present, sub-degree programmes are provided to Form Five to Form Seven graduates by 22 institutions. Students unable to enrol in bachelor's degree programmes in universities may enrol in these sub-degree programmes, which are provided in great numbers at tuition fees ranging from \$30,000 to \$50,000 per annum. According to the information of the Education Bureau, in the past few years, only 40% of sub-degree graduates on average could study in subvented bachelor's degree programmes provided by local universities. In other words, the remaining 60% graduates who wish to pursue further education will have to enrol in self-financed programmes of local or overseas universities. If these students are not from wealthy families, they will have to join the labour market and work for several years to save enough money for further education. An artwork titled "符咒" (Curse) by a famous comic writer Mandy (文地) has rightly depicted the plights of these students. President, due to the distance, you may not be able to see the picture clearly, which is about the "Curse" on "wage earners". In the picture, a sub-degree graduate with hands being tightly cuffed by "high interest rate repayment" continues to study with the blade of the "doom-to-suffer" knife above his head. The "Curse" comic has fully reflected the hardship endured by sub-degree students, the predicament of these students is in full manifestation. I hope the Secretary may take a look at this comic by Mandy.

Against this background, I propose an amendment to the motion today to reflect the aspiration of sub-degree students. I think the Government has to provide further support and recognition for sub-degree qualification, and assist these students by offering more support in further education and employment paths. Tertiary institutions should truly apply the principle of teaching all without discrimination. Moreover, students striving for advancement should have the opportunity to apply what they have learnt and be spared from the heavy burden of loan interest, so that they can enjoy their learning time happily and freely.

President, I think the Government needs to provide tuition subsidies to these students, include lowering the interest rate of all loan schemes for tertiary students. Let me cite a real case to illustrate my point. A girl taking the sub-degree programme graduated around July and August this year. She has

completed a four-year self-financed sub-degree programme, paying a total tuition fee of \$68,000 for the four years. Since she enrolled in the programme in 2007, the tuition fee set at that time was on the low side. According to the current tuition fee, it will cost her \$96,000 to complete the programme. She just received a demand note for loan repayment from the Student Financial Assistance Agency, requesting her to repay \$98,000, including interest and principal. Secretary, she has to repay to \$98,000 in total for the \$68,000 loan she had taken out, which means she has to pay an extra amount of \$30,000. President, do you think this is a curse of grim fate for a sub-degree graduate? The extra \$30,000 she has to pay is the interest for the past four years, which was charged on the date the loan was taken out. She has to repay the loan interest immediately after graduation, which was charged on the date the loan was taken out.

Since the loan she applied for was a non-means tested loan, it is estimated that the repayment amount of \$98,000 set out in the repayment demand note does not include the additional amount incurred from the interest rate adjustment prompted by economic changes during the repayment period in the next 10 years. The girl is working as a general clerk in the business sector at a monthly salary of \$8,000-odd, a level reflecting no pay rise has been made in the past few years. She is facing inflationary pressure and increasing daily expenses, and certain family expenditure as well. Though the repayment amount for each quarter is not very high, it does not mean that she can afford. Initially, she intends to continue her studies by taking a part-time bachelor's degree course for self-enhancement, but since she has to repay the previous loan and interest now, she must shelve her plan for studying the bachelor's degree course. Hence, though she desires to further her studies, she cannot afford it.

The Government encourages young people to pursue continual education and skill enhancement, but it has only honoured part of its promise. Apart from increasing the places for further education, it has not introduced other corresponding measures. Take the aforesaid case as an example, many young people choose not to further their studies not only because of the heavy workload, but also the heavy burden incurred from tuition fees and interest. These young people who are earning a few thousand dollars a month have to support their parents and their daily expenses on food, clothing, accommodation and transport, and they can hardly have any saving. Hence, I hope the Government will give regard to the plight of these sub-degree students.

I hope the Government will help them practically, so that they do not have to worry about the exorbitant fees during their studies. I hope the Government will accept our views and start to charge interest for the loans upon their graduation instead of the date the loans are taken out. Otherwise, upon their graduation, they will not only receive a certificate but also a repayment demand note. Indeed, this will exert enormous financial burden on them, for they have to make the repayment continuously in the next 10 to 15 years after graduation. Therefore, I hope that the Government will seriously consider their plights.

Another criticism about sub-degree education is the employment difficulties faced by sub-degree graduates. More often than not, they give people the impression that "they are incapable of taking senior posts but are unwilling to accept junior posts". After all, extensive recognition of sub-degree qualification is still lacking in the local job market. Sub-degree programmes have been introduced for many years, but the Government only included the sub-degree qualification as a Level 4 qualification in the Qualifications Framework of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications in 2007. Though local accredited higher diploma or sub-degree qualification is recognized by the Government as the entry academic qualification for 18 grades, many companies and organizations in the private market still harbour grave doubt about sub-degree graduates. They would rather recruit Form Five graduates with working experience or university graduates possessing equivalent professional qualification than offer job opportunities to sub-degree graduates. Hence, I think the Government should take the lead to increase the number of posts and grades in the Civil Service recognizing sub-degree qualification as the entry qualification, as well as formulating recognized qualification for them, so that organizations in the public and private sectors may consider the actual situation of sub-degree graduates in staff recruitment. At the same time, the Government should step up the regulation of the quality of sub-degree programmes, further enhance these programmes and reinforce the supervision and review of these programmes to ensure that there is no overcharged tuition fees, so that students may learn what they need and apply what they have learned.

President, young people are the pillars of society of Hong Kong. Today, the Government often states the need to nurture talents and invest more resources in education for nurturing young people so that their strengths may be brought into full play. In this connection, I think the Government needs to implement

measures in the Budget in the coming year and introduce major reform to the interest rate charged for loans to sub-degree students. *(The buzzer sounded)*

Thank you, President.

MS STARRY LEE (in Cantonese): President, according to the paper submitted by the Government to the Panel on Education of the Legislative Council some time ago, the Government will increase the articulation places in universities for sub-degree graduates to raise the intake from the existing 1 987 places to 4 000 places in 2014. The increase in intake seems to be a substantial progress at first glance, increasing the chance for sub-degree graduates to study in universities, yet in reality, the number of articulation places only accounts for about 10% of the number of sub-degree graduates. In 2009, the number of intakes for publicly-funded and self-financed sub-degree programme amounted to 34 949, implying that the 4 000 articulation places to be provided will only meet the need of about 11% of the total intake, leaving about 30 000 students unable to further their studies at universities. These students will likely take up self-financed course in private universities to realize their dream of studying in universities.

Regarding students who have studied the self-financed sub-degree programmes and then completed the self-financed degree courses, they probably will have run up huge debts upon the completion of the two self-financed programmes. Worse still, the quality and social recognition of self-financed programmes are in doubt, so the trepidation of graduates is understandable.

President, to address the problem of varied quality and the lack of recognition of self-financed degrees, and to change the fate and prospect of tens of thousands of students, I think the Government should at least work on three aspects. First, it should rectify the imbalance distribution of resources in tertiary education. Second, it should enhance the quality of self-financed programmes and reinforce the social recognition of the qualification. Third, it should explore more pathways for further studies for sub-degree graduates.

President, for the further development of tertiary education, the authorities must rectify the polarization of subsidy in education. At present, the unit cost for an undergraduate student studying in a University Grant Committee (UGC)-funded institution is \$1 million on average for four years. However, for

self-financed sub-degree programmes, the resource available will only range from \$200,000 to \$280,000. The figures speak volume about the situation.

How can one make bricks without straw? When relatively less resource is provided to the self-financed sector, how can we further enhance the education quality? Even if the authorities examine ways to tighten the accreditation of self-financed programmes, these programmes can hardly be comparable to those provided by UGC-funded institutions.

In March this year, I put forth a motion on "The development of self-financing post-secondary institutions". At the debate on the Policy Address held last month, I again solemnly raised the concern about the quality of self-financed tertiary education arising from the polarization of subsidies in education. I believe the polarization of resources in education is a major obstacle to the quality enhancement of self-financed degree programmes.

Actually, the quality of programmes is, to some extent, in direct proportion to the resource invested by the Government. When the Government tries to satisfy the demand of society by increasing the number of self-financed programme places, it must bear in mind the need to ensure the quality of these programmes. Government officials have repeatedly stated that they understand the importance of quality assurance for self-financed programmes, yet action speaks louder than words. The problem of polarization of resource allocation in tertiary education persists, thus the quality of self-financed programmes can in no way be comparable to that of publicly-funded programmes.

In the Policy Address published last month, the Chief Executive has put forth new measures to support self-financed tertiary programmes. For instance, self-financed institutions may apply for loans from the Government for the construction of student residence, and \$3 billion will be injected into the Research Endowment Fund for self-financed tertiary institutions to apply on a competitive basis. However, regarding the proposal of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on expanding the Matching Grant Scheme to assist self-financed institutions to build their campuses, the Bureau is not even willing to consider it. If the Bureau does not admit and respond to the concern about the quality of courses arising from the polarization in subsidy, how can it convince Members that self-financed tertiary courses are of good quality?

In the motion I put forth in March this year on "The development of self-financing post-secondary institutions", I proposed that the Government should examine providing tuition fee subsidies for students of self-financing programmes by means of education vouchers or by establishing a post-secondary education fund to ensure programme quality and safeguard students' interests. I also proposed the provision of matching grants for self-financed tertiary institutions to build campuses, so as to alleviate the pressure of tuition fee increases exerted by campus construction expenses, and the need to ensure the diversity of self-financing programmes, so as to provide programme options in different academic disciplines for students, and so on. These proposals were supported by Members at the time and the motion was passed. As such, I implore Members to once again support the inclusion of these proposals in the motion as proposed in my amendment.

Some time ago, when a debate on the motion on "Moral and National Education Curriculum" was held at the Legislative Council, I already pointed out that with the reform and opening of the Mainland and closer ties and frequent exchange between Hong Kong and the Mainland, the people of Hong Kong would understand the rationale that "When China does well, Hong Kong does well too." Since Hong Kong and the Mainland are becoming closely related, it will definitely be conducive to the future prospect of young people in Hong Kong if they can enhance their knowledge of the State and the state of affairs of the country. Hence, the SAR Government is obliged to assist Hong Kong young people to advance their studies in the Mainland, providing one more option for students who cannot enrol in subsidized degree programmes in Hong Kong.

In recent years, some students in Hong Kong apply for Mainland universities by taking part in the Joint Entrance Examination in the Mainland, and the number of such students is on the rise. It is reported that over 1 000 Hong Kong students have registered for the JEE of Mainland universities. I think this trend should be attributed to a host of factors. First, the liaison between Hong Kong and the Mainland becomes increasingly frequent in recent years, the development of the Mainland is in its prime time, and the prospect and opportunities for development are promising. As such, some young people wish to advance their studies in the Mainland, hoping that they can capitalize on the development opportunities in the Mainland as soon as possible by enhancing their understanding about the State in various aspects, and they intend to establish a social network for future development in the Mainland.

Second, the level of university education in the Mainland has been upgrading in recent years. Some institutions have developed good academic atmosphere, which is definitely comparable to that of institutions in Hong Kong. Third, the tuition fees are relatively cheap. Since 2009, Hong Kong students are entitled to the benefit of Chinese nationals, so they are charged the same tuition fees as Mainland students, which is around HK\$4,000 to HK\$5,000 per annum on average, and the hostel fees is only around HK\$4,000 per annum. As such, studying in the Mainland has become another option for further education for students of middle-class and grass-roots families.

During the visit to Hong Kong in the middle of this year, Vice Premier of the State Council, Mr LI Keqiang, announced that certain Mainland higher education institutions would exempt Hong Kong students from taking the JEE for Hong Kong and Macao. Hong Kong students may apply for Mainland universities with their results in the Hong Kong Diploma of Secondary Education Examinations (HKDSE) without sitting the JEE. This is really a good news to young people in Hong Kong. At present, the HKDSE has been included in the Universities and Colleges Admissions Services Tariff of the United Kingdom, and thus the HKDSE is recognized by a number of countries including the United States and Canada.

Sub-degree is indeed a higher qualification than the HKDSE, should sub-degree graduates be admitted to Mainland universities based on their results in sub-degree programmes? Should arrangement be made to provide articulation places in Mainland universities so that these graduates may be admitted to Mainland universities at the second year based on their academic results? I urge the SAR Government to examine ways to assist sub-degree graduates in Hong Kong to advance their studies in Mainland universities, striving for the recognition of the sub-degree qualification of Hong Kong by the Mainland authorities, so as to provide more channels for further education for sub-degree graduates.

Over the development in the past dozen years, the cause of concern for sub-degree programmes has shifted from "quantity" to "quality". Actually, sub-degree education is heading towards the stage of consolidation and quality enhancement. Society will be much concerned about how the authorities will enhance the quality of sub-degree programmes and establish an effective quality assurance mechanism. I hope that the SAR Government will act decisively in

increasing the channels for further education for sub-degree graduates and improving their employment prospect, as well as striving to rectify the imbalance distribution of resources in education.

With these remarks, President, I implore Members to support my amendment.

DR PRISCILLA LEUNG (in Cantonese): President, recently, a large group of people in Hong Kong is overwhelmed by a sense of lost and uncertainties. There are people who cannot purchase their own homes because of the exorbitant property prices. There are youngsters who cannot further their studies and fail to find employment, and there are middle-class people whose standard of living is worsening. Many post-secondary graduates, in particular associate degree graduates, have joined this group of people with anxieties and uncertainties. These graduates often find themselves in the predicament of no job and no opportunities for further education. In pursuing further education, there is a shortage of subvented university places mainly offering academic degree programmes. In seeking employment, they find that the professional training they received in the associate degree programmes impractical.

While sub-degree students are mentioned in the original motion today, our discussion should indeed cover associate degree and higher diploma students. As stated by my ally Mr Andrew LEUNG, according to the figures of the Vocational Training Council, of which he is the Chairman, the employment situation of graduates of higher diploma programmes under the Hong Kong Institute of Vocational Education (IVE) is not bad. I will leave it to Mr Andrew LEUNG to explain their situation later. I will then focus on the discussion of associate degree graduates who are facing more difficulties.

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

According to the information of the Government, there were 7 300 associate degree graduates in 2011. However, due to the inadequate articulation places for associate degree graduates, which is only 2 000 places a year, 5 300 associate degree graduates will be left in the situation of "incapable of making

higher achievement yet unwilling to accept the second best" every year. These graduates cannot study in subvented universities and are forced to enter the labour market or pursue further education via self-financed channels.

Actually, titles is vital, and back then The policy was said to be a big leap in education, for the Government had set the objective of enabling all young people at the appropriate age to be degree-holders. This brought into scene the existing associate degree programmes, which brought hopes to many young people studying these programmes. However, the Government has failed to strike a balance between hope management and matching arrangement. As a result, young people who have attained the associate degree qualification and looking forward to obtain an academic degree have to face the problem of shortage of subvented university places.

Mr CHEUNG Man-kwong asked earlier whether various universities would only admit associate degree graduates from their own universities. First, I have to declare that I teach in the City University of Hong Kong (CityU) which also offers associate degree programmes. According to my observation, it is not only a matter of dogmatism. In fact, more often than not, the structure and content of associate degree programmes cannot fully articulate with degree programmes offered by subvented universities. Since subvented universities do not understand the content and quality of associate degree programmes offered by other institutions, they are unwilling to admit associate degree graduates from these institutions. Having said that, I have seen many successful cases of associate degree graduates pursuing further education at universities. I have also employed associate degree graduates and many of them are diligent. Perhaps they become mature at a later stage, they fail to get into universities because they have not worked hard enough at that time or they have not been enlightened in their studies. However, after receiving the training under associate degree programmes, they can master quality degree programmes and then master degree programmes with good achievements. We can find such examples, yet after all there are not many such examples.

I think one of the most important issues today is how to enhance the social recognition of associate degree qualification. Hong Kong society as a whole, particularly the education sector and entities likely of accepting this type of graduates, say universities, must participate in the design of associate degree programmes, so as to gain a better understanding. When it comes to the design of associate degree programmes, I have to point out that many students are diligent, though I cannot rule out that some of them only take the associate degree

programmes to avoid working. On the other hand, these students find that they encounter greater difficulties in seeking employment when compared with Form Seven graduates, holders of diploma of technology or higher diploma. Hence, they will eventually feel uncertain and helpless. Under such circumstances, they may be compelled to take out loans with a view to studying at private universities.

I would like to quote two good commentaries from *Ming Pao*. One of the commentaries said that mistakes made in the development of associate degree education should be avoided in the development of private universities, where the quality of private universities should be subject to stringent surveillance. It points out that the authorities should avoid developing private universities in a hasty manner, seeking only to admit all associate degree graduates at present; otherwise the quality of private universities will again be queried, resulting in the same problem as in the case of associate degree education. In view of this, I think the Government must involve more teachers from universities or concern groups in considering the overall planning. They should jointly examine ways to ensure that private universities can meet the needs of associate degree graduates in various sectors, and monitor the future graduates of private universities, with a view to ensuring that they will earn genuine social recognition in considering the tremendous economic costs they paid by taking out loans to study in private universities.

Another relevant point is the insufficient supply of subvented university places for associate degree graduates. Under this circumstance, many students have to take out loans to study in private universities. It is proposed in the original motion that subsidies should be provide in the form of education vouchers. I learn from the speech of many colleagues that they follow this line of thought. However, in my view, the provision of subsidies to associate degree gradates for further education should not be restricted to education vouchers, for subsidies can be provided in many ways and education vouchers may not necessarily be the best option. Actually, many university academics have conducted studies about subsidies for early childhood education, secondary education or university education, and it is found that the provision of subsidy in the form of education vouchers is not the best development direction for the education system as a whole, for education vouchers tend to prompt market-oriented development which merely focus on a commercial relationship. Hence, I hope that studies on the provision of subsidy will not only examine the education voucher scheme but will also consider other options.

Another issue is about how to set the mind of these students at ease during their studies. Members have raised the idea, and I have proposed in my amendment that loan interest should not be charged during the study of students to ensure they can study without worries. Though some people point out that this arrangement may prompt certain students to abuse the mechanism, I think every mechanism is liable to abuse and those cases are after all in the minority. Hence, we should attend to the needs of the majority of students. In my view, when students are still attending school, they should be spared from such worries so that they can focus on their study. We should believe that they will repay the loan. For some unscrupulous individuals, we may adopt other tactics to hold them liable and request them to repay the loan.

Moreover, the original motion has also covered the issue on civil service ranks, hoping that the Government will consider creating one more entry rank for sub-degree graduates. According to the information I have read, many government posts, at least 18 grades, are now open to associate degree graduates: this is the information I have at hand. I think that entry point is not the main concern, it is more important to enhance the credibility and recognition of associate degree qualifications. With reference to the information I have read, I know that universities offering associate degree programmes have started implementing various enhancement measures, among which is the provision of placement opportunities, as well as the gradual inclusion of practical elements in the programmes, which aim at preparing young people who possess only associate degree qualification to work in society. I notice that posts like Officer of Correctional Services and Police Inspector are open for application for associate degree graduates.

However, I would like to point out that the Government is sometimes inconsistent in its practice. As reported in the press, the Government offers a salary of \$21,175 for some grades that are open for associate degree graduates, an offer impossible to be provided by the private market. On the contrary, salaries offered to associate degree graduates in the private market are too low, which is only \$6,000 a month, even lower than the offer to a Form Five graduate. We must rectify this situation.

I hope that when the Government encourages more competent associate degree graduates to apply for government posts, it should give due regard to We hope that the Government will truly take the lead to set the salary level in the market, yet it should not be out of place. Only in this way will the employment

situation of associate degree graduates be improved as a whole. Due to the time constraint today, we can only urge the Bureau that in considering problems relating to associate degree education, it should seriously examine the articulation arrangement with private universities. It should consult the views of members in the education sector who have practical frontline experience, invite them to participate (*The buzzer sounded*) and give their views

DEPUTY PRESIDENT (in Cantonese): Dr LEUNG, your speaking time is up.

DR PRISCILLA LEUNG (in Cantonese): I so submit.

MISS TANYA CHAN (in Cantonese): Deputy President, recently, a foreign language film titled "The Three Idiots" has been very popular. I wonder if the Secretary has watched that film. The film is three hours long, yet it is very enjoyable and is really enlightening. Though this Indian film is not a new production, it has levelled serious accusation at the education system, particularly the university system. It points out that life is not about marks but the pursuit of dreams.

Regrettably, to many students and parents in Hong Kong, it seems that their life is determined by the marks they get. If their results in public examinations are unsatisfactory, they have to take associate degree programmes, which are regarded as an inferior qualification but at a higher cost. If no further improvement is made to the policy on tertiary education, associate degree graduates will continue to face difficulties in further education and employment, and these young people will continue to find themselves in the predicament of repaying debts for tuition fees. In principle, the Civic Party supports the direction and position of the original motion. Our amendments mainly seek to complement the various proposals put forth in the original motion and propose reinforcing the monitoring of private tertiary institutions.

Concerning the increase in the number of subvented university places and the rate of local students admitted to publicly-funded bachelor's degree programmes, Members know clearly that after years of striving, only 500 additional places are provided, which is really inadequate in meeting the huge

demand. According to the information of the JUPAS Office, the number of students attaining the minimum requirement for university entry but not being allocated a place amounts to 6 555 in 2011. It is evident that there is an acute shortage of subvented places. The percentage of young people attending universities at the appropriate age maintains at about 18.5% in the past 10-odd years; in Singapore, the rate has increased to 25%, which is 6.5% higher than Hong Kong. The Government of Singapore has also planned to increase the percentage of students attending universities at the appropriate age to 35% in 2020.

Another issue of greater concern is that not all of the 15 000 subvented university places are designated for admitting local students. According to the statistics, in the 2010-2011 academic year, there are a total of 4 638 Mainland students studying bachelor's degree programmes in the eight subvented universities, and many of them are taking subvented places. Certainly, we do not oppose the internationalization of universities, but we consider that local students should be accorded priority in the allocation of subvented places. Universities may make use of the scholarship system to absorb outstanding overseas students to study in Hong Kong, and we think it is the right direction.

Regarding the increase of articulation places for associate degree graduates, there are over 8 000 bridging degree programmes of varied quality offered by various institutions in the community. Though the authorities will increase the articulation places offered by the eight universities from 2 000 to 4 000, it is still inadequate, for many associate degree graduates wish to enrol in the articulation programmes. Hence, the Government must do a better job in this respect, and monitoring the quality is most vital.

Some colleagues mentioned the education voucher system. Surely, it is feasible to subsidize students to study in private universities by means of education vouchers, yet the option must be examined cautiously. Under the existing education voucher system implemented in early childhood education, first, the subsidy is not applicable to students studying in private kindergartens; second, criticisms against the existing system have been expressed by kindergartens and parents. Hence, if the Government intends to implement the education voucher system in tertiary education, it should take heed of the criticisms and views expressed in the past, and it may consider other modes of subsidy.

I will then proceed to talk about the support for the development of private universities. Actually, apart from the provision of subsidies, the Administration should by all means support the development of private universities, so that they can provide more articulation programmes for associate degree graduates at local universities, offering them with more opportunities for further education. These support measures include the provision of suitable sites and subsidies for the construction of campus, and the introduction of appropriate tax concessions as an incentive to attract more subsidies or donations from individuals and enterprises, which will support the development of private universities in Hong Kong.

Finally, we consider that quality assurance is of utmost importance. In encouraging the development of private universities and increasing the supply of articulation programmes, and so on, quality is of the gravest concern. We do not hope that the increase will merely be focused on quantity while overlooking quality. Hence, the important task is quality assurance. In fact, many employers have criticized the quality of associate degree graduates. Recently, in a report in *Ming Pao* on 24 October, it was quoted that the Director of the Centaline Human Resources Consultants Limited said that some associate degree graduates were only earning a monthly salary as low as \$6,000. In her view, due to the brief history of associate degree education and the confusing system, employers would rather employ Form Seven graduates who had undergone the A-level examination, and they would not recruit associate degree graduates casually. As a result, associate degree graduates are earning less than Form Seven graduates. The responses of employers have in some measure reflected that the quality assurance of associate degree programmes and other post-secondary courses should be enhanced. Hence, the Administration should set up a more comprehensive system to monitor the quality of tertiary institutions.

As for the expansion of other channels for further education for associate degree graduates, I have some reservation about the amendment of Ms Starry LEE though we understand that her amendment is made out of good intention to open up channels for further education. As for the amendment of Mr CHAN Hak-kan, it mentions the term "non-local", which refers to studies in the Mainland or overseas countries. However, if the quality of associate degree programmes has not been improved, these proposals will only be empty talks. Hence, we consider the proposal is chasing the shadow instead of the substance. In our view, the Government should first monitor the quality; otherwise, it will seem unfair to force other overseas institutions to recognize our students.

Other colleagues have also mentioned reviewing the requirements of civil service posts or other government post, for Members have all noticed or are worried about the issue concerning the acceptability of associate degree graduates in the job market. The Government cannot shift its responsibility but to set an example to other employers, so it should by all means remove the negative labels of associate degree graduates. However, I think a more effective option is for the Civil Service Bureau to consider reviewing the entry requirements of various government ranks to enable associate degree or high diploma graduates to apply for civil service posts or non-civil service posts as far as possible. Take the earlier recruitment of a batch of Assistant Information Officers as an example. It was stated clearly that holders of associate degree qualification in the relevant field might apply for the post, which means that applicants did not necessarily have to possess a bachelor degree granted by universities. I hope the Government will continue to adopt the aforesaid practice and review the academic requirements of other posts, so that more job opportunities will be opened to associate degree graduates.

When it comes to movie, I must mention a recent film titled "Those bygone days, together we borrow the grant loan" — No, Deputy President, it should be "Those bygone days, together we date the girls". However, Deputy President, 10 years later, Hong Kong can probably make a film on "Those bygone days, together we borrow the grant loan". Earlier, many colleagues mentioned that a lot of young people have run up huge debts. In looking back, I had never been burdened by huge debts. It is not because I come from a wealthy family, but that the interest for the loan had been too high, Deputy President. Last week, the Government said that it would abolish the risk-adjusted factor of 1.5%, which many Members and various political parties have been striving for. We very much support this act, for it can at least alleviate the burden of students who need to take out non-means tested loans.

However, a queer phenomenon is found recently, that is, students taking out means-tested loans are paying relatively higher interest than students taking out non-means tested loans. Certainly, the situation of students in the former case is different, for they only need to repay the loan after graduation. We had discussed this issue at the Panel on Education, and we know that the Government will conduct a review on this. Mr CHEUNG Man-kwong proposes abolishing the fixed interest rate for non-means-tested loan, and I consider this a way forward for consideration. However, the Government definitely has to listen

carefully to the views expressed by various sectors regarding the concerns about cost and expenditures.

Deputy President, in the past, only around one third of students could further their studies in Form Six, and around half of those students might study in universities. Next year, at the first Hong Kong Diploma of Secondary Education, there will be 80 000 candidates, and 60 000 of them will not be able to study in universities. This will also create great grievances. By then, it may not only be an academic issue, but a political one. The Government must be cautious about this and make good planning.

Regarding the difficulties faced by associate degree graduates, they are not the one to blame; this is in fact a structural problem of the tertiary education policies in Hong Kong. The Government should act boldly and decisively by introducing a review on the policy of sub-degree education (*The buzzer sounded*)
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DEPUTY PRESIDENT (in Cantonese): Miss CHAN, your speaking time is up.

MISS TANYA CHAN (in Cantonese): and fulfil its present duties.

MR CHAN HAK-KAN (in Cantonese): Deputy President, I propose my amendment today mainly to amend Mr WONG Kwok-hing's amendment.

Mr WONG mentions the expansion of the channel to study in overseas universities for associate degree graduates, and the studying of the feasibility of allowing local students to apply for student loans for pursuing further education overseas. According to my understanding, the "overseas universities" referred to in the amendment should be universities in countries like Europe, the United States, Canada or Australia. Yet as we look at the actual situation, Deputy President, we find that many students choose to study in the Mainland in recent years, you may also notice this phenomenon. As such, if the phrase "overseas universities" is changed to "non-local universities" as I suggested in my amendment, I think it will expand the coverage further and better meet the needs of students. I notice that the education system in Hong Kong is similar with that

in Europe and the United States, and thus many parents will send their children to these countries for further education.

However, in recent years, many students have considered the option of returning to the Mainland for further education, due to the wide variety of programmes offered in the Mainland. Let me cite the case of a young man I know as an example. He has decided to study in a programme on hydraulic engineering offered in the Mainland. He is interested in that field, but no such course is offered in Hong Kong. Besides, there are added advantages for him to pursue further education in the Mainland. For instance, he may establish a social network there, and in view of the rapid economic development in the Mainland, opportunities are abundant. If he plans to pursue his career in the Mainland, he will gain a competitive edge by having further education in the Mainland. Moreover, if local students pursue further education in the Mainland, they will enjoy the treatment for nationals, which means relatively cheaper tuition fees and other basic expenditures. For these reasons, an increasing number of students choose to pursue further education in the Mainland.

At present, Hong Kong students intending to apply for Mainland universities must first take the Joint Entrance Examination (JEE) for Universities in the Mainland for Hong Kong and Macao. According to the Hong Kong Examinations and Assessment Authority, there were about 800 students applying for the JEE last year. However, today, a year later, the number exceeds 1 000, an increase of over 10%, and principals of secondary schools expect the number to increase continuously.

Deputy President, associate degree students are less fortunate than undergraduates, for students to sit for the JEE have to be students studying in Form Six or courses of equivalent level. As associate degree students are not regarded as possessing qualification of Form Six level or equivalent level, they will have difficulties in sitting for the JEE. Another problem is the lack of a cross-recognition mechanism between sub-degree programmes and the post-secondary diplomas offered in the Mainland, which makes it difficult for local associate degree graduates to enrol directly in second-year courses in Mainland universities. In other words, they have few opportunities and channels to pursue further education in the Mainland. As such, we earnestly hope that the Education Bureau will communicate with the education authorities of the Mainland, so that they have better knowledge and understanding about associate

degree programmes. The Bureau should also strive to exempt associate degree students from taking the JEE to provide them with more channels and opportunities for further education.

Deputy President, an opportunity for further education is naturally of great importance to a associate degree student, yet we all know that not everyone can afford the costs for studying in universities, for merely the tuition fees will cost tens of thousands of dollars, let alone the other expenses incurred. Earlier, some Members mentioned that the burden of associate degree students was heavier. By providing financial assistance to students, the Government has in some measure addressed the problem faced by students lacking the means to study. However, the assistance and loan schemes introduced by the Government in the past have aroused much controversy in implementation. Recently, the Student Financial Assistance Agency has put forth an enhancement proposal for non-means-tested loan schemes, which can be regarded as a response to the aspirations of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and certain youth concern groups. However, I would like to take this opportunity to express my views on several areas.

First, the review conducted this time has focused mainly on non-means-tested schemes, yet the means-tested loan schemes frequently mentioned by the public have not been covered. Indeed, the latter is also subject to criticism, particularly in the calculation of interest, say whether the interest rate can be lowered slightly. Or, as suggested by colleagues earlier, will it be feasible to start calculating interest only after graduation?

The Financial Secretary said earlier that the economy of Hong Kong was not optimistic next year. At a time when the majority of the public are worried about the need to tighten their belts in the coming period, how can the Government be so hard-hearted to let the students live on high-interest loans?

The main reason for lowering the interest rate is to reduce the amount of financial loan taken out by young students, hoping they will not get into serious debts at such a young age. According to the figures, associate degree graduates joining the labour market are not earning high salaries, which was only \$13,000 on average in 2000. Yet the figures for 2008 indicate that their salaries have dropped to \$12,500. If I earn a monthly salary of \$12,500, after spending a large part of my salary on transport expenses, food and other daily expenses, I

may have not much money left. Furthermore, I may have to support a family, and the several thousand dollars left is used to repay my government loan. The burden is really heavy and life will be extremely hard.

Deputy President, I understand that it is reasonable for a debtor to repay his or her debt. Actually, most of the students have repaid their loans on time. Having said that, there are cases where students have not repaid their loan, yet I believe they are only in the minority. Hence, I hope the Government will formulate a more lenient system for students, so that they can borrow money more easily at a not-very-high interest rate.

Knowledge can change destiny. The introduction of associate degree education has undoubtedly offered an additional opportunity for young people to pursue further education, yet this is only an intermediate stop but not the destination. The Government has to put in more efforts in providing opportunities for further education and financial assistance, so as to encourage our young people to pursue continual education and enhance their competitiveness.

Deputy President, I so submit.

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, education can enhance the quality and competitiveness of population, as well as facilitate the mobility in society. As we head towards a knowledge-based economy and a high-value-added society, tertiary education is of utmost importance to the nurturing of talents in Hong Kong.

The Government always attaches great importance to the development of tertiary education. It has all along made devoted efforts to provide quality and diversified study pathways with multiple entry and exit points for youngsters, so that they can equip themselves, achieve continual self-enhancement and contribute to society. It is the philosophy upon which we make proactive efforts to promote the development of sub-degree programmes.

It is the Government's policy to support publicly-funded and self-financed institutions to develop in a complementary manner. On the one hand, publicly-funded sub-degree programmes are provided via the Vocational Training Council (VTC) and certain University Grants Committee (UGC)-funded

institutions. On the other hand, we provide proactive support to self-financed institutions to offer sub-degree programmes by pooling the wisdom, resources and efforts of society, so as to meet with the demand of society flexibly. Though these programmes are self-financed, the Government has made proactive commitment, including the allocation of sites at nil premium, the provision of interest-free loan for the construction of campus, the provision of allowance for qualify enhancement and the offering of student subsidies, and so on.

In promoting the development of sub-degree programmes, the Government has all along adopted the approach of assuring both quality and quantity. We attach particular importance to the quality and standard of sub-degree programmes. As such, we have put in place a stringent quality assurance mechanism and monitoring measures to ensure the quality of the programmes concerned. These include requiring local post-secondary programmes to pass the stringent quality assurance accreditation, and the formulation of generic level descriptors for sub-degree and higher diploma programmes as reference for institutions and accreditation organizations.

With the efforts made by the Government and the tertiary education sector over the years, the recognition of the sub-degree qualification has been markedly enhanced in society. According to the survey conducted by the Joint Quality Review Committee in 2009, over half of the self-financed sub-degree and higher diploma graduates interviewed pursued further study, and over 85% of interviewed graduates indicated that the sub-degree programmes they had undertaken were related to their further studies.

In respect of employment, about one fourth of graduates interviewed had joined the market as professionals, teachers or accountants, and another one fourth worked in para-professional positions such as assistant engineers, sports coaches and translators, and so on. Half of the graduates interviewed reported that their first job was related to the sub-degree programmes they had studied. They considered that the programmes they studied could help them fulfil the employment requirements and enrich their knowledge of the related industry.

At the same time, sub-degree programmes can effectively enhance the communication skills, team spirit and interpersonal relationship of graduates, facilitating them to cope with the requirement at work and apply their knowledge.

Since 2002, the Government has been conducting surveys on opinions of employers on the performance of sub-degree graduates every three years. As indicated by the findings, employers considered that graduates had generally met the required standard, and employers were particularly satisfied with their performance in aspects like information technology literacy, Chinese Language proficiency, work attitude and inter-personal skills.

According to the findings of the study on the "Economic Returns to Postsecondary Sub-degree Education" announced by the Faculty of Education Research of The Chinese University of Hong Kong this year, sub-degree graduates have a general advantage in their employment condition over those matriculated graduates who do not receive this type of education. These surveys and studies are not only positive recognition of the value of sub-degree education, but also full recognition of the efforts made by sub-degree students and institutions over the years.

The provision of sub-degree programmes is a crucial link in education for the Government to provide quality and diversified study pathways with multiple entry and exit points for youngsters. In the past, secondary students whose public examination results were unsatisfactory basically had only two options, they could either repeat Form Five or find a job. However, the situation is completely different today. Apart from studying in universities, secondary school graduates are offered a wide variety of sub-degree programmes which they may select according to their preference and ability. Some of the programmes are focused on academic training to prepare students who wish to further their studies to articulate to bachelor's degree programmes, while other programmes are focused on vocational or professional oriented training to equip students to join the work market. Hence, sub-degree programmes are independent qualification with its own value, as well as a pathway for further education and employment.

To further enhance the opportunities for further education for sub-degree graduates, the Government has made proactive efforts to provide various kinds of support to encourage institutions to offer more bachelor's degree programmes.

As for employment, the Government will continue promoting the sub-degree qualification and enhance the recognition of sub-degree qualification in the work market.

Deputy President, I so submit. After listening to the views of Members, I will give further response.

Thank you.

DEPUTY PRESIDENT (in Cantonese): Ms Cyd HO, you may move your motion now.

MS CYD HO (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

Ms Cyd HO moved the following motion: (Translation)

"That, since the SAR Government announced in the Policy Address 2000 the policy objective of providing 60% of local young people with the opportunity of receiving tertiary education and rolled out a series of measures, the number of self-financing programmes at associate degree level or above offered by local institutions has been increasing; however, as the social recognition of sub-degree qualifications over the past 10 years is still lacking, sub-degree students have to face various problems in further education and employment and even have to bear high tuition fees and loan repayments, thus making them the new blood of the poverty population; in this connection, this Council urges the authorities to:

- (a) increase the number of subvented university places;
- (b) offer subsidies in the form of education vouchers to sub-degree graduates for studying in private universities;
- (c) expand the channels to study in universities for sub-degree graduates;
- (d) increase the number of civil service entry ranks for sub-degree graduates; and

- (e) review student financial assistance as well as loan and repayment arrangements, including abolishing the risk rate."

MR ANDREW LEUNG (in Cantonese): Deputy President, first, I have to declare that I am now the Chairman of the Vocational Training Council (VTC), which is one of the major organizations in providing sub-degree programmes.

The motion and amendments put forth by Ms Cyd HO and various Members reflect that society is extremely concerned about the prospect of sub-degree graduates. Though it has been a dozen years since the introduction of sub-degree programmes, I notice that Members and society still have some misunderstandings about the fundamentals of sub-degree programmes. In the amendments proposed by Members, requests are made to provide support to sub-degree graduates, yet these requests are only focused on helping associate degree graduates but neglecting the needs of students taking higher diploma programmes.

When I spoke on a similar subject four years ago, I did explain in this Chamber that sub-degrees are not the same as associate degrees; in fact, associate degree is only a component of sub-degree programmes and another important component is higher diploma programmes. Higher diploma programmes, which is of a more practical nature, have been provided for several decades and have been widely recognized and accepted by the academic sector and industries. The VTC is a major provider of higher diploma programmes in Hong Kong. As for associate degree, it is relatively new, for it was only introduced in 2000, which was a new scheme introduced by the Government at the time to enhance the tertiary education participation rate via self-financed channels.

Deputy President, many people say that knowledge can change destiny. We all believe that education is the most effective means to stamp out intergenerational poverty. I understand that many parents hope that their children can study in universities and find a good job with their university qualification upon graduation. However, not every student can cope with the education system and not every student is suitable for studying in universities. Hence, in the Reform Proposal for the Education System in Hong Kong published in 2000, the Education Bureau introduced the self-financed sub-degree programmes to provide students with channels for tertiary education other than

conventional universities, and to increase the employability of students by helping to acquire the relevant skills and qualifications.

Nowadays, society requires all-round talents. The VTC adopts a student-oriented policy in education, allowing students to select their major higher diploma programmes according to their interest and ability. At present, about 9 000 students will graduate from the higher diploma programmes of the VTC every year. Among which, nearly 4 000 graduates will choose to pursue further education, and 2 000 of them will study in the articulation programmes offered jointly by the VTC and other universities, who will obtain the bachelor's degree in one to two years. To enable more capable young people wishing to pursue further education to study in universities, we support that the authorities should appropriately increase the number of subvented articulation places at senior year level in universities.

Members and officials often encourage lifelong learning. The VTC is a significant strategic partner to the Education Bureau in implementing the Qualification Framework. We have linked our programmes to the Qualifications Framework, so that students may follow the pathway provided under the Qualifications Framework to acquire higher qualification through lifelong learning.

According to the laws, the VTC is empowered to issue various qualifications to students, say higher diploma and even degree qualification. However, to enhance the recognition of our programmes, to ensure the qualifications of teachers and to improve programme quality, the VTC had invited a third party, the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ), to accredit its programmes six to seven years ago. This year, we have also invited the HKCAAVQ to conduct an independent assessment on our students in respect of the overseas articulation programmes so as to obtain the accreditation of our overseas articulation programmes in Hong Kong. Students may apply for student loans to alleviate their burden, so that they can complete their studies. At present, the VTC offers scholarships to students with outstanding or excellent performance. I hope that when the authorities decide to offer scholarships to associate degree students, it will not forget these students taking higher diploma programmes.

Deputy President, most Members focus on the channels for further education for associate degree graduates today, not much has been mentioned

about the provision of support on employment. Since associate degree programmes focus on the academic development of students to enable them to further their studies in universities upon graduation, the programmes cannot help students in seeking employment. A balanced manpower development is needed in society, for the academic qualification requirement for different employment may vary according to the job nature and positions involved. At present, since most of the graduates from the VTC will choose to work after graduation, the programme content is designed to meet the needs of the trade accordingly, where career guidance and hands-on training are covered to further enhance the employability of students.

Actually, in the past few years, the employment situation of graduates of the VTC has been very satisfactory. Among the students decided to work after graduation, nearly 90% of them could find a job. It is evident that the diploma programmes of the VTC are well-received and trusted by employers. I hope that apart from associate degree programmes, the authorities will also allocate additional resource to support higher diploma programmes, so that more young people may study higher diploma programmes and acquire a specific skill, and more professionals will be nurtured for society to cope with the development of various industries.

Deputy President, the continual increase in the number of sub-degree graduates has aroused concerns about the quality and recognition of these programmes, the appropriateness and timeliness of the programme content, the articulation arrangement with degree programmes, the allocation of resources by the Government, the preparation of students upon their graduation and the employment opportunities for graduates, and so on. All these issues have to be dealt with properly under the education policy. Many young people of Hong Kong are enterprising, and they are eager to acquire degree qualification or specific skills so that they can climb up the social ladder. Young people are the pillars of our future, the Government must meet their needs practically, and provide them with support and assistance so that they can establish a positive attitude of life; this is the only way to promote the healthy development of society and economy.

Deputy President, I so submit.

PROF PATRICK LAU (in Cantonese): Deputy President, I wish to declare that I am the Honourable Professor of the University of Hong Kong (HKU) and the School of Professional and Continuing Education (SPACE) of the HKU, as well as the Honorary University Fellows of the HKU and of The Open University of Hong Kong. The aforementioned universities have offered sub-degree programmes.

I had interviewed some associate degree students applying for scholarship and discussed with them their learning experience. I learnt that they did not have the opportunity to study in universities either because their academic results in their secondary school were unsatisfactory or because of problems of their family background, and they had chosen to study sub-degree programmes at associate degree level. Yet, during the study of the programmes, they met some good teachers, and since the programme content, and the learning and assessment approaches adopted were greatly different with that adopted in secondary education, they were enlightened, and they had the motivation and interest to learn. The most important point is that their attitude of learning had changed, and they had then made remarkable advancement in studies.

My personal exchanges with these students reflect the worthiness of associate degree programmes in providing valuable learning experience to young people and change their life. However, many associate degree graduates find that they are facing difficulties both in further education and employment. I think they are caught in a dilemma. When the Government introduced the associate degree programmes at the time, its main objective was to retain more young people at school via the provision of tertiary education programmes, which could in turn prevent a hike in the unemployment rate. As such, the Government had not made detailed planning for the prospects of these graduates. Due to the bottleneck in articulation for further education resulted from insufficient degree places, many talents with potential for further education cannot but give up further education. This is really a great loss to Hong Kong society.

In the Policy Address last year, I learnt about the measures of increasing first-year-first-degree places to 15 000 and senior intake places to 4 000 progressively. In this connection, I wish to know whether the Secretary consider this a good achievement. I must remind Members that the "3-3-4" New Secondary School Curriculum was implemented in the 2009-2010 academic year,

and the number of students to pursue tertiary education is expected to increase substantially to 30%. Many Members have pointed out that the acute shortage of places is a pressing problem. Hence, I strongly support the proposal of increasing first-year-first-degree places in universities and articulation places at senior level for students of associate degree programmes.

On the other hand, should the employment difficulties faced by associate degree graduates be attributed to the varied quality of such programmes or the impracticability of the subjects offered? The varied quality has resulted in the low recognition of the qualification and it is natural that employers do not have confidence in employing associate degree graduates. For associate degree graduates who have studied less practical subjects and do not have the opportunity for further education, it is certain that they can hardly compete with degree holders in the job market. Hence, I agree that a systematic, standardized, transparent and stringent mechanism on quality surveillance and assurance must be established, so as to enhance the recognition of the associate degree qualification in society. If the Government is willing to take the lead to open more suitable posts in the Civil Service for the application of associate degree holders, it will certainly be better. This arrangement will have the reference effect of setting out unequivocally the level of associate degree in the Qualification Framework on the one hand, and reflect the Government's commitment in tertiary education on the other.

We have to provide some associate degree programmes on professional endorsement to ensure that the education received by students is close to the needs of the market, while achieving the associate degree level in professional knowledge and skills, so as to facilitate students to work in society.

Actually, the construction works of the 10 major infrastructure projects have just commenced in succession, where a lot of high-paid employment opportunities are provided. Deputy President, I wonder if you know that there is a huge manpower demand in the construction industry as a whole. The Financial Committee has just approved the funding for the reclamation, Hong Kong boundary crossing facilities and connection work for the Hong Kong-Zhuhai-Macao Bridge, which means there is tremendous demand for additional manpower to speed up the work and to make up the loss incurred in the earlier suspension of work. We should capitalize on this golden opportunity to offer some career training associate degree programmes with meet the

requirements of the building industry and are related to the construction industry, so that students taking these programmes may apply what they learn upon graduation, and they will be able to make a stable income and repay their student loans. Grievances in society will then be alleviated.

When it comes to student loans, I think we should come up with some creative means in assisting students and the Government in dealing with the problem. I suggest the Government to provide some incentives on loan repayment for students who have graduated but not yet repaid the loan, say providing interest-free concession to students who can make early repayment. As for students unwilling to repay the loan, the Government should consider establishing a mechanism to let their employers know of the situation and assist the students to repay the loan.

The nurturing of local talents is an important investment to ensure the successful and sustaining development of a place. Therefore, I hope that the Government will be willing to allocate more resource to assist more young people to pursue further education and employment

DEPUTY PRESIDENT (in Cantonese): Prof LAU, your speaking time is up.

PROF PATRICK LAU (in Cantonese): and to contribute to society.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, we are living in a world of inequality. Children from affluent families have the opportunities to receive the best education from early childhood, and they have the best opportunity to develop their career upon the completion of education. On the contrary, for children from poor families, the opportunity to receive education at school does not come easily, even though education is usually regarded as the only ticket or opportunity for poor children to climb up the social ladder.

At present, there are 14 500 places provided by publicly-funded universities in Hong Kong, which means only 18% of young people at the appropriate age of attending universities are allocated subvented university places. As for the remaining 82%, if they wish to pursue further education, sub-degree programme is one of the options. However, nothing in society is

provided free, and I will say that the path of education is paved by money. At present, the pathway for completing a degree programme in university through associate degree programmes is: first, the student has to take a pre-associate degree programme, which costs \$40,000; then he will have to take a two-year associate degree programme, which costs around \$90,000 to \$100,000; if he has the luck to study the articulation programme, he will need around \$100,000 for a two-year degree programme. By the time he completes all these programmes, that is at his graduation from university, he will have run up a debt of \$240,000. That is why I say that this education pathway is paved by money.

However, despite the exorbitant tuition fees for these programmes, a large number of people enrol on associate degree programmes, around 27 000 student every year, whereas around 20 000 students graduate from associate degree programmes each year. How about their prospect? About 56% of them will pursue further education while 44% will join the job market. For the 56% pursuing further education, 17% will study publicly-funded programmes provided by local universities, 10% will enrol on self-financed programmes provided by local universities, and the remaining 29% will further their studies overseas.

A number of Members mentioned earlier that society perceives sub-degree graduates with tinted-glasses. In this connection, I would like to quote the words of a famous Hong Kong athlete, LEE Lai-shan. When she won the gold medal at the Olympic Games, she said, "Athletes of Hong Kong are not rubbish." Similarly, I would like to give a fair comment for sub-degree students, "Sub-degree students of Hong Kong are not rubbish, nor are they second-class students." Many sub-degree students are hard-working, and they just lost the best opportunity because of their setback in an open examination. When they completed the sub-degree programmes and study in universities, teachers in universities find their performance more outstanding than many Year-two students promoted directly from Year One, and they are more hard-working and enthusiastic in their studies.

The performance of these sub-degree students at work after graduation is also satisfactory. According to a study conducted last year on opinions of employers on the performance of these students, it is found that nearly 80% of employers agree that the performance of these employees has met the required standard or above. In other words, they are not only good students but also outstanding employees.

However, sub-degree students are now facing two major problems. First, it is the lack of articulation programmes. Many students want to take articulation programmes, but they have no option but to start from Year One at universities, which means burdening them with extra cost and more time. Second, they have to face the high unemployment rate upon the completion of sub-degree programmes. According to figures in 2010, the unemployment rate for post-secondary non-degree graduates was 5.1%, far higher than the 3.2% unemployment rate for post-secondary degree graduates, which reflected a difference of nearly 2%.

Hence, I consider it necessary to assist these sub-degree students. First, I think we, as members of society, should take off the tinted-glasses and stop discriminating against them. As for employers, I hope they will recruit more sub-degree students, for surveys prove that they are good employees.

As for the Government, a lot of measures can be taken. First, I think the Government may provide additional funding. Since there is a shortage of articulation programmes and places, the Government may increase articulation programmes through additional funding to spare students from starting at Year One in universities, so that they only need to complete the two-year degree programmes to obtain the first degree. Second, as mentioned earlier, the tuition fees for sub-degree programmes are quite high, the Government should thus provide additional loans and exempt the interest for the studying period, so that students do not have to take on the burden of huge debts upon graduation. Finally, the Government should take the lead to employ young people with sub-degree qualification. At present, sub-degree qualification is recognized as the entry qualification in only 18 civil service ranks, I believe the Government may step up its efforts in this respect to ensure that more civil service ranks will accept sub-degree qualification as the required entry qualification.

With these remarks, I support the original motion and all the amendments on behalf of the Hong Kong Federation of Trade Unions.

DR LAM TAI-FAI (in Cantonese): Deputy President, some people have once described that associate degree programme is the "85 000 flats a year" housing policy on the education front and it is a failure. I think the programme is not satisfactorily implemented because the Government has applied the idea of

planned economy in education. To achieve the rigid target of giving 60% of school-age young people the opportunity of receiving higher education, the Government has overlooked the actual situation and has not considered clearly how associate degrees can be articulated to university programmes. Besides, the Government has not seriously assessed the recognition of associate degree in the market and workplace before rashly introducing this policy, aiming to urge secondary school graduates to enrol in the so-called higher education programmes for two more years, so as to make up the number and achieve the 60% target and accomplish the task. What is the result? It is definitely unsatisfactory.

Deputy President, associate degree programmes have been introduced for more than 10 years. Some people describe that associate degree graduates are just like semi-manufactured goods and I consider the description rather appropriate. In fact, since its introduction, associate degree programmes have not been widely recognized and accepted in the community, and cannot effectively be articulated to university degree programmes. As a result, a very serious bottleneck situation has resulted and most graduates do not have the opportunity to continue their studies. Moreover, there is inadequate recognition of associate degree qualification and people have the impression that these graduates are unfit for higher posts but unwilling to take up lower ones; they are just falling between two stools. While these students cannot continue their studies, they also have difficulties in getting a job as the certificate awarded is of no help. So, they are faced with the dilemma of failing to continue their studies or getting employed upon graduation. Consequently, these semi-manufactured products are not welcome in the market, and it is very difficult to have a way out.

The Government has recently announced that the number of publicly-funded senior year undergraduate places will be increased from 2 000 to 4 000 each year, and more than one fifth of sub-degree graduates can continue their studies in universities. However, the Government has not mentioned how to handle the remaining four fifths of these graduates. In particular, when secondary students under both the old and new systems graduate next year, I believe more students will be compelled to take sub-degree programmes, and the problem concerning the prospects of future graduates will become more serious.

According to the Government, the development of self-financing private universities can give sub-degree graduates more opportunities to study in universities. I agree that this is one of the desirable solutions but I will not

presumptuously determine its effectiveness for the time being as it depends on whether these programmes can be articulated to sub-degree programmes. Take the Tung Wah Group of Hospitals as an example; it mainly provides nursing programmes and it is not known if a large number of associate degree graduates will enrol in these programmes.

Furthermore, issues such as the quality and social recognition of private university programmes will depend on the effective monitoring of the Education Bureau. If these programmes are implemented with no consideration for the types of talents required by the market and the employment situation, I believe the situation of associate degree programmes will easily emerge again, and there will be another mess. In fact, the University Grants Committee already stated last year that self-financing institutions would face the risks of financial problems, un-co-ordination and unsatisfactory quality of courses. If that is the case and the Government encourages young people to enrol in private university programmes for two more years after completing sub-degree programmes, it will very probably be a waste of their time and money.

There is recently a saying that there is room for reduction of tuition fees for sub-degree programmes. Of course, fee reduction sounds pleasant to the ear; but if people making such comments do not understand the real situation, I think they are irresponsible. As the Government has not funded or monitored sub-degree programmes, if these institutions are requested to reduce tuition fees, I am afraid that adjustment will be made to the money available, which would easily affect the quality and recognition of programmes. Unless the Government provides subsidies to these institutions after reduction of tuition fees, it would be difficult to assure the quality of programmes, which may not be conducive to students.

Deputy President, since sub-degree programmes have so many practical difficulties and problems, I think the Government should not deal with this matter in a self-deceptive way for the sake of saving face. If the Government cannot think of any other ways to optimize this system and articulate it to university degree programmes, or satisfactorily monitor the quality of programmes, I believe it should rein in and consider terminating the policy; otherwise, the existing problems will only have a snowball effect.

Just now, Mr Andrew LEUNG has also talked about higher diploma programmes. In fact, in the past years, higher diploma programmes have been

widely recognized and accepted by the community and employers. Hence, I suggest that the Government should consider developing this area vigorously and subsidizing higher diploma programmes to replace sub-degree programmes. I think the Government can also consider a voucher system in which money follows the users; students will be provided with the same amount of subsidy as that provided to those attending local subvented degree programmes, so that they can freely choose to study in the Mainland or overseas. This can solve the problem of inadequate university places in Hong Kong and these students can continue their studies.

Deputy President, Mainland universities will implement a new policy for Hong Kong students next year, that is, exemptions from taking the national entrance examination as announced by Vice Premier LI Keqiang when he visited Hong Kong. Given that university places in Hong Kong are insufficient at present, I trust that this can provide an additional channel for further studies for Hong Kong students and associate degree graduates. Hence, I think the Government should take the lead to establish a mechanism for mutual recognition of academic and professional qualifications. The Government should recognize the qualifications of students from well-known universities in the Mainland as the qualifications attained in Hong Kong, so that employers and the market will accept these qualifications recognized by the Government, and students studying in the Mainland can then rest assured.

Deputy President, education is not an operating expenditure but an investment in talents. In order to maintain our sustainable competitiveness and competence for diversified development, we must invest more resources to train more talents. If loan interests are collected from students before graduation since the Government has such a large reserve, I believe it should not care about these petty interests. Instead, the date for calculating interests should commence after these students have graduated for this is an investment in training and education.

I so submit, Deputy President.

MR RONNY TONG (in Cantonese): Deputy President, the former Chief Executive, TUNG Chee-hwa, has two policy objectives with good intention. One objective is to enable 70% of Hong Kong people to become home buyers and

the second one is to ensure that 60% of young people can receive tertiary education. Unfortunately, we all know what the consequences were. The "85 000" housing policy led to the collapse of our economy, and under the sub-degree programme system, young graduates have taken out loans that can never be fully repaid and their academic qualifications are not recognized. These well-intended policy objectives have eventually ended up in deplorable outcomes.

Let us take a look at the relevant data and we will understand how miserable this story is. Starting from the 1994-1995 academic year, the Government decided that the number of first-year-first-degree places should remain at 14 500, which accounted for only 18% of our population. Despite the development of our economy towards a knowledge-based economy with growing demand for higher educational qualifications, this number remained unchanged in the past 15 years. In 2001, people having university degree qualifications and aged 25 or above accounted for only 12.3% of our total population, far lower than 30.2% in New York and 22.9% in London. Hong Kong claims to be an international metropolis or international city, yet, this number is so disappointing.

According to information, 18 350 students met the minimum requirements for admission to tertiary institutions in 2010, which accounted for 47.1% of the candidates. That was the highest recorded number of candidates who met the minimum requirements. Nonetheless, due to the limited number of publicly-funded university places, some 6 300 students were denied entry to university, that is, one third of students who met the minimum requirements could not pursue university education. Among some 42 000 candidates this year, though 18 900 of them met the minimum requirements for university admission, more than 4 400 students were eventually not admitted. We often hear about the keen competition of the National College Entrance Examination (NCEE) on the Mainland, but if we do some calculations, we will know that the admission rate in Hong Kong is just 34.5% as compared to the 72.3% admission rate of the NCEE on the Mainland. In other words, we are even falling behind the Mainland.

According to the Government, it does not matter if students cannot enter universities because there are associate degree programmes. Yet, according to the research report on the associate degree education policy, after 10 years of development, even though the number of associate degree places is the same as the number of publicly-funded university places, the number of articulation places are very limited. In the 2006-2007 academic year, the SAR Government

only provided 960 articulation places in University Grants Committee-funded institutions. As there are more than 32 570 associate degree places each year, the articulation rate is less than 3%; in other words, 33 students are competing for one articulation place. Evidently, articulation of associate degree programmes to tertiary education simply does not work.

Associate degree graduates cannot enter universities and their qualification certificates are not accepted in the market, as evidently shown in the data provided by the Government. According to the data published by the SAR Government in 2006, only 22 out of 391 civil service grades accept associate degree qualifications as entry qualifications.

Another phenomenon that made people sigh with emotion is that the institutions currently offering self-financing sub-degree programmes borrowed government loans for building campus, so some \$12,000 out of the tuition fees paid by each student each year will be repaid to the Government on average. For this reason, the tuition fees for associate degree programmes generally range from \$40,000 to \$50,000. After making "mortgage repayment" for the campus, only the remaining amount of some \$30,000 is actually spent on the programme and the students; the cost per student is even lower than the cost of each subvented secondary school place. As we can imagine, what associate degree students paid is disproportional to what they get in return, which is a kind of exploitation.

In light of decreasing publicly-funded university places and increasing competition for other education opportunities, it should be noted that the SAR Government has repeatedly relaxed the upper limit of non-local students admitted, which increased from 4% of the total number of local students to 10%, and further increased to 20% at present, resulting in a growing number of Mainland students and non-local students. In the 2008-2009 academic year, the number of non-local students in eight major institutions reached 4 790, among which 4 300 students were from the Mainland. The number of applicants for many universities has increased this year; the number of applicants for The Hong Kong Polytechnic University reach 4 200, 17% more than last year. Coupled with over 9 000 applications received by the University of Hong Kong, the number of Mainland applicants for the eight universities amount to 21 500. Although we have put quite a lot of teaching resources on Hong Kong students, they can only pursue further studies overseas in the end and most of them will not return to Hong Kong and serve the community. Alternatively, they can only

take study sub-degree programmes. As I have just said, they will ultimately be heavily in debt and their qualification will not be accepted in our society.

Deputy President, under such an education system, how can we expect the wealth gap be narrowed through upward social mobility? We can say that the SAR Government is very mean in this respect. We believe the only solution is that the Government should increase investment in education and university places, so as to give young people the opportunities to excel. If the Government fails to do so, our society will keep going downward, lagging even farther behind other societies in terms of the pace of development.

Thank you, Deputy President.

MR IP WAI-MING (in Cantonese): Deputy President, a number of Honourable colleagues have just spoken and I would like to express my views briefly.

It has been more than 10 years since the introduction of associate degree programmes in Hong Kong in 2000. As Honourable colleagues have mentioned, within these 10 years, associate degree programmes have been substantially developed and there are tens of thousands of local self-financing associate degree graduates each year. According to the information provided by the Education Bureau, in the 2010-2011 academic year, there are 27 500 local self-financing associate degree programme places, excluding the number of higher diploma and other funded programmes. In spite of the continuous development of associate degree programmes and the continuous increase in the number of institutions, programmes and students, the complementary arrangements have not been really satisfactory. So, the motion today contains proposals for improving the development of sub-degree programmes, and I would like to focus on discussing the applicability of the programmes, studying ways to facilitate local students' pursuing further education overseas and reducing the loan repayment pressure of students.

First of all, I would like to discuss the issue of practicality. Currently, the Vocational Training Council (VTC) and various institutions under it provide different types of diploma and higher diploma programmes, which generally emphasize on applied technologies and applicability. Take the programmes offered by the Hong Kong Institute of Vocational Education as examples,

emphasis has been put on practicality and application throughout the years, so that graduates will acquire particular skills and can apply what they have learnt. Nevertheless, the associate degree programmes are completely different. We have frequently note that the contents of some associate degree programmes are designed with reference to the contents of university degree programmes, only with some revisions. As a result, these programmes are lacking in the impartation of practical knowledge and focused entirely on the academic and theoretical aspects, hoping that students can articulate to degree programmes in the future. However, the Government has not provided sufficient articulation places for associate degree graduates to further their studies. As Honourable colleagues have just stated, these graduates cannot enter universities and they have not learnt any practical knowledge for employment. Thus, students of these programmes who lack practical skills are often less competitive than the diploma graduates of the VTC. Under such circumstances, associate degree students are very helpless and they are actually victims of the system; they are unfit for higher posts but unwilling to take lower ones. Most unfortunately, they may have spent tens of thousands of dollars or over \$100,000 on tuition fees for a sub-degree. As Honourable colleagues have just said, these graduates will be heavily in debt before they start earning money. In our view, this is unfair to them and their parents, and the Government has considerable responsibilities.

In the amendment of the Hong Kong Federation of Trade Unions (FTU), we propose expanding the channels for associate degree students to study in local and overseas universities and studying the feasibility of allowing local students to apply for student loans for pursuing further education overseas. Although quite a number of overseas universities are offering articulation programmes in Hong Kong and children from well off families can pursue further education overseas, grass-roots families can hardly afford to support their children to study overseas. For students pursuing further studies overseas or in the Mainland, they can acquire broader vision and have wider channels for further studies. We hope that the Government would listen carefully to our views and study the feasibility of providing these students with financial support. With the implementation of the New Senior Secondary (NSS) academic structure (the "3-3-4" academic structure), there will be more graduates who have completed senior secondary education in the future. If there is no increase in the number of local publicly-funded university places, there will be greater demand for other channels to pursue further study, and the Government should make greater efforts and study the feasibility of providing students with financial support for pursuing

further studies overseas. Yet, we opine that the fundamental solution is to enhance the quality of associate degree programmes and increase publicly-funded university places each year, as well as second-year and third-year articulation places for publicly-funded universities.

As regards reducing the loan repayment pressure of students, I still want to voice my views though quite a few Honourable colleagues have already spoken on the subject. Under the current Non-means-tested Loan Scheme, interests are calculated from the day following a student's borrowing a loan from the Student Financial Assistance Agency (SFAA). Some students who have borrowed loans cannot work as they have to attend full-time programmes. However, interests on student loans from the SFAA are calculated on a daily basis, which is unfair. We hope the Government would expeditiously review the system and abolish the arrangement of calculating loan interests during the students' study period. We also hope that the Government would concurrently review all exiting loan schemes and reduce the interests under these schemes, so as to truly encourage continuing education and lifelong learning. I so submit, Deputy President.

MR ALBERT HO (in Cantonese): Deputy President, the Government mentioned in the Policy Address in 2000 that the Government's target was to give 60% of school-age young people the opportunity to receive tertiary education within 10 years. In the face of financial difficulties and economic downturn later on, the SAR Government could only develop self-financing sub-degree programmes to achieve the ambitious target that 60% of school-age students would receive tertiary education. In promoting sub-degree programmes, officials specially emphasized that the degree was widely accepted with guaranteed quality, and that the prospect for further studies was promising. Moreover, they promised to substantially increase university places so that sub-degree graduates could directly become second-year university students. Owing to the Government's aggressive promotion, the number of sub-degree programmes rapidly increased within a few years. The number of self-financing full-time sub-degree programme places have increased at an alarming rate from around 2 500 in 2001 to 27 500 in 2011; an increase of nearly 10 times.

Although the Government acclaimed that the policy objective that 60% of young people had the opportunity to receive tertiary education within 10 years

could actually be achieved within five years, the quality assurance and recognition of the qualifications of sub-degree programmes have been queried; moreover, there is a serious shortage of articulation university places and the employment prospect is poor. Secretary for Education, Mr Michael SUEN, said in 2007 that the two problems of associate degree programmes were "bottlenecks in further studies" and "unclear positioning". "Improving the quality of associate degrees and providing more chances for attending universities" become the topics of motions proposed in the Legislative Council each year for debate at meetings.

The mistakes of the sub-degree policy sounded a warning for the SAR Government's governance. For any executive authorities, in order to effectively achieve a specific target, a holistic policy must be formulated with specific planning and comprehensive support measures, as well as an assessment of the impact of the policy on society. However, the sub-degree policy has placed the cart before the horse.

Before putting forward the sub-degree policy, the Government did not have a comprehensive plan on the direction, quality and qualifications of sub-degree programmes. While the higher diploma, diploma and certificate programmes under the Government's Qualifications Framework have clear positioning, the positioning of sub-degree programmes was rather vague in terms of further studies or the employment market. Since it was mentioned in the Policy Address that the participation rate in tertiary education should be doubled within 10 years and the opportunity for tertiary education of school-age students should be increased from 30% to 60%, officials worked hard to boost up the figures, with a view to achieving the target. Nevertheless, increasing the places for tertiary education is not just a game of figures; greater importance should be attached to the ratio and the number of articulation places for tertiary education at various levels, as well as improvements in programme design, teaching staff, school facilities, support services, and so on. Sound policy planning lies in co-ordination in every aspect, instead of just making one step at one time.

The crux of the sub-degree policy is that the Government relies entirely on the market-led development of sub-degree programmes, shirking its responsibilities for timely allocation of resources and quality control. The outcome is that institutions compete with one another in offering sub-degree programmes, and education has become commercialized with the objective of

making money, and paying no regard to the quality of the programmes. The drawback of sub-degree programmes originates from its being excessively commercialized, leading to market imbalance, and eventually students are victimized.

The Report of the Phase Two Review of the Post Secondary Education Sector published in 2008 contained 22 recommendations for supporting sub-degree programmes, which include the development of self-financing top-up degree places and private universities, so as to improve the bottleneck problem of sub-degree graduates to pursue further studies. In other words, further market-oriented approach is adopted to solve a problem caused by market imbalance. It is clearly stated in the Report "Aspirations for the Higher Education System in Hong Kong", published of the University Grants Committee at the end of last year that self-financing degree programmes would most probably repeat the mistakes of sub-degree programmes and have financial and quality problems. Merely depending on self-financing top-up degree places is not a long-term solution to the problem of the bottleneck in further studies.

(THE PRESIDENT resumed the Chair)

The important lesson from the sub-degree policy is that education cannot be operated merely according to the rules of the capitalist market and that the Government's investment in education must not be guided by the principles of market operation. Tertiary education should not be market oriented; it is undesirable to apply the principles of market operation and replace it with the insistence on the quality of education, or to replace the goals and ideals of education by financial considerations. In future when the Government deals with issues such as the education industry or a regional education hub, it must bear in mind that its investment in education can be quantified in monetary terms but the meaning and purpose of education is invaluable for the community as a whole.

We have discussed the above policy blunders, hoping that the Government would work hard to rectify its mistakes, and will not shirk its responsibilities and allow such an important policy to be led by the market. The sub-degree policy in the past 10 years has inflicted a permanent harm to the education sector.

Even though the Secretary's remaining term of office is rather short, I call upon the Secretary to make his greatest effort before the expiration of his term to improve the existing policies and system, and allocate resources to provide sufficient top-up degree places, so that sub-degree students who work hard can be fairly treated.

I so submit, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, since the introduction of sub-degree programmes in 2001, the number of programmes offered and students have surged. Just the number of associate degree programmes has increased from 16 in 2001 to 156 in 2010, and the number of graduates each year has substantially increased from 349 to 7 000 at present.

Since it is reckoned that the Government introduced sub-degree programmes at that time to alleviate youth unemployment, appropriate coupling measures for articulation to further studies and employment had not been introduced. However, articulation problems still exist 10 years later, which has seriously affected the recognition of sub-degree programmes and many graduates feel at a loss upon leaving the campus.

Undeniably, there are now 18 civil service grades for application by sub-degree graduates but this is not very helpful for the arrangement is more posture than action. For example, in order to solve the employment problem, the Government claimed that 4 300 out of the 7 700 civil service posts introduced in 2009 could be applied by sub-degree graduates and the entry point was as high as \$19,000 a month. In reality, even university graduates were competing for these posts. In that case, how will sub-degree graduates stand out and be employed? So, a more pragmatic approach is that the Government should create tailor-made posts for sub-degree graduates, instead of asking them to compete with other people in an unfair environment.

In fact, I have been in contact with many young sub-degree graduates, and I find that they are not inferior to university graduates in terms of capability and work attitude. For instance, two associate degree graduates are employed in my office and their performance is rather satisfactory. Thus, I do not think that the

abilities of sub-degree graduates would be inferior to those graduates with higher academic qualification. They only need an opportunity.

A more serious problem is that students taking self-financing sub-degree programmes are heavily in debt after graduation. At present, the tuition fees for self-financing sub-degree programmes are unbelievably high, and can amount to \$100,000. Hence the current serious loan delinquency situation is discernable. Information from the Student Financial Assistance Agency (SFAA) shows that, as at the last academic year, 13 000 people had loans in arrears under the Non-means Tested Loan Scheme (NLS) and the amounts they owed reached \$210 million. The current loan interest under the NLS is more than 3%, which is extremely high for students. After salaries of sub-degree graduates are generally rather low, it is not easy for them to repay the principal, and if they also have to bear high interest rates, they are really unreasonably treated.

I know a social worker who, after completing an associate degree in social work, pursued further study and completed a degree programme; and consequently he owed \$440,000 for tuition fees and living expenses. This sum of money is almost enough for the down payment for a residential flat. How can our society be so ridiculous, why should a hard working and self-motivated young man be heavily in debt?

I am delighted to learn that the Education Bureau has proposed reforming the NLS, which includes removing the 1.5% risk-adjusted factor, a reduction of interest rate in disguise. It is also suggested that the standard repayment period should be extended to 15 years, and I believe this would help relieve the students' burden. I also hope that the Education Bureau would consider exempting loan interests under the NLS for students who are still studying and I believe the financial burden incurred on the SFAA would not be great.

Nonetheless, in order to solve the structural problem of high tuition fees, the most direct method is to increase publicly-funded university places. In the Policy Address last year, the Government announced the proposal to increase publicly-funded first-year-first-degree places by 380 from 2012 (that is, the current academic year). It also recommended that articulation programme places should be increased to 4 000. Yet, it is still just a drop in the bucket. In particular, under the New Senior Secondary (NSS) academic structure, 80 000 graduates will compete for university admission each year while there are only

15 000 publicly-funded university places. Even though the Education Bureau is ready to gradually increase second-year and third-year university places in the next few years to match the NSS structure, obviously the university places are utterly inadequate to meet the great demand. The above measure can hardly help solve the problem of inadequate university places.

For this reason, I hope the Government would invest more resources in education in the future and set a 10-year target to gradually increase university places, ultimately reaching the target that 60% of school-age students can receive university education, instead of the present target of receiving tertiary education.

President, the International Covenant on Economic, Social and Cultural Rights announced by the United Nations back in 1966 already confirmed that it was a basic human right to receive education. Hence, the Government is duty-bound in this connection. In view of the widening disparity between the rich and the poor in Hong Kong, costly self-financing places basically deprived the grassroots of their right to receive tertiary education. Thus, for the interests of the next generation, the Government should strengthen the investment in education and expand the provision of free tertiary education. I trust that this will definitely be a social investment with very high return. I so submit, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, this issue is certainly related to the current Chief Executive election. The Hong Kong Federation of Education Workers had organized a forum and LEUNG Chun-ying and Henry TANG were invited to attend. LEUNG Chun-ying, who believed that he was terrific, spent a lot of time talking about the theory that education did not incur expenditure but it was an investment, and he said that investments must have returns. However, we have recently heard that the business he operated incurred a loss of \$3 billion. With an intention to attack, Dr LAM Tai-fai has just said ironically that we have a planned economy. Nevertheless, this is econometrics under which there must be output after investment has been made.

Let us consider the two Chief Executive candidates. One of them still talks about the "expenditure" concept, thinking that the Government will suffer losses in providing financial support for students; the other candidate uses "investment" as a metaphor because only investments will have returns. This concept is exactly the same as Uncle TUNG's. Uncle TUNG is our former Chief

Executive, TUNG Chee-hwa, who may campaign for LEUNG Chun-ying. At that time, fearing that he would be severely criticized, he introduced this education policy to put Hong Kong on a par with Singapore. President, as you are aware, he implemented three benevolent policies after the reunification, these policies were respectively related to education, housing and elderly affairs. The result was that he turned the three policies into a complete mess and he became the object of criticisms in the Legislative Council. At the time, TAM Yiu-chung who claimed to be pragmatic was responsible for elderly affairs, and his work brought about the miserable situation of the elderly today. LEUNG Chun-ying was responsible for the housing policy and another responsible person was Antony LEUNG who was later promoted as Financial Secretary. Antony LEUNG and LEUNG Chun-ying were officials to serve TUNG Chee-hwa when he was in office and both of them took a leading role after CHUNG Sze-yuen lost power.

They had certainly taken part in the introduction of associate degree programmes which is the subject of today's discussion. As the saying goes, "The crime of him who anticipates and excites that wickedness is great".¹ When "Silly Old TUNG" proposed following the example of Singapore and asked them what solutions they had, they said that fish eyes should be passed off as pearls, and it would serve just to implement tertiary education. Thus, they came up with the idea of giving 60% of school-age students the opportunity to receive university education, but expenditures on education still remained at more or less the same level, that is, 18% for publicly-funded university education and the remaining 42% was to be borne by the users.

President, let us imagine this scenario: an autocratic government like the present government would certainly consider itself as parents to the people, claiming that it would take care of the people even those who have not voted for it. As such, will the father, after paying the education expenses for his son, calculate how much the son can earn? Or, will the father, in providing for education expenses, estimate how much his unworthy son can earn in future? For sure that will not happen; all people can receive education, a parent's loving care should not be calculated.

¹ <<http://ctext.org/mengzi/gaozi-ii>>

Though the Government claims to be the parent of its people, it considers the expenditure or funding for education an investment. Education is not, as remarked by Mr CHEUNG Kwok-che, a right under the United Nation's International Covenant on Economic, Social and Cultural Rights (ICESCR). Other rights apart from political rights cannot always be realized, and civic rights must adapt to the social circumstances.

I would like to argue whether our social and economic circumstances will allow the realization of civic rights as declared under the ICESCR. Let us look at Singapore, the country which TUNG chee-hwa would like Hong Kong to follow. According to the statistics that I have read, it cost us \$1 to complete certain work whereas in Singapore \$2 are spent for the same work. In other words, our circumstances are more or less the same but we spent half the amount. Naturally, TUNG chee-hwa had implemented various "grandiose" measures to make his dream come true; as a result, associate degree programmes were offered, which wasted our time, which made students suffer and parents waste money.

With a reserve of \$2,000 billion, how much can the Government spend on education? Take the construction of the Express Rail Link as an example, the project cost amounts to approximately \$69 billion. If the funding for the construction of the Express Rail Link is used on education, the sum is more than enough. The Government frequently claims that Hong Kong will be marginalized; has it ever considered that the railway is just our hardware and our software is the young people? Since it worries so much that we will be marginalized and we will be lagging behind in terms of talents or other aspects, why does it not allocate certain amount out of some \$60 billion for university education?

As we can see, the two Chief Executive candidates are almost the same. They have helped a tyrant to victimize his subjects, bringing about the implementation of the sub-degree programme system which is subject to severe criticism by us (including Members from the royalist camp) today. After the implementation, Antony LEUNG left the Government to deal with fund transactions, and could not care less. What had LEUNG Chun-ying said? Had he expressed his views on this matter and asked TUNG Chee-hwa to carry out reforms? No, he had not. TUNG Chee-hwa was like a heartless man who only wanted his son but abandoned his wife. He implemented the sub-degree system for the sake of inheriting properties and seeking personal glory; and eventually,

he only focused on the results and neglected the origin. Yet, there was no consequence for this behaviour of TUNG Chee-hwa. Today, the two probable Chief Executive candidates and the dark horse Regina IP who is the third probable Chief Executive candidate have not made known their position on this issue and they dare not make things clear.

Alas! They certainly cannot make things clear. This kind of parliamentary council will bring about this kind of government; this kind of rubber stamp will naturally give rise to this kind of despotic rule. Hence, sub-degree students, you should really ponder over this issue.

MR LEUNG YIU-CHUNG (in Cantonese): President, since the reunification, the SAR Government has constantly emphasized that a knowledge-based economy should be developed. Therefore, TUNG Chee-hwa repeatedly stressed during his governance the popularization of education, especially higher education, with a view to achieving the target of giving 60% of people the opportunity to receive tertiary education within 10 years.

Before we knew it, more than 10 years have elapsed since the reunification and the target has already been achieved, even ahead of schedule. Among the policies of the SAR Government, I trust that this is the only policy that the Government considered as satisfactory because the target has been achieved ahead of schedule. However, do we really want to see this situation? I do not think so. What are the reasons?

President, it is true that education cannot be detached from economic development but I wish to stress one point, that is, education should not only serve economic development. On the contrary, education should have various targets, which include individual accomplishment, personal thinking, as well as individuals' contribution to society and human undertakings. Quite a number of education workers in Hong Kong are unhappy about the present education system, mainly because its targets have gradually become vulgar or practical rather than maintaining an education policy with a noble sentiment. This is disappointing.

President, what factors have contributed to this situation? It is true that the Government has invested a lot in education but the number of university

places fails to tie in with the current growth in population. Today, the situation of many graduates competing for a small number of university places still persists and the demand for university places cannot be met. Thus, programmes such as sub-degree or other programmes have continuously been offered in the market. As these are self-financing programmes, the tuition fees are high, and they must meet market demand. What exactly is market demand? Students who have completed the programmes must be able to find a job; thus, these programmes are highly focused on very practical fields such as business management.

Certainly, the number of humanities programmes is relatively small. As I have just mentioned, if graduates cannot find a stable job upon graduation, how can they repay the tuition fees? In the face of this problem, even if they do not necessarily have well-paid jobs, at least the job can allow them to have a more desirable income.

Under such circumstances, many students may have no alternative but to choose subjects that they may not like very much, but their decision is based on the economic orientation of our society, which is really sad. This is also miserable with regard to the overall development of our society. If this situation persists, our society will become very practical and people will adopt an utilitarian point of view. I believe our society should not develop in this direction. The purpose of tertiary education is not merely to serve the economy; more important still, the purpose is to enable us to have all round development in our personal character and accomplishment, as well as our commitment to the community.

Nowadays, we note that the tuition fees for these non-funded degree programmes such as sub-degree programmes are very high. While students can borrow loans, they worry that the burden for loan repayment after graduation will be very great. Why? Soon after they step into society to work, they may get marry. In that case, they have to support a family and repay the loans, what should they do under such heavy burdens? Can they choose programmes that they are interested in and meet their aspirations? Many of them have no choice but to choose more practical programmes.

I think the Government has the responsibility to consider this issue, so that students can enrol in programmes that meet their own interests and aspirations.

We must increase the number of degree programmes and give students more choices, and we should not be complacent by saying that we have already achieved the target of giving 60% of students the opportunity to receive tertiary education. That should not happen; if that is the case, the Government just hands over its work to the market rather than taking up its responsibilities. I believe this is inadequate.

The Government has to undertake its responsibilities and cannot shift them to the market. The market can deal with the issue in its own way but it is most important for the Government to strike a balance. If we rely on market-driven development in the absence of a balance, I am not saying that the education system will collapse but I trust that such a development will definitely be unsatisfactory.

I think that the issue discussed today is worthy of in-depth exploration and I am really grateful to Ms Cyd HO for moving this motion. It allows us to reflect on the Government's responsibilities, instead of believing that we have achieved the target by having tertiary programmes operated by the market. This is the most important point and I hope the Government would give some thoughts on this issue.

While students can choose to take programmes that meet their aspirations, can they be offered interest-free loans to relieve their loan repayment pressure in the future? This is even more worthy of the Government's consideration. The Government cannot just stress that low-interest loans have now been offered. Even low-interest loans need to be repaid, which also puts students under pressure. Hence, as I often emphasize, higher grant amounts and lower loan amounts should be provided to students, and students should be given interest-free subsidies.

I so submit, President.

DR RAYMOND HO (in Cantonese): President, I moved a motion on associate degree programmes in this Council about 10 years ago. Ten years later, I am delighted to have an opportunity to probe into this issue again today. I would like to thank Ms Cyd HO for moving this motion.

In the Policy Address in 2000, the then Chief Executive stated the objective that within 10 years, 60% of senior secondary school leavers would receive tertiary education. If sub-degree students are included, young people taking local tertiary education programmes will reach 63%. If we merely take this number as the target, the percentage of senior secondary school leavers who receive tertiary education has more than doubled as compared with approximately 30% 10 years ago, and it can be said that we have exceeded the target.

This should be gratifying, especially when we consider that Hong Kong has been devoted to the development of a high value-added knowledge-based economy for the past 10-odd years, and the support of higher education is particularly essential. However, facts have shown us that the reality is not as appealing as the figures. First, our economy is still at a transformational stage and it is highly dependent on the financial and real estate sectors, and we are still striving to achieve the target of becoming a high value-added knowledge-based economy. Many sub-degree graduates have encountered a lot of difficulties in further studies and employment.

Ten years ago, most of the sub-degree programmes were publicly-funded. Nowadays, other than some publicly-funded sub-degree programmes, most sub-degree programmes are self-financing. The quality of these sub-degree programmes varies and quite a number of employers have reservations about the relevant qualifications. When students who have completed these programmes seek employment, their qualifications may not necessarily put them in a better position than matriculants. Besides suffering setbacks in employment, sub-degree graduates have the same difficulties in respect of further studies. The Chief Executive mentioned in the 2010-2011 Policy Address that the Government recommends that senior year intake places of University Grants Committee (UGC)-funded degree programmes should be doubled progressively to 4 000 each year from the 2012-2013 academic year, to provide more articulation opportunities for sub-degree graduates. Nevertheless, with the concurrent increase in sub-degree programme places, I believe the number of articulated publicly-funded degree programme places is still insufficient to meet the needs.

The positioning and quality of sub-degree programmes have been the concerns of the community and it is the crux of sub-degree students' difficulties in employment and further studies. At present, eight UGC-funded institutions

provide around 14 600 first-year-first-degree places. Although the Chief Executive proposed in the 2010-2011 Policy Address to increase publicly-funded first-year-first-degree places to 15 000 for each cohort from the 2012-13 academic year, the Government can only provide university places to approximately 18% of young people. Owing to the serious shortage of publicly-funded university places, many students take sub-degree programmes in the hope that they can articulate to publicly-funded university places. Institutions offering sub-degree programmes may offer tilted course if they want to meet the articulation needs of students. While such programmes may meet students' aspirations for further studies, they fail to meet in practical terms the needs of the community or to give full play to students' potential. For example, courses which train students to become paraprofessionals should be offered, which can provide the labour market with high-quality paraprofessionals. As these courses targeted the needs of economic development, they should be more conducive to enhancing recognition of sub-degree qualifications.

Also, a large number of institutions are offering self-financing sub-degree programmes. As these institutions have to take financial factors into account, their admission requirements and teaching quality are worthy of our concern. This is probably one of the reasons leading to the varied quality of sub-degree programmes and the lack of recognition. I believe the Government must address these issues and conduct careful studies and appropriate reviews.

I think Honourable colleagues would agree that education is a ladder for people's upward mobility and the best way to reduce intergenerational poverty. More specifically, the education we speak of should attach importance to both quality and quantity. To a certain extent, attending tertiary education programmes is a personal investment. I think the Government should provide students having financial needs with subsidies and loans. When students have made such a significant investment, the Government should at least ensure that the tertiary education programmes taken by them meet the relevant standards, so that students can really enhance their capabilities and give full play to their potentials through receiving quality education, thereby having the conditions for upward mobility. Otherwise, the Government will be misleading them to a certain extent because they may only get second-class diplomas from their investments; in that case, not only will they fail to break away from poverty, they also have a higher risk of their downward mobility in view of the government loans they owed.

With these remarks, President, I support the original motion and all the amendments. Thank you.

MR CHAN KIN-POR (in Cantonese): President, sub-degree programmes have been introduced into Hong Kong for more than 10 years and so far, some 60 000 students have graduated. There are both good and bad comments in the community about sub-degree programmes. Regarding the good comments, these programmes provide an additional study pathway for students who cannot proceed to pursue undergraduate programmes, so that more students to take tertiary education programmes; as for the bad comments, there is a lack of opportunity for further studies and a low recognition in the employment market.

My impression of sub-degree programmes may differ from that of ordinary Hong Kong people. Local sub-degree programmes are modeled on the community college system in the United States. Community college programme is equivalent to the first two years of a four-year undergraduate programme, providing an additional study pathway for students who fail to get direct admission to universities. Community colleges became popular during the 1960s and 1970s; the American society advocated egalitarianism back then and believed that all students should have the opportunity to enter university; young people who could not directly enter university were encouraged to enter community colleges, as an alternative means to university education.

The difference between sub-degree programmes in the United States and Hong Kong is that there are sufficient university places in the United States, and quite a number of students will suspend their studies for some time. Hence, sub-degree students in the United States with good results will certainly have the chance to be admitted to the third year programme of conventional universities, including renowned universities. Therefore, students determined to study will forge ahead towards their goals, and their results will even be better than students of conventional universities.

My knowledge about the community college system actually comes from some of my friends. Their sons attended secondary schools in the United States and then they entered the community college. While their academic performances in Hong Kong are not outstanding, they have undergone drastic changes after they went to the United States. They graduated with impressively

outstanding results and were admitted to top universities in the United States; and they eventually graduated from top universities. There are numerous similar examples as far as I know.

As for sub-degree programmes in Hong Kong, though the systems are similar, the end results are largely different. Owing to few opportunities for further studies and low recognition in the employment market, sub-degree graduates in Hong Kong have not been affirmed by the community and they have not been given government assistance. At present, most of the sub-degree programmes in Hong Kong are offered in a self-financing mode. As there are great demands for further studies, these self-financing programmes are very popular even though the tuition fees are expensive. Consequently, running these programmes has become a profitable business, no wonder various institutions have rushed to offer sub-degree programmes in recent years; it is naturally difficult to guarantee the quality of these programmes.

In my opinion, now that the Government has introduced sub-degree programmes in Hong Kong and has vigorously promoted them, it has no reason to stay aloof and it must provide sub-degree students with assistance. Various proposals made by Honourable colleagues on the motion today should be studied carefully by the Government. The fundamental problem is that the Government must solve the difficulties encountered by sub-degree graduates in further studies. Providing opportunities for further studies can stimulate students to work hard and the overall standard can be upgraded.

A few days ago, the Government announced that it had completed the scrutiny of the "Review of Higher Education" report published by the University Grants Committee and it had also put forward some ideas on reform. One idea is to enable 20% of sub-degree graduates to be admitted to publicly-funded undergraduate programmes by 2015. While this is desirable, the demand far exceeds the supply, and only a small number of sub-degree graduates can pursue further studies. As undergraduate programme places have not increased significantly in recent years, the admission rates of local universities are still among the lowest in the world. There is room for increasing university places so that more sub-degree graduates will have the opportunities to pursue further studies in publicly-funded universities. In particular, these sub-degree graduates have completed the first two years of undergraduate programmes at their own expense and the Government only needs to provide funding for the remaining two years of the programmes, which is really cost-effective.

Furthermore, the Government can explore the study pathway of further education overseas for sub-degree graduates. At the moment, local sub-degree graduates are internationally recognized and individual institutions have also established ties with overseas universities so that eligible graduates can pursue further education in these universities. But, the scale is small at present. The Government can consider assisting institutions in establishing more and more extensive ties with reputable overseas universities and providing scholarships or loans to students to allow students to consider further education overseas now that they have sufficient support.

Lastly, as some sub-degree graduates may determine not to pursue further studies, it is equally important to enhance the recognition of sub-degree graduates. It cannot be denied that sub-degree graduates currently encounter a lot of difficulties in employment. Employers generally think that sub-degree graduates have varied standards and there are many university graduates in the market for their selection. As a matter of fact, when the Government introduced sub-degree programmes years ago, its objective was to increase the competitiveness of the labour force. It believed that Hong Kong would need people of the labour force with lower qualifications than degree holders, but higher qualifications than Secondary Seven school leavers to take up junior management or associate professional posts. Nonetheless, 10 years afterwards, we have not noticed considerable increase in the competitiveness of the labour force or great market demand for members of the labour force with sub-degree qualifications.

Apparently, the Government needs to reassess how it can determine the positioning for sub-degree graduates from a macroscopic view of the labor market, and strive for the adoption of sub-degree qualifications as the entry benchmark of relevant posts in the market and business establishments. In addition, the Government should continue to take the lead to employ sub-degree graduates and accept sub-degree qualifications as the entry benchmarks of more civil service grades. It is still most important to enhance the standard of sub-degree graduates, especially basic language proficiency, so as to build up the confidence of employers in sub-degree graduates. When employers have confidence in sub-degree graduates, they will naturally be willing to employ them.

I so submit.

MS MIRIAM LAU (in Cantonese): President, the Government raised the percentage of people receiving higher education in Hong Kong to 60% in 2000, with a view to training up more talents. Its policy intent was commendable; unfortunately, the policy has run out of steam and the government has stayed aloof after making a start.

In the past 10 years, self-financing sub-degree programmes rapidly increased by more than 10 times and the number of programmes has reached about 30 000. However, self-financing and publicly-funded undergraduate programme places increased by only 25% during the same period, which created serious bottlenecks for sub-degree graduates in respect of further studies.

Although the Chief Executive had stated in the Policy Address last year that there would be 400 additional publicly-funded places and 2 000 additional senior year undergraduate intake places would be provided by 2015, which would increase the most unbalanced absorption ratio of sub-degree students to 20%, most sub-degree graduates eligible for pursuing undergraduate programmes still felt disappointed and were forced to give up further studies and join the job market instead.

Owing to the Government's non-interference attitude over the years and the lack of effective monitoring of sub-degree programmes, there is a lack of confidence in sub-degree graduates in the market. As reviewed in a survey conducted by Hok Yau Club last year, 86% of careers guidance teachers questioned the quality of education of local self-financing associate degree programmes; some small and medium enterprises associations also made it clear that they have reservations about the quality of associate degree graduates and they would rather employ matriculants with lower academic qualifications. These students who have been studying hard throughout the years have been unfairly treated. No wonder some associate degree students are willing to downgrade and apply for first-year undergraduate programmes, their time and money are thus wasted. The Government is certainly responsible for this strange phenomenon and it must take the right measure to solve the crux of the problem with sub-degree programmes.

Moreover, the insufficient recognition of sub-degree is attributed to the inadequate supply of publicly-funded and self-financing undergraduate places. As a result, students taking two-year or three-year sub-degree programmes do not

have the opportunities for further study, they are unfit for higher posts but unwilling to take lower ones, and they fail to ascertain their market value and positioning. Hence, it is harder for them to give play to their strengths when they are working.

The higher education policy implemented in 1989 confirmed that there would be 14 500 publicly-funded first-year first-degree (FYFD) places. Slight changes would only be made next year. The Liberal Party very much doubted if this seemingly unrevised target can tally with the economic transformation, industrial adjustment and market changes in the past 20 years or so.

Regardless of the reasons why the Government has not increased publicly-funded university places in the past 20 years or so, we know that it has a huge reserve of over \$590 billion. On the basis that some \$200,000 are spent on each publicly-funded place, if adjustment are made in accordance with population growth, or if the basis of calculation is based on the 4 000-odd students who are eligible for university admission but cannot get a place due to inadequate places, the public expenditures on some 4 000 additional FYFD places and some 4 000 additional senior year undergraduate intake places each year only amount to \$1.6 billion each year. This is a drop in the bucket as compared to the huge reserve and the Government should seriously consider the above proposal.

President, the Liberal Party has always been very supportive of the operation of private universities in Hong Kong because in many advanced countries or places, private universities play complementary roles and they can enhance healthy competition among publicly-funded universities and improve the quality of education. For this reason, it is regrettable that no progress has been made in the development of the education industry since the development of the six priority industries has been announced. The Government must work harder and it cannot allow the project to become a fairy tale.

In respect of enhancing the recognition of sub-degree programmes, the Liberal Party agrees that the Government must set an example and further increase the civil service grades which accept sub-degree qualifications. Nevertheless, the qualities of sub-degree programmes vary. As the sector was not effectively monitored in the past, some institutions were indiscriminate in offering programmes and admitting students. Furthermore, the overlapping

quality control mechanism of the Government gives rise to the problem that many organizations are not mutually subordinate and there is inexplicit division of labour. Fortunately, the University Grants Committee (UGC) concurs with the Liberal Party and suggests that the higher education sector should set up a uniform quality assurance mechanism and clear accreditation criteria to safeguard the quality of sub-degree programmes. It now depends on the Government's decision and whether it will accept the recommendations of the UGC.

While enhancing the quality and quantity of post-secondary education, the Government should review whether the existing sub-degree programmes can tally with economic and industrial development and how they can meet the demands of the six priority industries and other industries with potentials, so to avoid the drawbacks of skill mismatch or shortage of talents.

As regards a review on the policy for student financial assistance, we have always supported removing the 1.5% risk-adjusted factor under the Non-means-tested Loan Scheme to relieve the students' burden. However, after removing this factor, the interest rate for means-tested loans for poor students still remains at 2.5%, which is even higher than 1.674% for non-means-tested loans. This is unreasonable and the rate must become considerably lower.

The Liberal Party basically concurs with the contents of various amendments, and in our view, the proposal about the establishment of a mutual recognition mechanism between Hong Kong sub-degree qualifications and Mainland tertiary diploma qualifications is most worthy of support because it can provide sub-degree students with greater room.

I so submit, President.

MR WONG YUK-MAN (in Cantonese): President, the Government obviously considers education as one of the industries with competitive edge in Hong Kong. Therefore, the marketization and commercialization of post-secondary education have become overwhelming. Students have been turned into lambs for slaughtering under the current of utilitarianism. The original intent of education is the attainment of knowledge and cultivation of personality, as well as the promotion of personal development, so as to enable students to succeed in their

studies and establish their career development goals. Since the establishment of the SAR Government, we had the "Great Leap Forward" in tertiary education during TUNG Chee-hwa's administration, followed by the "education services" programme during Donald TSANG's administration. How many students have their personalities suppressed and ideals obliterated within 10 years?

The spirit of "education" has been eradicated in Hong Kong; the executives of universities have been debased to political patrons, and schools for the pursuit of truth have become profit making institutions where students struggle for fame and fortune. Post-secondary education no longer imparts knowledge or enlightens thought; instead, it has become a tool for trafficking academic qualifications and profiteering. The spirit of humanism has decayed and is replaced by utilitarianism; this is a tragedy for Hong Kong.

The SAR Government applies the theories of business operation to education services and considers it a tool to enhance competitiveness and an appendage to economic development. Post-secondary institutions in Hong Kong are commanded by utilitarianism, which is an insult to the intellectuals. The institutions spare no effort in pursuit of international rankings and actively recruit foreign students, and they offer self-financing undergraduate programmes on a large scale, giving full play to the utilitarian spirit. Sub-degree programmes are offered for making profits; they are the products of this mode of thinking and this system!

According to the "Aspirations for the Higher Education System in Hong Kong" Report published by the University Grants Committee (UGC) in December last year, the intakes of self-financed sub-degree programmes are 10 times the number 10 years ago; there were 2 621 students 10 years ago but the current number is 24 441. The "Great Leap Forward" achieved unprecedented success and composed an elegy of "graduation means unemployment". The unemployment rate of non-degree tertiary education graduates reached 4.3% between July and September this year, 1% higher than the overall unemployment rate of 3.4%, even higher than the 3.6% unemployment rate of secondary school leavers. What are the positioning and significance of sub-degree graduates? Can the elites of the SAR Government be answerable to tens of thousands of sub-degree students?

Traditional universities such as the University of Hong Kong and The Hong Kong Polytechnic University definitely make extensive use of their reputation to attract students and run private universities on their own; private tertiary institutions are not falling behind and they have also offered courses to make money. This phenomenon was found in advanced areas such as the United Kingdom and the United States long ago, and the SAR Government has allowed the staging of this farce in Hong Kong. I think it does not matter even if we are not "internationalized" this way.

As the Education Bureau has presented earlier on the Information Portal for Accredited Post-secondary Programmes website, 42% of the institutions offering sub-degree programmes plan to increase tuition fees in this academic year, and the rate of increase ranges from 1% to 50%. Various sub-degree programmes offered by the Hong Kong Community College under The Hong Kong Polytechnic University will have tuition fees increased by 5.3%, and the annual tuition fees will be increased from \$45,000 to \$47,400. The Hong Kong University School of Professional and Continuing Education will also increase tuition fees by \$2,000 to \$49,800 each year, a rate of increase of 4.2%. The tuition fees of sub-degree programmes have been increased year after year but students cannot see a bright future. They seem to be pushed into a dead end, and they need to fend for themselves after paying huge tuition fees.

Among sub-degree students, many are from poor families and they cannot afford the expensive tuition fees, thus they need to seek assistance under student loan schemes. Beginning from 2004, there has been a sharp rise in cases where students have loans in arrears, and the number of such cases has increased from 4 914 to 13 606 in 2010, which has quadrupled within six years and the total amounts in arrears are \$224 million.

There is a wealth gap in Hong Kong and poor students are members of disadvantaged groups. These students who lack the means are heavily in debt before they have started working and the plans for their life are already fizzled out in youth.

At the meeting of the Panel on Education last week, the Government proposed conducting the second phase of public consultation on a review of the Non-means-tested Loan Scheme and introduced a number of new initiatives in response to community concerns. Besides reducing the interest rate and

deferring the repayment period, it also proposes providing credit reference agencies with information on bad credit history and specifying a maximum loan amount of \$300,000. The Government is going to use both the stick and the carrot. President, a more vulgar expression is "feeding both sugar and faeces".

These are stop-gap solutions and the problem is, after all, caused by adherence to business thinking and market mechanisms on the education front.

As Donald TSANG stated in the Policy Address in 2009, "we consider that the self-financing higher education sector has room for further expansion and is an important component of education services developing our education services will bolster the pluralistic, international and professional outlook of Hong Kong". This is a curse to a large number of students.

According to the data released by the Hong Kong University School of Professional and Continuing Education in June, 1 600 graduates successfully enrolled in degree programmes and around 700 of them were admitted to publicly-funded degree programmes. In other words, 900 people have to enrol in self-financing programmes. Since the self-financing programmes are operated under market mechanisms, students who lack the means or bargaining power will inevitably be in a disadvantaged position and they will be exploited. In encouraging institutions to develop self-financing higher education, the SAR Government has reserved land for them and provided them with loans, will these act subject more students to exploitation?

In accordance with section 6 of the Post Secondary Colleges Ordinance (Cap. 320) of the Laws of Hong Kong, the Permanent Secretary for Education may refuse to register or may cancel the registration of any Post Secondary College. The SAR Government, in upholding the "big market, small government" principle, has shelved this power in order to avoid intervention in the market. Even if the Government adopts the proposals stated in the amendments of Mr CHEUNG Man-kwong, Mr WONG Kwok-hing and Miss Tanya CHAN and strengthen quality control of these programmes, it will not be able to alleviate the difficulties of self-financing students.

Offering subsidies to students for studying in private tertiary institution and self-financing degree programmes, and providing loans to students to pursue further education overseas and assisting students to study in Mainland universities

can increase the rate of higher education, yet the self-financing nature remains unchanged. The education philosophy has been cast aside; the Government and the institutions have ignored the personal development of students. God have mercy. The purpose of tertiary education is not to nurture students; education has become a business.

I so submit. Thank you, President.

MR TAM YIU-CHUNG (in Cantonese): President, the SAR Government proposed to introduce associate degree (AD) programmes as early as 2000, in the hope of increasing young people's opportunities for post-secondary education. After some 10 years of development, the number of AD graduates had risen from around 2 600 a year at the outset over 24 000 in 2009.

The rapid development of AD programmes has undoubtedly increased young people's opportunities for post-secondary education. For example, as projected in a paper recently submitted by the Education Bureau to the Legislative Council, more than two thirds of school-age young people will have opportunities for post-secondary education at the AD or above levels by 2015. However, due to a rapid growth in the number of AD places, the monitoring of AD programme quality and tuition fees, the recognition of AD qualifications by the business sector and the common masses, and the support arrangements for AD students' further education pathways all fail to tie in with AD development.

How to reform the AD system and enhance AD graduates' employment and further education pathways have always been major concerns of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in the education arena. Over the past years, the DAB has conducted some studies on raising the quality of AD programmes and improving AD graduates' employability and pathways to further education. Many proposals have been raised in these respects for the reference of various social sectors and the SAR Government.

On raising the quality of AD programmes and enhancing the recognition of AD qualifications by the business sector and the common masses, the DAB opines that the contents of AD programmes are of prime importance. Apart from enhancing the contents of biliteracy and trilingualism as well as the instillation of academic knowledge in AD programmes, more career-oriented

contents should be added to such programmes. For example, arrangements should be made for AD students to engage in internships in relation to their fields of learning, so as to provide them with relevant work experiences, thereby enhancing AD graduates' employability and competitiveness.

Meanwhile, the SAR Government, being the leading employer in Hong Kong, should take the initiative in recognizing AD qualifications. Besides, the Government and government-funded public organizations should even take the lead to employ AD graduates if they meet the qualification requirements for the job vacancies, with a view to enhancing the confidence of the business sector and the generate public in AD graduates.

In addition to raising AD graduates' employability and competitiveness, expanding AD graduates' pathways to further education is also a major area of work in reforming the AD system. At present, AD graduates can pursue further education through three main pathways, namely, enrolling in publicly-funded bachelor's degree programmes, self-financing bachelor's degree programmes and overseas bachelor's degree programmes.

Regarding how to increase AD graduates' opportunities for enrolling in publicly-funded and self-financing bachelor's degree programmes, the DAB and many political parties have already put forward proposals on increasing the number of publicly-funded and self-financing bachelor's degree programmes. I am not going to repeat them all over again here.

Rather, I wish to focus on the assistance for AD graduates' pursuit of overseas studies. At present, AD graduates may enrol in overseas bachelor's degree programmes other than local publicly-funded and self-financing bachelor's degree programmes as a major pathway to further education. Regarding overseas bachelor's degree programmes, students may opt go abroad to further their studies or they may study in Hong Kong and enrol in the distance-learning programmes offered by overseas universities.

Studying abroad incurs high tuition fees and cost of living which are unaffordable for ordinary families. As for distance-learning programmes offered by overseas universities in Hong Kong, the qualities vary, not to mention that their tuition fees are even higher than those of publicly-funded and self-financing bachelor's degree programmes.

Therefore, in the DAB's opinion, the Education Bureau should strive for the accreditation of AD qualifications by the Mainland Ministry of Education and put in place a mechanism for AD graduates' articulation to Mainland universities.

First, the relatively inexpensive cost of living and tuition fees on the Mainland, coupled with its pretty impressive education quality, have certain appeal for Hong Kong students and parents.

Besides, with the Mainland's abundant development opportunities presented by its rapid economic development, allowing AD graduates to pursue further education on the Mainland can enable them to acquire academic knowledge, understand our country's development and state of affairs, and even establish interpersonal networks on the Mainland, very much to their advantage and benefit in seeking future career development in Hong Kong or on the Mainland.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms Cyd HO, you may now speak on the various amendments.

MS CYD HO (in Cantonese): President, I thank the 20 Members for their speeches. As the amendments moved today are all friendly in nature, which serve to enrich this debate, President, I will only say a few words about those areas not mentioned by the Members who have moved amendments.

First, Mr CHEUNG Man-kwong proposes to "increase the transparency of institutions' admission systems" in his amendment. His proposal is very relevant to the subject under debate because many sub-degree students have told me that they did not know why their applications for articulation to university degree programmes were rejected, and that they have the feeling that universities did

accord admission priority to their own sub-degree graduates, hence they considered that they were being unfairly treated. Besides, Mr CHEUNG Man-kwong also touches on "the fixed interest rate for means-tested low interest loans". In this regard, I wish to say some words. The means test under the existing system includes not only the assets of an applicant's parents but also those of his siblings for computation. Recently, the Government announced a package of revised student loan arrangements with a proposal on raising the age requirement of students who take out loans from 25 to 30. In fact, the siblings of a 30-year-old applicant all live their own lives. They may save up money for property acquisition or may even have children. It is indeed awkward to include the assets of an applicant's siblings for computation. Moreover, it is also unrealistic to include the assets of the parents of an applicant returning to school after several years of work for computation. Therefore, we propose that the Government should only conduct personal asset and means tests on applicants aged above 25.

Mr CHAN Hak-kan proposes to offer subsidies to local students for "pursuing further education outside Hong Kong" in his amendment. I very much agree to his proposal. In 2000, we already raised a similar proposal with the then Financial Secretary Donald TSANG. Since we want to expand the number of university places and in consideration of the immense work involved in identifying sites for construction of universities, programme accreditation, recruitment of teaching staff and the accreditation of teaching staff's qualifications, and so on, it may take eight or 10 years to launch a new programme, we thus raise the proposal. For certain emerging disciplines, if some overseas countries have already offered such recognized degree programmes, we should provide local students with subsidies for pursuing further education overseas, so as to first, enable them to acquire the latest knowledge, and second, increase the number of local school places in this indirect way.

Mr WONG Kwok-hing proposes to "enhance the applicability of such programmes". I very much agree to this point. And, I wish to respond to Mr Andrew LEUNG's remarks about the higher diploma (HD) programmes offered by the Vocational Training Council. We should provide HD students with more internship opportunities. For example, the apprentice system in Germany is marked by one-semester study and one-semester internship, so as to equip students with specific hands-on work experience before graduation, and to allay employers' concerns that students are just greenhorns upon graduation.

Miss Tanya CHAN proposes to "support the development of private universities", much to my agreement. Her proposal is actually related to a consultation paper recently released by the Government, which contains a recommendation of lowering the loan ceiling to \$300,000. Even if we provide students with subsidies in the form of educational vouchers or in whatever forms for studying in private universities, lowering the loan ceiling to \$300,000 is still not a feasible proposal. For instance, the Savannah College of Art and Design charges an annual tuition fee of \$270,000. Even tuition fees for sub-degree programmes have now increased to some \$50,000 or \$60,000, sub-degree students may need around \$300,000 to complete their two-year or three-year sub-degree programmes before articulating to universities. Therefore, the Government must not lower the loan ceiling to \$300,000.

Finally, let me respond to Ms Starry LEE's proposal of setting up a mechanism for the mutual recognition of Mainland tertiary diploma qualifications. I have some reservations in this regard. In my view, before introducing this mutual recognition mechanism, our accreditation system must first be perfected to the extent of being able to accredit overseas (including Mainland) universities; only then can mutual recognition of qualifications be possible. Therefore, President, I must state my stance on this issue clearly. I support this proposal, but for record purpose, I must make it a point to say that the Government should improve our own accreditation system before taking this step.

Thank you, President.

SECRETARY FOR EDUCATION (in Cantonese): President, I sincerely thank Members for their valuable views and suggestions. I am now going to give a comprehensive response to the views expressed by Members.

As I have said at the very beginning, the Government attaches great importance to higher education. We have always supported the parallel development of the publicly-funded sector and the self-financing sector, and we are committed to providing young people with quality, diversified and flexible study pathways with multiple entry and exit points.

We will continue to invest significant resources in publicly-funded institutions. We will increase first-year-first-degree places of University Grants Committee (UGC)-funded programmes to 15 000 for each cohort from the 2012-2013 academic year, and senior year degree programme places will be doubled progressively to 8 000 each year, that is, around 4 000 intake places, to provide more articulation opportunities for sub-degree graduates. Together with the increased number of undergraduate students under the New Senior Secondary (NSS) academic structure, it is estimated that the number of undergraduate students in publicly-funded institutions will considerably increase by nearly 40% in 2016. The annual recurrent funding of UGC-funded institutions will increase by \$3 billion in the 2014-2015 academic year.

We proactively support the development of self-financing institutions, including self-financing degree and articulation degree programmes, so as to give more study opportunities to secondary school leavers and sub-degree graduates. Our measures include:

- (a) providing premium-free land grant. Since 2007, we have granted or invited institutions to apply for four sites for the development of self-financing degree programmes. We have invited interested organizations to submit Expressions of Interest for the site at the former Queen Hill's Camp which is expected to be launched next year for application;
- (b) providing interest-free loans to help build new schools or improve the teaching environment and facilities. Out of the \$7 billion commitment, loans of \$5.2 billion have so far been granted. In the Policy Address this year, we further proposed expanding the scope of the loans to the construction of student hostels, with an additional commitment of \$2 billion;
- (c) setting up a Quality Enhancement Grant Scheme with a commitment of \$100 million to support projects dedicated to enhancing the quality of teaching in the post-secondary education sector;
- (d) setting up a \$2.5 billion fund for the development of self-financing post-secondary education, to offer scholarships to outstanding students and support institutions in enhancing quality and strengthening quality assurance. In the 2011-2012 academic year,

the Fund will offer \$37 million scholarships to benefit more than 1 300 students; and

- (e) In the Policy Address this year, it is proposed to inject \$3 billion into the Research Endowment Fund to fund self-financing tertiary institutions on a competitive basis to enhance academic and research development.

The supporting measures mentioned above fully demonstrate the Government's commitment towards the needs of secondary school leavers and sub-degree graduates to pursue further studies; as well as directly and specifically enhancing the quality of higher education, so as to provide students with better opportunities for further study.

We anticipate that, by 2015 or earlier, more than one third of school-age young people will have the opportunities to take degree programmes; together with sub-degree programme places, over two thirds of young people will be taking tertiary education programmes. Sub-degree programmes provide solid professional training to students, and those who have completed the programmes can choose to take up employment or take various courses, such as accredited local degree programmes, non-local courses and various continuing education or professional training courses under the Qualifications Framework, to achieve life-long learning and make unceasing efforts to improve themselves.

Looking ahead, we will carry forward the development of a vertical Credit Accumulation & Transfer System in line with the UGC recommendations in the "Aspirations for the Higher Education System in Hong Kong" report, to facilitate articulation from sub-degree programmes to senior year undergraduate entry. We will also enhance the transparency of senior year articulation opportunities in UGC-funded institutions, and we recommend that the UGC should work with UGC-funded institutions to launch a centralized, user-friendly portal for the disclosure of comprehensive and relevant information on publicly-funded senior year articulation opportunities. This would allow students to apply for senior year places in these institutions on open, fair, transparent and merit-oriented basis.

Some Members have mentioned about further studies in the Mainland. With the implementation of the NSS structure, local institutions will dovetail with more higher education institutions all over the world, including Mainland

institutions. We will continue to encourage institutions to enter into more bilateral agreements to help sub-degree graduates take articulation degree programmes.

Another Member has proposed matching grants to self-financing tertiary institutions under the Matching Grant Scheme; the Government has already implemented the Scheme under five rounds, granting institutions additional funding amounting to \$14.1 billion, which comprises \$4.9 billion of government matching grants and \$9.2 billion of donations. Self-financing tertiary institutions are covered under the fourth and fifth rounds.

On employment, the Government has taken the lead to recognize sub-degree qualifications. From 2001 onwards, the Government has accepted accredited local sub-degree qualifications as broadly equivalent to higher diploma qualifications in civil service appointment. At present, a total of 14 civil service grades consider higher diploma and sub-degree qualifications as the academic qualifications for meeting the entry requirements (these grades include Assistant Leisure Services Manager II and Occupational Safety Officer II). Besides, it is considered that higher diploma and sub-degree graduates meet the entry requirements of grades requiring sub-degree or lower qualifications, which include having a pass in two subjects at advanced level in the Hong Kong Advanced Level Examination and Grade C or above in three other subjects in the Hong Kong Certificate of Education Examination. On the whole, sub-degree graduates can apply for approximately 80 civil service grades.

Regarding the private sector, the Government and the relevant institutions have proactively promoted sub-degree qualifications to employers and the business sector, to increase community awareness. At present, most tertiary institutions provide employment support services to sub-degree graduates. Moreover, the Government has subsidized self-financing tertiary institutions in implementing projects related to employment counselling under the Quality Enhancement Grant Scheme.

We agree with Members that quality control and assurance is important to the recognition of sub-degree qualifications. As I mentioned at the outset, we promote the development of self-financing tertiary education under the policy of attaching importance to both quality and quantity, and we have stringent quality assurance mechanisms and monitoring measures to ensure the quality of

programmes. For example, we require all local tertiary education programmes to be accredited by the relevant quality assurance agencies; develop common indicators for compliance by the institutions and accrediting bodies, with a view to achieving common standards in connection with course structure, admission requirements, graduation qualifications and so on; and publish a Handbook on Good Practices in Quality Assurance for the sub-degree sector. The newly set up \$2.5 billion Self-financing Post-secondary Education Fund also provides support for tertiary institutions to implement and strengthen quality assurance measures. We will continue to review and improve the existing mechanisms and measures so as to enhance the quality of post-secondary education.

To increase the further study and employment opportunities for graduates, the institutions offer different types of sub-degree programmes for selection by students. These programmes pay close attention to the needs of the community, and emphasize both theory and practice. For instance, in line with the development of the six priority industries, we have seen in recent years that more institutions have introduced testing and certification, design and digital multimedia programmes. These programmes offer more choices to students and can meet the needs of social and economic development. In the Policy Address this year, we also propose to set up an International Cuisine College under the Vocational Training Council. The college will provide training facilities and further study channels for nurturing outstanding people proficient in international cuisines.

To enable students interested in applying for sub-degree programmes to grasp more information, we have collected information on further studies, employment and average salaries from the graduates of various institutions each year, and the details are set out in the Information Portal for Accredited Self-financing Post-secondary Programmes (iPASS). Moreover, starting from 2002, the Government conducts a survey on the views of employers on the performance of sub-degree graduates once every three years. The survey results can reflect the work performance of sub-degree graduates and they will help the Government and the institutions have a better understanding of employers' needs. According to the survey result published in 2010, over 90% of employers interviewed considered the work performance of sub-degree graduates at moderate level or above, and nearly 60% of them were satisfied with their performance.

As regards student financial assistance, the Financial Assistance Scheme for Post-secondary Students has been expanded since the 2008-2009 academic year, so that the assistance for self-financing programme students is broadly equivalent to that for students of publicly-funded programmes. Eligible students can receive grants or loans to meet tuition fees, academic expenses and basic living expenses, such that no students, including sub-degree students, will be denied access to post-secondary education because of lack of means. In the 2010-2011 academic year, \$790 million grants and \$260 million low-interest loans were provided under the Financial Assistance Scheme for Post-secondary Students, which benefited more than 22 000 students, that is, 33% of the total student population.

Since the 2011-2012 academic year, the Government has made further and substantial improvements to the Financial Assistance Scheme for Post-secondary Students, which include relaxing the income ceiling for full student financial assistance under the means test of the Student Financial Assistance Agency; adjusting the levels of assistance; and providing additional academic expense grants to needy students. These three measures will benefit more than 50 000 tertiary students and involve an additional expenditure of \$250 million each year. The Government will later review the interest rate mechanism for living expense loans subject to income and asset tests. In addition, the Government has further proposed more improvement measures such as relaxing the upper age limit from 25 years old to 30 years old. It is estimated that these proposals will benefit around 1 000 additional students taking self-financing local accredited tertiary education programmes each year, and the additional expenditures incurred each year amount to approximately \$17 million.

The Government has also made a range of proposals for improving the operation of the Non-means-tested Loan Scheme (NLS). For example, the risk-adjusted factor under the three schemes has been adjusted downwards to zero, and a review will be conducted three years later; the standard repayment period is extended from 10 years to 15 years; the arrangement for deferment of loan repayment is relaxed; and the repayment arrangement has been changed from the current quarterly repayment to monthly repayment.

A Member has proposed waiving the interest accrued during students' study periods. The NLS operates on a full-cost recovery basis. Waiving the interest accrued during students' study periods would be asking taxpayers to

provide subsidies, which is in contravention of the full-cost recovery principle. Adjusting the risk-adjusted factor downwards to zero already reduces the interests accrued during students' study periods by about one half. When the risk-adjusted factor is adjusted downwards to zero and the repayment period is extended to 15 years, the monthly repayment of a borrower who borrowed a loan of \$100,000 for a four-year post-secondary course will be reduced from \$1,040 to \$650, a reduction of about 40%. If the interest accrued during students' study periods is completely waived, the monthly repayment amount will only be reduced by another \$20 to \$630, which is of limited help to students; but the Government will receive \$33.7 million less each year. Students may also apply for deferment of repayment if they have difficulties in loan repayment. The scheme will easily be abused if students can borrow money from the Government for meeting tuition fees without going through assets and income tests and they do not need to bear any expenses during their study periods.

Concerning the proposal of allowing tax deduction on repayment amount of university education loans, in accordance with the provisions of the Inland Revenue Ordinance, in ascertaining the tax payable by a taxpayer, the amount of deduction for expenses of self-education is currently at \$60,000 each year. Expenses of self-education must be expenses paid by taxpayer to gain or maintain qualifications for use in any employment. The above category of deduction should have already covered the tuition fees mentioned in the motion. A student loan scheme is just a special loan arrangement, and the repayment under the personal loan scheme is no different from that under ordinary loan arrangements. This proposal is also contrary to the consistent principle under the Inland Revenue Ordinance which allows deduction from the assessable income of a person all outgoings and expenses incurred in the production of the assessable income. Given our narrow tax base, the Government must carefully examine the impact of the proposal on public finances.

Another Member has proposed that the Government should study the feasibility of allowing local students to apply for student loans for pursuing further education overseas. On this point, we have the responsibility to help students in financial difficulties who are taking certain programmes in Hong Kong first. In addition, the overseas programmes for students have extensive scopes and the relevant institutions may not have offices in Hong Kong; thus government regulation may, to a certain extent, be difficult. Hence, we have not yet considered including overseas programmes within the scope of the NLS.

Last but not least, I sincerely thank Members for their views. In regard to further studies, we will adopt a two-pronged strategy of promoting the parallel development of the publicly-funded sector and the self-financing sector, and promote the long-term development of post-secondary education under the principle of attaching importance to both quality and quantity. We will help foster a flexible, diversified and multiple-entry multiple-exit education framework with greater inter-flow between the self-financing and publicly-funded sectors, and between the sub-degree and degree sectors. On the employment front, we will proactively promote the recognition of sub-degree qualifications, to increase the understanding of enterprises and the community of the diversified sub-degree programmes, including career-oriented professional courses, which will help equip students for getting ahead of others in the workplace.

I so submit, President. Thank you.

PRESIDENT (in Cantonese): I now call upon Mr CHEUNG Man-kwong to move the amendment to the motion.

MR CHEUNG MAN-KWONG (in Cantonese): President, I move that Ms Cyd HO's motion be amended.

Mr CHEUNG Man-kwong moved the following amendment: (Translation)

"To add "given that" after "That,"; to delete "; in this connection" after "the poverty population"; to delete "subvented university places;" after "(a) increase the number of" and substitute with "first-year and senior year articulation places for publicly-funded universities; (b) establish a mechanism for monitoring and assuring programme quality, so as to ensure adequate credibility and recognition of sub-degree qualifications;" to delete the original "(b)" and substitute with "(c)"; to add "or direct subsidies" after "education vouchers"; to delete "studying in private universities" after "sub-degree graduates for" and substitute with "enrolling on self-financing degree programmes"; to delete the original "(c)" and substitute with "(d)"; to add "(e) increase the transparency of institutions' admission systems and establish a credit accumulation and transfer system to ensure that institutions admit students under the

principles of fairness and 'selectivity', so as to rationalize and link up articulation pathways for sub-degree graduates from different backgrounds;" after "universities for sub-degree graduates;"; to delete the original "(d)" and substitute with "(f)"; to delete the original "(e)" and substitute with "(g)"; to add "the fixed interest rate (2.5%) for means-tested low interest loans and" after "abolishing"; and to add "for non-means-tested loans" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Man-kwong to Ms Cyd HO'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): Mr WONG Kwok-hing, as Mr CHEUNG Man-kwong's amendment has been passed, you may now move your revised amendment.

MR WONG KWOK-HING (in Cantonese): President, I move that Ms Cyd HO's motion Mr CHEUNG Man-kwong be further amended by my revised amendment.

Mr WONG Kwok-hing moved the following further amendment to the motion as amended by Mr CHEUNG Man-kwong: (Translation)

"To add "; significantly lower the interest rates of all loan schemes for tertiary students, waive the interest accrued during students' study periods under the Non-means-tested Loan Scheme, and change the situation where interest rates of student loans are higher than those of bank mortgages; allow tax deduction on repayment amounts of university education loans; study the feasibility of allowing local students to apply for student loans for pursuing further education overseas; and increase the grant amounts for tertiary students; (h) review the contents covered by sub-degree programmes, so as to enhance the applicability and recognition of such programmes; (i) strengthen the monitoring of sub-degree programme quality and fees; and (j) enhance the employment support for sub-degree graduates immediately before the full stop."

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you should move that Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong be further amended by your revised amendment.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr WONG Kwok-hing's amendment to Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong be passed.

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, as the terms of Mr WONG Kwok-hing's amendment has been revised, you may now move your revised amendment to Mr WONG Kwok-hing's revised amendment.

MR CHAN HAK-KAN (in Cantonese): President, I move that Mr WONG Kwok-hing's revised amendment be amended by my revised amendment.

President, I do not have anything more to add as my amendment is clear enough.

Mr CHAN Hak-kan moved the following amendment to Mr WONG Kwok-hing's amendment: (Translation)

"To delete "overseas" after "pursuing further education" and substitute with "outside Hong Kong"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Hak-kan to Mr WONG Kwok-hing's amendment, 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): I now put the question to you and that is: That Mr WONG Kwok-hing's amendment, as amended by Mr CHAN Hak-kan, to Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(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): Ms Starry LEE, as the amendments by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing and Mr CHAN Hak-kan have been passed, you may now move your revised amendment.

MS STARRY LEE (in Cantonese): President, I move that Ms Cyd's motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing and Mr CHAN Hak-kan be further amended by my revised amendment.

Ms Starry LEE moved the following further amendment to the motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing and Mr CHAN Hak-kan: (Translation)

"To add "; (k) ensure the diversity of self-financing programmes, so as to provide programme options in different academic disciplines for students; (l) provide matching grants for self-financing post-secondary institutions to build campuses, so as to alleviate the pressure of tuition fee increases exerted by campus construction costs; (m) collect data on sub-degree graduates' further education and employment, so as to accurately grasp the destinations of graduates and make good preparation for the planning of sub-degree programmes and their number of places; (n) conduct surveys

on employers' opinions about the work performance of sub-degree graduates for assessing the value-adding effectiveness of sub-degree programmes, so as to enable post-secondary institutions to better understand employers' needs and make corresponding curriculum arrangements; and (o) assist Hong Kong sub-degree graduates in pursuing studies in mainland universities, including studying the establishment of a mutual recognition mechanism between Hong Kong sub-degree qualifications and Mainland tertiary diploma qualifications, and striving for sub-degree graduates' exemption from the Joint Entrance Examination for Universities in the People's Republic of China for Overseas Chinese, Hong Kong, Macao and Taiwan Students, so as to promote exchanges between Hong Kong and Mainland students" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Starry LEE's amendment to Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing and Mr CHAN Hak-kan be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Members have already been informed, as Ms Starry LEE's amendment has been passed, Miss Tanya CHAN has withdrawn her amendment.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, as the amendments by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Mr CHAN Hak-kan and Ms Starry LEE have been passed, you may now move your revised amendment.

DR PRISCILLA LEUNG (in Cantonese): President, I move that Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Mr CHAN Hak-kan and Ms Starry LEE be further amended by my revised amendment.

Dr Priscilla LEUNG moved the following further amendment to the motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Mr CHAN Hak-kan and Ms Starry LEE: (Translation)

"To add "; (p) study relaxing the academic requirements for appointment to more civil service posts, so that sub-degree graduates can have more opportunities to apply; and (q) add more elements of vocational training or practical skills to existing sub-degree programmes, so that students can secure employment more easily after graduation" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr Priscilla LEUNG's amendment to Ms Cyd HO's motion as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Mr CHAN Hak-kan and Ms Starry LEE 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): Ms Cyd HO, you may now reply and you have 10 minutes and 20 seconds.

MS CYD HO (in Cantonese): President, education is the impartation of knowledge and the expansion of one's horizons. Nowadays, the pursuit of knowledge and skills is no longer a privilege but the rights of individuals and the needs of society. In the 1970s, only 1.8% of students could study in subvented universities, yet today, this percentage has been increased to 18%. In future, 60% of students will receive tertiary education, which means the target will soon be met. It is evident that tertiary education has developed from limited supply by the Government to create an elite class, to the need to purchase services to satisfy the tremendous manpower demand in society. Given the social function of tertiary education, the cost of tertiary education should not be borne by students and parents only; the Government is definitely obliged to allocate additional resources for tertiary education.

However, I fear that the Government may cap the resource allocated for tertiary education. Indeed, in the consultant report conducted by Principal Stewart R. SUTHERLAND in 2002, there were hints capping resource allocation. In paragraph 2.19 of the report, he stated that, "..... the majority of activity, associate degrees should be self-financing", and then in paragraph 2.2, he pointed out that, "..... the clear line of financial accountability be established for all public sector funds used to support programmes at associate degree level, consistent with the Government's intension that associate degrees be predominantly funded by the private sector". He also indicated that he did not

incline to the hasty increase in the percentage of students attending universities set at 18%, and he did not consider such an increase essential.

In fact, the inclination to implement privatization or industrialization in tertiary education emerged as early as 2002. Hence, I cannot but disagree with the Secretary's earlier remark that the number of subvented places and self-financed places were similar. Sorry, he is not stating the truth. The number of self-financed associate degree programmes will decrease from 5 591 in 2011-2012 academic year to 4 321 in 2014-2015 academic year, during this period about 20 000 secondary graduates will take these self-financed associate degree programmes. Hence, how can the Secretary tell us that the number of subvented and self-financed places is given the same attention? This is not the reality.

Moreover, President, when students and parents have to shoulder the costs of education, the Government is obliged to monitor these programmes on their behalf. As in the case of the purchase of air-conditioners, consumers may refer to the *CHOICE*, a monthly journal issued by the Consumer Council Hong Kong, in making the choice. Yet, despite the varied quality of associate degree programmes, the Government does not impose effective regulation to prevent the emerging of commercial schools. On the contrary, the Secretary keeps stating that a stringent quality assurance mechanism has been put in place.

Here, I would like to read out the report on "The Aspiration for the Higher Education System in Hong Kong" published in December 2010, which was written by a famous overseas academic at our invitation. He mentioned the quality assurance system in paragraph 8.10 of the report that, "the existing quality assurance system, with different players each responsible for certain parts of the system, may have become too fragmented to remain fit for its purpose." He then stated in the following paragraph that, "the present arrangements cannot provide effective support for students to navigate and understand such a complex quality assurance system and to make well-informed choices." Moreover, he considered that "the lack of a unified quality assurance body may also undermine Hong Kong's engagement in regional and international activities in such areas" The report is written by the consultant commissioned by the Government, and he also pointed out that there was problem with the oversight bodies in quality assurance, if so, how can the Secretary say that a stringent quality assurance mechanism has been put in place?

Actually, the existing quality assurance framework included the different approaches from various institutes. First, the Hong Kong Council for Academic and Vocational Accreditation (HKAVA) was set up, and then in 2007, the Quality Assurance Council was established under the Education Bureau to monitor these subvented programmes. And then, the Heads of Universities Committee of Hong Kong had set up the Joint Quality Review Committee (JQRC), yet this is not an objective external assessment mechanism. The assurance offered is in fact originated from different institutes. As stated in the consultant report, due to the duplicated framework, students cannot identify a single authoritative assessment mechanism which they can rely on for recommendations. They are perplexed in the absence of an ultimate authority.

In 2002, Principal SUTHERLAND pointed out that a bureau on continual education should be established to conduct authoritative assessment. However, it has been a decade, and this has not been established. The proposal is put forth continuously in the present report for the establishment of a committee on self-financed tertiary education, yet no action has been taken by the Government. The Secretary said in the earlier speech that the existing mechanism was very stringent, and I wonder whether he will accept this proposal.

President, I will then come to the point about the establishment of a committee on self-financed education under the existing assurance mechanism for quality assurance, as recommended in the report in 2010, and I consider that it will not be feasible. Since the proposed committee is not a statutory organization, it can only join the Education Commission in the capacity of an ex-officio member and express its views. There is no guarantee that the Government will heed its views. If so, will the committee become a replica of the monitoring mechanism proposed by Secretary Michael SUEN for direct-subsidy schools in the past, in other words, the committee will only be a toothless tiger. We harbour grave doubt about that.

As for the JQRC formed by the Heads of Universities Committee, it is not a practical channel as well. Why? It was reported earlier that members of the Council of the University of Hong Kong insisted on the expansion of the external continuing education services provided by the University of Hong Kong (HKU), but the Vice-Chancellor TSUI Lap-chee, who concerned about quality assurance, insisted on refusing the hasty and rapid expansion. Eventually, this has become one of the causes triggering the Council of the HKU not to give full support to Vice-Chancellor TSUI in recommending his renewal of contract. Members will

recognize the impracticability for a university to persevere in quality assurance, even within its own university, under such management structure. Hence, in the absence of an intermediary, objective and authoritative institute, how can we ensure that the quality assurance on self-financed sub-degree programmes provided in the private market and by these subvented institutions will be authoritative and impartial?

President, at an interview with the *Hong Kong Economic Journal* a couple of days ago, Donald TSANG talked about the grievance of young people. Actually, I believe many aggrieved young people are associate degree students, so the Government must face the issue squarely. Donald TSANG pointed out that the grievance of young people was mainly bred from their lofty aspirations, who thought justice was dwindling in society, the reward gained was not proportional to the efforts made, and a group of people had become particularly wealthy while another group remained particularly poor, and these young people thus failed to submit to the democratic political system.

First, I have to declare that there is no democratic political system in Hong Kong, and Donald TSANG should not give thoughtless remarks. In Hong Kong, there is only a grant alliance of the politically and economically privileged. Due to the interests of the minority of these politically and economically privileged, real estate hegemony is allowed to prevail, where the public can hardly make ends meet. Now, even education is to be industrialized, where young people are burdened with heavy debt in order to obtain a degree at universities. So, young people have every reason to feel aggrieved. However, the Chief Executive stressed that the sources of grievance of young people was bred from their perspective towards the disparity between the rich and the poor and the unjust of society.

Not only has he denied the social conscience and persistence for justice of the new generation, he has even considered their views about the disparity between the rich and the poor a source of their grievance. How disappointing it is. He even pointed out that the young people were holding lofty aspirations, and then he almost said that young people were being unrealistic. The reporter quoted a remark from the Chief Executive direct, stating to the effect that, "Young people now have their aspirations, and this is what young people think; we cannot blame them for they think they are educated." Why the confidence, aspirations and knowledge of young people will become the subject of criticisms of the Chief Executive? As such, President, I really worry that Donald TSANG,

in the eight months of his remaining term of governance, will complain about the young people on the contrary, and that he will give up making additional effort and arrangements for this group of young people with aspirations and a sense of justice.

Actually, education is not merely about the development of skills but the fulfillment of its socio-economic functions. However, education does not bring immediate reward. We may have already spent 25% of the yearly expenditure on education, but if the resource allocated is insufficient, it means insufficient; and if students and parents cannot afford the expenses, it means they cannot afford it. It is then necessary for the Government to increase resources and subsidies. In the report of Principal SUTHERLAND, there is a remark saying that "If you think knowledge is expensive, try ignorance." I would like to send this remark to the ignorant Donald TSANG. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Cyd HO, as amended by Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Ms Starry LEE and Dr Priscilla LEUNG, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 30 November 2011.

Adjourned accordingly at one minute past Ten o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Education requested the following post-meeting amendments in respect of the supplementary questions to Question 4

Line 3 and 4, third paragraph, page 37 of the Confirmed version

To amend "..... since the existing figure has reached 75%" as "..... since the existing ratio has reached 85%" (Translation)

(Please refer to line 5 to 6, third paragraph, page 2298 of this Translated version)

Line 2 to 5, first paragraph, page 40 of the Confirmed version

To amend "At present, we allow secondary schools to maintain the ratio of graduate teachers at 75%. If many schools at present have fully utilized the ratio of 75% and consider it inadequate, we will definitely consider ways to increase the ratio from 75% to 80%, 90% or 100%" as "At present, we allow secondary schools to maintain the ratio of graduate teachers at 85%. If many schools at present have fully utilized the ratio of 85% and consider it inadequate, we will definitely consider ways to increase the ratio to 90% or 100%." (Translation)

(Please refer to line 5 to 7, second paragraph, page 2302 of this Translated version)

Line 1 and 2, fifth paragraph, page 40 of the Confirmed version

To amend "I meant that 75% of the secondary schools are now adopting the ratio of 95%," as "I meant that over 95% of the secondary schools are now adopting the ratio of 75% or above," (Translation)

(Please refer to line 2 to 3, first paragraph, page 2303 of this Translated version)

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Mr Paul CHAN's supplementary question to Question 1

As regards the number of cases and amount involved where investors or the Hong Kong Stock Exchange (HKEx) had incurred losses as a result of the issuers' low credit rankings or insufficient hedging, collateralization or guarantee, according to the HKEx, three structured products issuers have defaulted in the past. For the first two cases (Peregrine (January 1998) & Barings (February 1995)), no investors suffered a financial loss as a result of an issuer not being able to fulfil its obligations under the derivative warrants (DWs) issued by it. There were no Barings' DWs held by investors at the time of Barings' default and all Peregrine's DWs held by investors at the time of Peregrine's default expired "out of the money"¹.

The third case took place in September 2008 when the Lehman Brothers defaulted. In that case, 144 participants of the Central Clearing and Settlement System (CCASS) were affected in respect of 134 DWs issued by Lehman Brothers. The total amount of claims that CCASS received was around HK\$1 billion in connection with seven DWs that expired in the money². CCASS submitted these claims to the liquidator of Lehman Brothers in the United States on behalf of its participants and no settlement has yet been made. The remaining 127 DWs all expired out of the money.

¹ A derivative warrant expiring out of the money means investors of the warrant do not receive anything according to the payout formula of the warrant at maturity.

² A derivative warrant expiring in the money means investors of the warrant receive a positive payout according to the payout formula of the warrant at maturity.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Development to Mr LEE Wing-tat's supplementary question to Question 3**

As explained by the Secretary for Development at the Legislative Council sitting on 23 November 2011, under the Small House Policy, a male indigenous villager at least 18 years old who is descended through the male line from a resident in 1898 of a recognized village may apply to the authority for building a small house on a suitable land in his village once in his lifetime. The implementation of the policy at present is subject to the availability of land on which an eligible indigenous villager can apply for building a small house, but not led by the estimation of the number of eligible indigenous villagers. Land suitable for small house development is basically restricted to areas within the "Village Environs" (VE), but if a small house site lies outside the VE, but is located within a Village Type Development ("V") zone, and such "V" zone surrounds or overlaps with the VE, then such application can still be considered.

In general, the VE refers to a radius of 300 feet from the edge of the last Village Type House built before the introduction of the Small House Policy on 1 December 1972. This general guide was determined subsequent to discussion between the then Secretary for the New Territories and the Heung Yee Kuk in 1978. The Government has no plan to review the current practice.

As regards small house development outside "V" zone, depending on the requirements of different land use zoning, applications may be submitted to the Town Planning Board (TPB) for seeking planning approval. The TPB will consider all relevant planning applications with reference to the "Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in the New Territories" (Interim Criteria). Under the Interim Criteria, when the TPB considers these applications, the major considerations include the supply situation of land available for small house development within "V" zone, whether the majority of the proposed development's footprint is located within the VE, and whether the proposed development would cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. In respect of the supply situation of land available for small house development, the TPB would

WRITTEN ANSWER — *Continued*

consider the existing number of small house applications at the relevant location, as well as the estimate on the demand for small houses in the coming 10 years. As shown above, the demand for small houses is just one of the factors considered by the TPB when looking into the relevant applications.

As regards the drawing up of "V" zones, instead of considering solely the demand for small houses in the coming 10 years, the Planning Department also takes into account factors including the existing VE, topography, areas of ecological significance and other environmental features and constraints, and so on.

In conclusion, notwithstanding the difficulties faced by the Government in verifying the demand for small houses in the coming 10 years, the implementation of the policy is led by the supply, while the demand for small houses is not the only factor considered when the Government draws up "V" zones and when the TPB considers relevant planning applications. As such, we consider that the present practice effective.

Appendix III

WRITTEN ANSWER

Written answer by the Secretary for Constitutional and Mainland Affairs to Mr WONG Yuk-man's supplementary question to Question 5

Note on Provision of Rehabus Service in Past Elections

To facilitate electors with disabilities to exercise their voting rights, the Registration and Electoral Office (REO) has put in place a well-established mechanism to facilitate electors with difficulties in accessing the assigned polling stations to vote at special polling stations. Those electors may apply to the REO for re-allocation to another polling station accessible to him/her. If circumstances permit, the REO will also arrange Rebus service for wheelchair-bound or disabled electors to transport them to and from the polling stations. This arrangement is applicable to all electors in need, including elderly electors living in residential care homes and in-patient electors.

In the past elections, the REO has requested the service provider of Rebus to arrange with the applicants direct on the pick-up time and place for the transportation service. According to the file records of the REO, the number of electors who have used the Rebus service is as follows:

	<i>Number of electors provided with Rebus service (a)</i>	<i>Number of electors in (a) who resided in residential care homes for the elderly or extended care hospital</i>
2007 District Council Election	27	2
2008 Legislative Council Election	29	2
2010 Legislative Council By-election	9	1
2011 District Council Election	10	1
2011 Election Committee Sub-sector Elections	0	0